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Monday
May 5, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.; New Orleans, La.; Salt Lake City, Utah; Seattle, Wash.; Chicago, Ill.; St. Louis, Mo.; and Pittsburgh, Pa.,** see announcement in the **Reader Aids** section at the end of this issue.

29557 **Department of Education** Executive order

29555 **Prayer for Peace Memorial Day** Presidential proclamation

29568 **National Security** Commerce/ITA amends the Commodity Control List and Advisory Notes in wake of the Soviet invasion of Afghanistan; effective 5–5–80; comments by 7–7–80

29642 **Old Department of Health, Education, and Welfare (DHEW)** Department of Health and Human Services (HHS) announces redesignation

29569 **Natural Gas Policy** DOE/FERC publishes maximum lawful prices prescribed under Title I of the Act; effective 4–25–80

29573 **Natural Gas Policy** DOE/FERC publishes the incremental pricing acquisition cost thresholds; effective 4–28–80

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Highlights

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29639 Health Data Systems HEW/PHS, CDC and NIOSH announce that applicants for cooperative agreements are invited; apply by 6–16–80

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Presidential Documents

Title 3—

The President

Proclamation 4754 of May 1, 1980

Prayer for Peace
Memorial Day, May 26, 1980

By the President of the United States of America

A Proclamation

It has been a national tradition since the end of the Civil War to remember on Memorial Day the men and women of America who fought and died on the battlefield. We owe them a debt that can never be annulled. Their sacrifice endowed us with liberty and made our country a leader among nations.

But on this day of mourning and of homage to the heroes of the past, let us also remember the duty we owe to coming generations to be firm in the cause of liberty.

This past year we have had abundant proof that American courage still lives—eight Americans gave up their lives and others were seriously injured in the attempt to free their fellow Americans held hostage in Iran. We can take pride in our concern for national honor and in the firmness and restraint with which Americans face crisis. Mindful of our historic duty, we have become even more determined to defend our interests, protect our liberties, and promote our ideals. At the same time, we remain firmly committed to working with other nations to solve world problems together and to strengthen the foundations of world peace.

In recognition of those Americans to whom we pay tribute today, the Congress, by joint resolution of May 11, 1950 (64 Stat. 158), has requested the President to issue a proclamation calling upon the people of the United States to observe each Memorial Day as a day of prayer for permanent peace and designating a period on that day when the people of the United States might unite in prayer.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate Memorial Day, Monday, May 26, 1980, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11 o'clock in the morning of that day as a time to unite in prayer.

I urge the press, radio, television, and all other information media to cooperate in this observance.

I also request the Governors of the United States and the Commonwealth of Puerto Rico and the appropriate officials of all local units of government to direct that the flag be flown at half-staff during this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control, and I request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 80-13779
Filed 5-1-80; 1:22 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12212 of May 2, 1980

The Department of Education

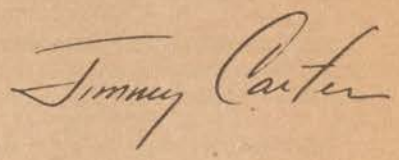
By the authority vested in me as President by the Constitution and the statutes of the United States of America, including the Department of Education Organization Act (P.L. 96–88; 93 Stat. 668), it is hereby ordered as follows:

1–101. Sunday, May 4, 1980, shall, for the purposes of Section 601 of the Department of Education Organization Act (20 U.S.C. 3401 note), be the date on which the provisions of that Act shall take effect.

1–102. The Director of the Office of Management and Budget shall take all actions necessary or appropriate to effectuate the transfers provided for in the Department of Education Organization Act, including the transfer of funds, records, property, personnel and positions.

1–103. As required by Section 601 of the Department of Education Organization Act, this Order shall be published in the **Federal Register.**

THE WHITE HOUSE,
May 2, 1980.



[FR Doc. 80–13975
Filed 5–2–80; 11:43 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Papaya Regulation 10, Amendment 4]

Papayas Grown in Hawaii; Amendment to Final Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment suspends grade and size requirements for papayas handled within the production area and for export shipments during the period May 1 through July 7, 1980. Such action recognizes the current and prospective marketing situation for Hawaiian papayas and is consistent with the composition of the crop and would be in the interest of producers and consumers.

EFFECTIVE DATE: May 1, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Papaya Administrative Committee and upon other information. This action would tend to effectuate the declared policy of the act.

The committee reports heavy rains and gale force winds in the production area have reduced available supplies of papayas. Therefore, the committee has recommended suspension of grade and size requirements for papayas handled to destinations within the production area and for export shipments during the period May 1 through July 7, 1980. This action would increase supplies available to meet current demand and would permit growers to market all the papayas that are suitable for shipment. Increased supplies of papayas are anticipated at the end of the period of suspension.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this amendment until June 4, 1980 (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this amendment warrants publication without opportunity for further public comment. The amendment has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

In § 928.310 (Papaya Regulation 10; 44 FR 77134, 45 FR 18370, 23638, 26943) paragraph (a) is amended by changing "May 1" to "July 8".

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

Dated: May 1, 1980, to become effective May 1, 1980.

D. S. Kuryloski,

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

[FR Doc. 80–13775 Filed 5–2–80 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for April and May 1980 the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension is in response to a request of three cooperative associations and is based on information received at a public hearing held for this order on April 22, 1980, in Wilsonville, Oregon. The action will aid the three cooperatives in the efficient disposition of milk not needed for fluid use and help them maintain producer status under the order for their dairy farmer members regularly associated with the market.

EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–7183).

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of hearing issued April 9, 1980; published April 15, 1980 (45 FR 25407).

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

It is hereby found and determined that for the months of April and May 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In the third sentence of paragraphs (a) and (b) of § 1124.11, the word "not".

Statement of Consideration

This action, based on a public hearing held for this order on April 22, 1980, at Wilsonville, Oregon, removes for April and May 1980 the limit on the amount of producer milk that may be diverted from pool plants to nonpool plants by a cooperative association or other handlers. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator of such plant is the handler during the month) at such pool plant.

At the hearing, Farmers Cooperative Creamery, Corvallis Milk Producers Association, and Eugene Farmers' Creamery, who handle substantial quantities of the market's reserve milk supplies, proposed that emergency action be taken to remove the limit on the amount of producer milk that may be diverted from pool plants to nonpool plants during the months of April through August 1980. Proponent cooperatives testified that they are now unnecessarily hauling milk between plants to stay within the diversion limits provided by the order. They expect this situation to become more serious during this year's flush period because milk production is expected to be at seasonally record levels. The cooperatives indicate that sales to one of their fluid outlets have declined substantially since the beginning of the year because the outlet lost a large wholesale account.

Whether or not the limits on the amount of producer milk that may be diverted from pool plants to nonpool plants should be removed for the entire period requested by proponents is a matter to be determined after the hearing record and post-hearing briefs have been fully reviewed. In the interim, however, and based on the information developed at the hearing, suspension for April and May 1980 is warranted, as it will accommodate the pooling and efficient handling of the three cooperatives' reserve milk supplies pending the outcome of the hearing. This action will eliminate the possibility of producers who are regular suppliers of milk for the market losing their producer status because of the present diversion limits and thus not having their milk priced under the order. Accordingly, this temporary suspension will permit the orderly disposal of the proponent cooperatives' reserve milk supplies for April and May 1980 pending the completion of the hearing proceeding.

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

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

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

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing and all interested parties had the opportunity of being heard on this matter.

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

Effective date: May 5, 1980.

Signed at Washington, D.C., on April 29, 1980.

P. R. "Bobby" Smith,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-13659 Filed 5-2-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-17-AD; Amdt. 39-3768]

Airworthiness Directives; Cessna Models 500, 501, 550, and 551 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to all Cessna Models 500, 501, 550 and 551 airplanes having dual flight director installations. The AD adds a second attitude indicating system to the copilot instrument panel and a limitation to the applicable FAA Approved Airplane Flight Manual (AFM) requiring the copilot's second attitude indicating system to be on and operating and to remain on throughout flight. This action is necessary to assure that the crew will have an attitude reference in the event of a malfunction of the dual flight director indicator power source. A failure in the AC inverter distribution system could result in the loss of both the pilot's and copilot's flight director indicators with ensuing serious safety hazards to the airplane occupants.

EFFECTIVE DATE: May 12, 1980.

COMPLIANCE: As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Robert L. Klapprott, Wichita Engineering and Manufacturing District Office, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas; telephone (316) 942-4281.

SUPPLEMENTARY INFORMATION: The dual flight director installation was certified for Cessna Model 500 airplanes in 1972. This approval was later extended to the Models 501, 550 and 551 airplanes. At the time the dual flight director installation was certified, the pneumatic powered attitude gyro which was originally certified in the copilot basic instrument "T" was relocated to instrument positions below the copilot's airspeed indicator, and the flight director indicator which also displayed attitude was installed in the center top position of the copilot's basic instrument "T". A three-inch DC electric powered attitude instrument and a two-inch DC electric powered attitude instrument with an emergency power supply have subsequently been provided as options to the pneumatic powered attitude gyros. These indicators have been installed in five different locations on or adjacent to the copilot panel. Only the three locations on the copilot panel noted in the AD are acceptable due to the instrument visibility requirements.

There has been no reported adverse service experience with the dual flight director indicators and associated power sources on Cessna Models 500, 501, 550 and 551 airplanes. However, a potentially unsafe condition would exist on these airplanes having dual flight director installations if the copilot's second attitude indicator was removed or if these airplanes were operated with the system inoperative. A fault or malfunction to the flight director indicators' common power distribution system could result in a complete loss of attitude reference with ensuing safety hazards to the airplane occupants under instrument meteorological conditions.

To preclude such an occurrence the manufacturer recently applied a limitation to the airplanes having dual flight directors requiring a third attitude gyro to be installed and operating and remain on throughout the flight. To eliminate any confusion concerning the third attitude gyro requirements of the air taxi and air carrier operations rules, the limitation is being reworded making reference to the "copilot's second attitude indicator system" since it is to satisfy certification requirements and not operational requirements.

The air worthiness of these airplanes is dependent on the visibility of the copilot's second attitude indicator and it being on and operating throughout the flight. Since a potentially unsafe condition is likely to develop in the operation of airplanes of the same type design if the co-pilot's second attitude indicator is not on and operating, an AD is being issued applicable to Cessna Models 500, 501, 550 and 551 airplanes requiring the incorporation of the dual flight director limitation into the

applicable FAA Approved Airplane Flight Manuals and the relocation of the *copilot's second attitude indicator* to the copilot panel. This potential unsafe condition and the corrective action taken herein, which provides an equivalent level of safety, pertain specifically to the instrument installation installed on these airplanes. This particular corrective action does not constitute a basis for approving instrument installations in other serial numbers of the Cessna Models 500, 501, 550, and 551 and other makes and models of airplanes.

The AD compliance time has been set at 100 hours time-in-service after its effectivity in order to provide sufficient time for owners/operators of the airplanes (approximately six) that must have the copilot's second attitude indicator relocated to the copilot panel to obtain FAA approved modification instructions from Cessna or other FAA approved equivalent method of compliance.

Since a situation exists that requires the expeditious adoption of the regulations, it is found that notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest, and good cause exists for making the amendment effective in less than (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new Airworthiness Directive:

Cessna: Applies to the following airplanes, equipped with Cessna installed dual flight director indicators, unless modified to provide independent power sources, distribution and bus systems for the dual flight director installation or by relocating the copilot's second attitude indicator to the top center position of the copilot panel instrument "T".

Model 500

Serial No.

500–0066	500–0303
500–0178	500–0304
500–0184	500–0342
500–0275	500–0343
500–0276	500–0344
500–0278	500–0346
500–0279	500–0359
500–0292	500–0364
500–0293	500–0371
500–0294	500–0376
500–0299	500–0373
500–0300	500–0379

Model 501

Serial No.

501–0016	501–0063
501–0024	501–0066
501–0027	501–0067
501–0034	501–0112
501–0052	501–0121

Model 550

Serial No.

550–0005	550–0079
550–0010	550–0091
550–0012	550–0095
550–0025	550–0098
550–0032	550–0100
550–0034	550–0106
550–0038	550–0110
550–0044	550–0114
550–0046	550–0116
550–0047	550–0121
550–0056	550–0124
550–0062	550–0126
550–0063	550–0130
550–0064	550–0134
550–0066	550–0136
550–0067	550–0138
550–0069	550–0141
550–0073	550–0152
550–0076	

Model 551

Serial No.

551–0016	551–0061
551–0024	

Compliance: Required as indicated, unless previously accomplished. To preclude the loss of attitude information to the crew, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Insert the following information in the applicable FAA Approved Airplane Flight Manual, Section II, Operating Limitations, under the heading Dual Flight Director Installation and operate the airplane in accordance with this insertion: "The copilot's second attitude indicating system must be installed, operational, and remain operating throughout the flight for those airplanes equipped with the Dual Flight Director Installation."

(B) Relocate the copilot's second attitude indicator from the center instrument panel or right side instrument panel if applicable to one of the following positions on the copilot instrument panel.

(1) Two instrument positions below the copilot airspeed indicator, or

(2) One instrument position below the copilot's altimeter, or

(3) Two instrument positions below the copilot's altimeter.

(C) Use Paragraph A of this AD or a duplicate thereof, as an amendment to the FAA Approved Airplane Flight Manual until replaced by the following applicable FAA Approved Cessna revision:

Model	Revision No.	FAA approved date
500	43	Apr. 15, 1980.
501	13	Apr. 18, 1980.
550	13	Apr. 15, 1980.
551	10	Apr. 18, 1980.

(D) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Wichita Engineering and Manufacturing District Office, Federal Aviation Administration, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective May 12, 1980.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374–5446.

Issued in Kansas City, Missouri, on April 24, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80–13469 Filed 5–2–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–GL–5–AD; Amdt. 39–3766]

Airworthiness Directives; Janitrol Combustion Heater, Model Numbers B1500, B2030, B3040, and B4050

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspections and overhaul at specific time intervals on Janitrol Combustion Heater Model Numbers B1500, B2030, B3040, and B4050 marked as meeting the standards of FAA TSO–C20. This AD is being issued as a result of an aircraft fire which originated from a combustion heater.

DATES: Effective—May 8, 1980. Compliance schedule—As prescribed in body of AD.

ADDRESSES: A copy of the Maintenance and Overhaul Manual (No. 11D74) for any of the subject heaters may be obtained from the Janitrol Aero

Division, Midland-Ross Corporation, 4200 Surface Rd., Columbus, Ohio 43228, telephone (614) 276–3561. Combustion heater operation, service, and overhaul are also included in the aircraft service manual. Copies of the service information are contained in the Rules Docket, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Don Eckert, Engineering and Manufacturing Branch, AGL–214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 308.

SUPPLEMENTARY INFORMATION: The FAA has determined that insufficient heater inspections, especially of the combustion liner, have allowed the condition of Janitrol combustion heaters to deteriorate to a level where heater malfunctioning can cause serious safety problems. Deterioration of the heater's combustion chamber liner has been particularly prevalent. At least one aircraft fire has been reported due to a malfunctioning combustion heater. Since this condition is likely to exist or develop on other products of the same type design an AD is being issued which requires periodic maintenance and overhaul on Janitrol Combustion Heater Model Nos. B1500, B2030, B3040, and B4050.

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

Adoption of the Amendment

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

Janitrol Aero Division (Midland-Ross Corporation): Applies to Model Numbers B1500, B2030, B3040, and B4050 marked as meeting the standards of FAA TSO–C20, installed in aircraft certificated in all categories.

Compliance is required as indicated, unless already accomplished. To prevent a hazardous condition caused by deterioration of the combustion heater, accomplish the following:

A. Within the next 50 hours of aircraft flight time after the effective date of this AD, unless already accomplished within the last fifty (50) hours, and thereafter at intervals not to exceed 100 hours of aircraft flight time; conduct the 100-hour inspection of the heater in accordance with Janitrol's Maintenance Manual No. 11D74, dated April 19, 1964.

B. Within the next fifty (50) hours of aircraft flight time after the effective date of this AD, unless already accomplished within the last 450 hours of aircraft flight time, and thereafter at intervals not to exceed 500 hours of aircraft flight time, or twenty-four (24) months, whichever occurs first; conduct a complete heater overhaul in accordance with Janitrol's Maintenance & Overhaul Manual No. 11D74, dated April 19, 1964. Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA Great Lakes Region.

In lieu of aircraft flight time, actual heater operating time can be used to establish inspection intervals. One acceptable method is to install an FAA-approved Heater Hourmeter and set zero time on the hourmeter to coincide with the time of the complete heater overhaul. Other means of substantiating heater operating time may be submitted through the local FAA maintenance inspector to the Engineering and Manufacturing Branch, Great Lakes Region. Upon approval of the Chief, Engineering and Manufacturing Branch, FAA Great Lakes Region, actual heater time may be utilized in lieu of aircraft flight time to establish the required inspection intervals.

This amendment becomes effective May 8, 1980.

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

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

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

Issued in Des Plaines, Illinois on April 21, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80-13468 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-SO-10; Amdt. No. 39-3763]

Airworthiness Directives; Teledyne Continental Model GTSIO–520 Series Engines Overhauled by AAR Western Skyways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An emergency Airworthiness Directive (AD) by priority mail was adopted April 3, 1980, and made effective immediately upon receipt to all known operators and owners of aircraft with Teledyne Continental Motors (TCM) Model GTSIO–520 series engines that have been overhauled by AAR Western Skyways, Inc. This amendment adopts a new AD which requires inspection of the torsional damper attachment to the starter adapter shaft for confirmation of correct attaching nut and related locking parts.

DATES: This amendment is effective May 5, 1980, as to all persons except those persons to whom it was made immediately effective by priority mail, issued April 3, 1980, which contained this amendment.

ADDRESSES: Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601 (A/C 205) 438–3411, AAR Western Skyways, Inc., Troutdale, Oregon, telephone (A/C 503) 665–1181.

FOR FURTHER INFORMATION CONTACT: Mr. H. D. Roe, Federal Aviation Administration, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7435.

SUPPLEMENTARY INFORMATION: There have been reports of torsional damper separations from the starter adapter shaft on GTSIO–520 series engines which upon separation have caused damage to the engine power plant installations. This condition could result in power plant fire or engine failure. The directive requires inspection of the torsional damper attachment to the starter adapter shaft to assure that the correct nut and related locking parts are installed.

This AD requires repetitive torqueing checks on installations which are not assembled with approved locking hardware. Replacement with correct parts shall not exceed 100 hours time in service after the effective date of this amendment.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately to all known United States operators and owners of aircraft with TCM Model GTSIO–520 series engines that have been overhauled by AAR Western Skyways, Inc., by individual priority mail letters dated April 3, 1980. These conditions still exist and the Airworthiness Directive is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

Adoption of the Amendment

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

Teledyne Continental Motors: Applies to Model GTSIO–520 series engines overhauled by AAR Western Skyways, Inc.

To prevent the possible separation of the starter torsional damper from the starter gear shaft and subsequent damage to critical components in the engine nacelle, accomplish the following:

a. Prior to next flight:

1. Remove engine cowling to the extent that the rear of the engine, where the starter and/or starter adapter are installed, can be seen.

2. Inspect the locking device at the outboard end of the starter gear shaft, which secures the torsional damper (see Figure I) for proper installation of all required parts. There must be a snap ring (TCM P/N 502171), a nut lock key (TCM P/N 632980) a compression spring (TCM P/N 628311) and a Marsden slotted hex nut (TCM P/N 632979) installed.

3. If all the parts (in 2. above) are installed correctly, no further action is required.

b. If all the parts (in a.2. above) are not installed or are of the incorrect part, accomplish the following:

1. Prior to the next flight and within every 25 hours engine operating time thereafter until all correct parts are installed, check the torque on the existing hexagon nut on the starter gear shaft to 180–220 foot pounds. For installations incorporating a compressor sheave for air conditioner drive, the hex nut must be checked for a torque of 195–235 foot pounds.

2. Within 100 hours engine operating time after the effective date of this AD, install all correct parts in accordance with TCM overhaul manual instructions.

Parts may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601, telephone (A/C 205) 438–3411, or AAR Western Skyways, Inc., Troutdale, Oregon, telephone (A/C 503) 665–1181 or any other Teledyne Continental Motors distributor.

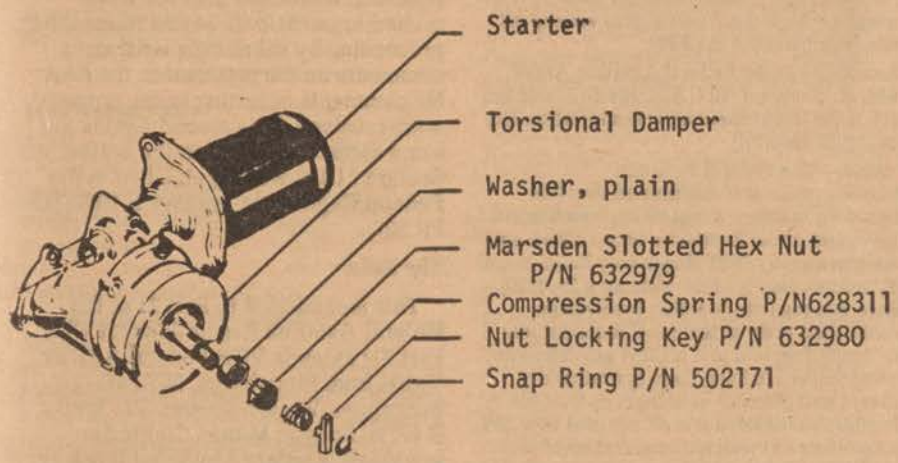


FIGURE I

c. Aircraft may be flown in accordance with FAR 21.197 to a base where the repairs required by this AD can be accomplished.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment is effective May 5, 1980, as to all persons except those persons to whom it was made immediately effective by priority mail, issued April 3, 1980, which contained this amendment.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Georgia, April 22, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80–13656 Filed 5–2–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket Number 80–CE–4]

Designation of Transition Area—Wellington, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Wellington, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to Wellington Municipal Airport, Wellington, Kansas, based on the Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION: An instrument approach procedure to Wellington Municipal Airport, Wellington, Kansas, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid being installed on the airport by the City of Wellington. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this approach aid entails the designation of a transition area at Wellington, Kansas, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 11510 of the **Federal Register** dated February 21, 1980, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Wellington, Kansas. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1980, (45 FR 445), is amended effective

0901 G.m.t., July 10, 1980, by adding the following new transition area:

Wellington, Kans.

That airspace extending upwards from 700 feet above the surface within a 5-mile radius of the Wellington Municipal Airport (latitude 37° 19' 24" N; longitude 97° 23' 15" W), and within 3 miles each side of the NDB facility 017°T bearing extending from the 5-mile radius area to 8.5 miles NE of the NDB, excluding that portion which overlaps the Wichita, Kansas, transition area.

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

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

Issued in Kansas City, Missouri, on April 23, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80-13657 Filed 5-2-80 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-SO-3]

Designation of Transition Area, Albemarle, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Albemarle, North Carolina, 700-foot transition area. A public use standard instrument approach procedure has been developed for the Stanly County Airport and additional controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: May 29, 1980.

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

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Thursday, March 13, 1980 (45 FR 16200), which proposed the designation of the Albemarle, North Carolina, Transition Area. No objections were received from this notice.

This action provides controlled airspace protection for IFR operations, including the NDB RWY 4 instrument approach procedure, at the Stanly County Airport. The airport operating status is hereby changed from VFR to IFR.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., May 29, 1980, by adding the following:

Albemarle, N.C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Stanly County Airport (Lat. 35°24'51"N., Long. 80°09'08"W.); within 3 miles each side of 208° bearing from the Stanly County RBN (Lat. 35°24'42"N., Long. 80°09'23"W.), extending from the 7-mile radius area to 8.5 miles southwest of the RBN.

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

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

Issued in East Point, Georgia, on April 23, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-13658 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-NE-20]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Extension of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends VOR Federal Airway V-104 from Plattsburgh, N.Y., to Bangor, Maine. The airway extension will minimize the need for radar vectoring thereby reducing controller workload, aid pilot flight planning and improve traffic flows in the area.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On February 19, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR Federal Airway V-104 from Plattsburgh, N.Y., to Bangor, Maine, (45 FR 10805). An east-west airway is necessary to shorten distances in the northeast area. This action improves traffic flow in the area, reduces controller workload and aids flight planning. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.123 was republished in the **Federal Register** on January 2, 1980, (45 FR 307).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) extends VOR Federal Airway V-104 from Plattsburgh, N.Y., via Burlington, Vt.; Montpelier, Vt., Berlin, N.H., to Bangor, Maine. Controller workload is reduced by providing a charted route in an area where aircraft are normally vectored. Also, this action improves traffic flow and aids flight planning.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) is amended, effective 0901 GMT, July 10, 1980, as follows:

Under V-104: "Plattsburgh, N.Y. The airspace within Canada is excluded." is deleted and "Plattsburgh, N.Y.; Burlington, Vt.; Montpelier, Vt.; Berlin, N.H.; to Bangor, Maine. That airspace between Montpelier, and Berlin at 9,000 feet MSL and above is excluded during the time that Yankee 1 Military Operations Area (MOA) is activated by NOTAM. The airspace between Berlin and Bangor, at 7,000 feet MSL and above is excluded during the time that Condor 1 and 2 are activated by

NOTAM. The airspace within Canada is excluded." is added.

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

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

Issued in Washington, D.C. on April 25, 1980.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-13471 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 20297; Amdt. No. 1163]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

For Examination—

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

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

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

For Purchase—

Individual SIAP copies may be obained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

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

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and §97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

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

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

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

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

** * * Effective July 10, 1980*

Dodge Center, MN—Dodge County, VOR-A, Original

** * * Effective June 12, 1980*

Santa Maria, CA—Santa Maria Public, VOR Rwy 12, Amdt. 11
Santa Maria, CA—Santa Maria Public, VOR-B Amdt. 9
Connersville, IN—Mettel Field, VOR/DME-A, Amdt. 3
Campbellsville, KY—Taylor County, VOR/DME-A, Amdt. 1
Baltimore, MD—Glenn L. Martin State, VOR Rwy 14, Amdt. 3
Baltimore, MD—Glenn L. Martin State, VOR/DME or TACAN 1, Rwy 14, Amdt. 1

Mackinac Island, MI—Mackinac Island, VOR/DME-A, Amdt. 3
Mt. Pleasant, MI—Mt. Pleasant Municipal, VOR Rwy 27, Amdt. 6
Three Rivers, MI—Three Rivers Municipal Dr. Haines, VOR-A, Amdt. 5
Holly Springs, MS—Holly Springs-Marshall County, VOR Rwy 18, Amdt. 4
Readington, NJ—Solberg-Hunterdon, VOR-A, Amdt. 6
Salisbury, NC—Rowan County, VOR-A, Original
Bismarck, ND—Bismarck Muni, VOR-A, Amdt. 17
Coshocton, OH—Richard Downing, VOR-A, Amdt. 2
Newport, OR—Newport Muni, VOR-A, Amdt. 2
Newport, OR—Newport Muni, VOR/DME Rwy 16, Amdt. 6
Provo, UT—Provo Muni, VOR-A, Amdt. 4
Provo, UT—Provo Muni, VOR/DME Rwy 13, Amdt. 1
South Boston, VA—William M. Tuck, VOR-A, Amdt. 5

** * * Effective April 11, 1980*

Albert Lea, MN—Albert Lea Muni, VOR Rwy 16, Amdt. 5
McCook, NE—McCook Muni, VOR Rwy 12, Amdt. 7
Norfolk, NE—Karl Stefan Memorial, VOR Rwy 1, Amdt. 4

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

** * * Effective June 12, 1980*

Santa Maria, CA—Santa Maria Public, LOC BC-A, Amdt. 7
Melbourne, FL—Melbourne Regional, LOC (BC) Rwy 27, Amdt. 4
Hopkinsville, KY—Hopkinsville-Christian County, SDF Rwy 26, Original
Monticello, NY—Sullivan County International, LOC Rwy 15, Amdt. 2, cancelled
Bismarck, ND—Bismarck Muni, LOC/DME BC Rwy 13, Amdt. 5
Pierre, SD—Pierre Muni, LOC (BC) Rwy 13, Amdt. 3, cancelled
Rutland, VT—Rutland State, LDA Rwy 19, Amdt. 1

** * * Effective May 15, 1980*

Valdez, AK—Valdez No. 2, LDA/DME-C, Original

** * * Effective April 11, 1980*

Norfolk, NE—Karl Stefan Memorial, LOC Rwy 1, Amdt. 2

Note.—The FAA published an amendment in docket No. 20174, Amdt. No. 1160 to part 97 of the Federal Aviation Regulations (Vol. 45 FR No. 56 page 17952; dated March 20, 1980) under section 97.25 effective May 15, 1980,. which is hereby amended as follows:
Fairbanks, AK— Fairbanks Intl., Loc. (BC) Rwy. 1L Amdt. 13 cancellation is rescinded.
Fairbanks, AK—Fairbanks Intl., LOC (BC) Rwy 1L, Amdt. 13 remains in effect.

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

** * * Effective July 10, 1980*

Titusville, FL—Titusville-Cocoa, NDB Rwy 18, Amdt. 8
Jacksonville, NC—Albert J. Ellis, NDB Rwy 5, Amdt. 2
New Richmond, WI—New Richmond Muni, NDB Rwy 13, Original

** * * Effective June 12, 1980*

Brooksville, FL—Hernando County, NDB Rwy 9, Amdt. 2
Augusta, GA—Bush Field, NDB Rwy 35, Amdt. 24
Connersville, IN—Mettel Field, NDB Rwy 18, Amdt. 7
Hopkinsville, KY—Hopkinsville-Christian County, NDB Rwy 26, Original
Shreveport, LA—Shreveport Regional, NDB Rwy 14, Amdt. 17
Baltimore, MD—Glenn L. Martin State, NDB Rwy 14, Amdt. 3
Baltimore, MD—Glenn L. Martin State, NDB Rwy 32, Amdt. 3
Martha's Vineyard, MA—Martha's Vineyard, NDB Rwy 24, Amdt. 17, cancelled
Charlevoix, MI—Charlevoix Muni, NDB Rwy 26, Amdt. 6
Deckerville, MI—Lamont, NDB Rwy 9, Amdt. 2
Deckerville, MI—Lamont, NDB Rwy 27, Amdt. 2
Pellston, MI—Emmet County, NDB Rwy 32, Amdt. 13
Three Rivers, MI—Three Rivers Municipal Dr. Haines, NDB Rwy 27, Amdt. 3
Bismarck, ND—Bismarck Muni, NDB Rwy 31, Amdt. 28
Connellsville, PA—Connellsville, NDB Rwy 5, Amdt. 4
Blacksburg, VA—VPI, NDB Rwy 8, Amdt. 4

** * * Effective May 15, 1980*

Moses Lake, WA—Grant County, NDB Rwy 32R, Amdt. 13

** * * Effective April 17, 1980*

New Madrid, MO—County Memorial, NDB Rwy 18, Amdt. 1

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

** * * Effective July 10, 1980*

Titusville, FL—Titusville-Cocoa, ILS Rwy 36, Amdt. 6
Jacksonville, NC—Albert J. Ellis, ILS Rwy 5, Amdt. 2

** * * Effective June 12, 1980*

Santa Maria, CA—Santa Maria Public, ILS Rwy 12, Amdt. 6
Augusta, GA—Bush Field, ILS Rwy 17, Amdt. 3
Augusta, GA—Bush Field, ILS Rwy 35, Amdt. 23
Chicago (Wheeling), IL—Pal-Waukee, ILS Rwy 16, Amdt. 3
Springfield, IL—Capital, ILS Rwy 22, Amdt. 1
Shreveport, LA—Shreveport Regional, ILS Rwy 14, Amdt. 19
Shreveport, LA—Shreveport Regional, ILS Rwy 32, Amdt. 2
Monticello, NY—Sullivan County International, ILS Rwy 15, Original
Bismarck, ND—Bismarck Muni, ILS Rwy 31, Amdt. 29
Charleston, SC—Charleston AFB/International, ILS Rwy 33, Amdt. 1
San Antonio, TX—San Antonio Intl, ILS Rwy 12R, Amdt. 8
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Fld, ILS Rwy 18, Amdt. 7

** * * Effective May 15, 1980*

Martha's Vineyard, MA—Martha's Vineyard, ILS Rwy 24, Amdt. 4
Glasgow, MT—Valley Industrial Park, ILS Rwy 28, Original
Moses Lake, WA—Grant County, ILS Rwy 32R, Amdt. 15

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

** * * Effective June 12, 1980*

Augusta, GA—Daniel Field, RADAR-1, Amdt. 3
Shreveport, LA—Shreveport Regional, RADAR-1, Amdt. 2

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

** * * Effective June 12, 1980*

Connersville, IN—Mettel Field, RNAV Rwy 18, Amdt. 2
Baltimore, MD—Glenn L. Martin State, RNAV Rwy 14, Amdt. 1

** * * Effective April 11, 1980*

McCook, NE—McCook Muni, RNAV Rwy 12, Amdt. 2

[Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).]

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

Issued in Washington, D.C. on April 25, 1980.

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

John S. Kern,

Acting Chief, Aircraft Programs Division.

[FR Doc. 80-13470 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Foreign Trade Statistics; Revision of the Requirement for Reporting Exporters' Identification Numbers on Shipper's Export Declarations

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations to provide for clarity and uniformity in reporting Exporter's Identification numbers on Shipper's Export Declarations.

EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT: Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, 301–763–5342.

SUPPLEMENTARY INFORMATION: Section 30.7(d) of the Foreign Trade Statistics Regulations now provides that exporters (or their agents) shall insert, immediately following the name of the exporter, the exporter's Internal Revenue Service Employer Identification Number (EIN), or if no Internal Revenue Service EIN has been assigned, the exporter's Social Security Number (SSN). Some confusion exists as to whether the exporter may elect which number (EI or SS) to report, and just where (specifically) the number should be reported, particularly since the name of exporter appears in different spaces on the regular and Intermodal Shipper's Export Declaration forms (item 3 on Commerce Form 7525–V and item 2 on Commerce Form 7525–V–Alternate (Intermodal)). In addition, space limitations of the declarations sometimes make it difficult to enter legibly the 9 digit Employer Identification or Social Security Number following the name of exporter. Accordingly, problems are encountered both in the reporting by exporters and the statistical processing of the declarations by Census.

Therefore, for the convenience of both exporters and the Bureau, the Bureau of the Census is amending the regulations. This amendment will modify the requirement which specifies the location of the exporter's identification number. Instead of placing the number immediately following the name of the exporter, it should be inserted in the upper right portion of the declaration in the space designated and formerly used for "Authentication." Similarly, the change will make it clear that the required number must be the exporter's Internal Revenue Service Employer Identification Number if one has been assigned; or the exporter's Social Security Number, *if and only if,* no Internal Revenue Service Employer Identification Number has been assigned. To distinguish the Employer Identification Number from the Social Security Number, this amendment also provides that in those cases where the exporter has no Internal Revenue Service Employer Identification Number and, therefore, reports the exporter's Social Security Number, the Social Security Number should be preceded by the symbol "SS." Any exporter identification number not preceded by "SS" will be considered as the Internal Revenue Service Employer Identification Number.

The requirement for reporting the Employer Identification or Social Security Number was published as a Notice of Proposed Rule Making and subsequently as a final rule in the **Federal Register** of February 7, 1979, and July 3, 1979, respectively, in accordance with the rulemaking provisions of the Administrative Procedures Act, 5 U.S.C. 553. Since the change now being made is simply a revision and clarification of an already adopted rule and will not increase the already existing reporting burden on exporters, notice and opportunity for interested persons to submit written comments (either before or after the promulgation of this amendment) would serve no public interest.

1. Section 30.7(d) is retitled as follows:

§ 30.7 Information required on shipper's export declarations.

* * * * *

(d) Name of exporter and exporter's identification number * * *

* * * * *

2. The changes recently made to § 30.7(d) by notice appearing in the **Federal Register** of July 3, 1979, are hereby withdrawn and former § 30.7(d), redesignated § 30.7(d)(1), is restored to its original form to read as follows:

§ 30.7 Information required on shipper's export declaration.

* * * * *

(d) *Name of exporter and exporter's identification number*—(1) *Name of exporter.* In general, the exporter named on the Shipper's Export Declaration shall be the principal or seller in the export transaction. For exports moving under validated license, the exporter named on the Shipper's Export Declaration shall be the licensee named on the validated export license. The address of the exporter (number, street, place, state) shall also be shown. (On Form 7513, if an authorized agent is representing the exporter, the name of the exporter as defined herein should be shown on the line labeled "For account of" where "Principal or seller" is indicated below the line on the form.)

* * * * *

3. A new subparagraph designated § 30.7(d)(2) is hereby added immediately following § 30.7(d)(1) to read as follows:

§ 30.7 Information required on Shipper's Export Declarations.

* * * * *

(d) *Name of exporter and exporter's identification number*—(2) *Exporter's Identification Number.* Exporters (or their agents) shall insert, in the upper right portion of the declaration in the space designated and formerly used for "Authentication," the exporter's Internal Revenue Service Employer Identification Number (EIN). If no Internal Revenue Service EIN has been assigned, the exporter's Social Security Number, preceded by the symbol "SS" should be reported in that space. The exporter's Social Security Number shall be reported if, and only if, no Internal Revenue Service EIN has been assigned to the exporter. If neither an Internal Revenue Service EIN nor a Social Security Number has been assigned, "No EIN or SSN" should be placed in the "Authentication" block. Exporters with export operations in more than one location utilizing the same EIN or SSN should identify the particular location by a two character suffix code, immediately following the EIN or Social Security Number. For exporters who are already using a suffix identification in connection with Customs' import requirements, the same suffix shall be used as the EIN suffix on the Shipper's Export Declaration. Otherwise, any two character suffix may be used, such as "MI" to designate a location in Michigan, "CA" for California, etc.

* * * * *

(Title 13, United States Code, sec. 302; and (5 U.S.C. 301); Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35–2A, August 4, 1975, 40 FR 42765)

Vincent P. Barabba,

Director, Bureau of the Census.

February 1, 1980.

I concur:

Richard J. Davis,

Assistant Secretary, Department of the Treasury.

April 11, 1980.

[FR Doc. 80–13725 Filed 5–2–80; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

15 CFR Parts 385 and 399

Revision of the Commodity Control List and Advisory Notes

AGENCY: International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Commodity Control List and the Advisory Notes are revised to reflect national security considerations in the wake of the Soviet invasion of Afghanistan.

DATES: These revisions are effective May 5, 1980. Comments must be received by July 7, 1980.

ADDRESS: Written comments (six copies when possible) should be sent to Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Services Staff, Office of Export Administration, Telephone (202) 377–5247 or 377–4811.

SUPPLEMENTARY INFORMATION:

Regulatory Revisions

Subsequent to the invasion of Afghanistan by the Soviet Union, the President on January 8 directed the Secretary of Commerce to review and revise U.S. policy with respect to the export of high technology and other strategic items to the Soviet Union. Included in this review were to be certain commodities which were under general license requirements to determine whether they should be made subject to validated licensing. An interagency committee was convened on January 11 under the chairmanship of the Secretary of Commerce to commence the review directed by the President. On March 18, the Department of Commerce announced that the review of export control policy had been completed and that the President had decided on more restrictive criteria to be used in controlling exports of high technology to the Soviet Union. These regulations, imposing controls under the authority of Section 5 of the Export Administration Act of 1979, implement in part the new policy on exports to the U.S.S.R.

In light of this review, it has been determined that validated licensing controls be added for national security reasons to the Commodity Control List for certain lasers, silicon materials, and silicon deposition equipment, and semiconductor sawing and surface finishing equipment. Pursuant to sections 4(c) and 5(f) of the Act, it has been determined that, notwithstanding some degree of foreign availability of these items, adequate evidence has been presented demonstrating that the absence of such controls would prove detrimental to the national security of the United States. This finding is based on interagency agreement that the affected items could enhance the Soviet military capability to an unacceptable degree. Controls on exports to other countries are required as a safeguard against diversion. The United States has already initiated negotiations for the purpose of eliminating foreign availability as required by section 5(f) of the Act. It has been determined that in the interests of U.S. national security the controls announced herein should be in effect in advance of the conclusion of these negotiations. Depending on the outcome of the negotiations, in the event there is a need to continue to maintain these controls notwithstanding foreign availability, the estimated economic impact of maintaining such controls will be published.

In addition, the Advisory Notes for selected Commodity Control List entries contained in Supplement No. 1 to Part 385 are updated to reflect changed national security licensing policies affecting communications equipment and seismic recorders.

Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Because they relate to a foreign affairs function of the United States, it has also been determined that these regulations are not subject to Department of Commerce Administrative Order 218–7 (44 FR 2082, January 9, 1979) and the International Trade Administration Administrative Instruction 1–6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations. Under section 9.06 of Administrative Order 218–7 the Department is required to provide a comment period of at least sixty days. However, these regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close July 7, 1980. No comments received after the close of the comment period will be accepted or considered by the Department in the development of the final regulations. Business data which any party desires to submit in confidence shall be submitted on separate sheets bearing at the top of each sheet the clear legend "Confidential Business Information." By submitting data identified as "Confidential Business Information," the petitioner or other party represents that the information is exempted from public disclosure, either by the Freedom of Information Act or by a specific statutory exemption. Any request for confidential treatment must be accompanied at the time of filing by a statement justifying nondisclosure and referring to the specific legal authority claimed. However, the Office of Export Administration may refuse to accept as "confidential" any information which, in its discretion, it deems is not intended to be protected under the law. Any information which the Office of Export Administration refuses to accept as "confidential" and returns to the commenter may be submitted as nonconfidential, or may be withdrawn and will not be considered.

All public comments to be considered in any revision to these regulations, except those submitted on a confidential basis as described above, will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of*

Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. Supplement No. 1 to Part 385 (incorporated by reference) is amended as follows:

(a) The introductory sentence of Note 2 to 1565 in Supplement No. 1 to Part 385 is amended to read as follows:

2. Favorable consideration for export to satisfactory end-users of digital computers covered by sub-item (c)(4) above will depend in part upon the degree of conformity with the following:

* * * * *

(b) The introductory sentence of Note 3 to 1565 in Supplement No. 1 to Part 385 is amended to read as follows:

3. Favorable consideration for export to satisfactory end-users of digital computers covered by sub-entries (d)(1) or (2) or (e) above, and related equipment therefor covered by sub-item (h) above, will depend in part upon the degree of conformity with the following:

* * * * *

(c) Paragraph (f) of Note 1 to 1572 in Supplement No. 1 to Part 385 is amended to read as follows:

(f) Digital magnetic recorders specially designed for seismic/geophysical applications operating in the frequency range of 5 to 800 Hz and limited to the following operational parameters:

(1) A maximum bit packing density of 1,600 bits per inch (63 bits per mm) per track;

(2) A maximum bit transfer rate of 0.96 million bits per second;

(3) A maximum tape read-write speed of 75 inches (190.5 cm) per second;

Technical Note: Packing density is, for digital recorders, the number of bits per second per track divided by the tape speed.

2. The Commodity Control List (incorporated by reference at 15 CFR 399.1) is amended as follows:

(a) A new entry 4355 is added, and

(b) Entries 4522 and 4757 are revised.

Export control commodity number and commodity description	Unit	Processing code	Validated license required	GLV dollar value limits		
				T	V	Q
4355B Machinery and equipment for the manufacture of electronic components and materials, as follows:		MG	PQSTVWYZ	500	500	0
(a) Equipment for the deposition of uncompensated polycrystalline silicon in the form of rods (ingots, boules), pellets, sheets or small particles not on a single crystal silicon substrate from silane (SiH_4), silicon tetrachloride ($SiCl_4$), trichlorosilane ($SiHCl_3$), dichlorosilane (SiH_2Cl_2) or monochlorosilane (SiH_3Cl);						
(b) Sawing and surface finishing equipment especially designed for the processing of semiconductor wafers (slices).						
4522B Other lasers and laser systems as follows:		MG	PQSTVWYZ	100	100	100
(a) laser interferometers specially designed as feedback components for numerically controlled machine tools:						
(b) Gaseous lasers and specially designed components, parts, and amplifier stages therefor, which maintain an accuracy (stability) equal to or less than 1.0 part per million (1×10^{-6}) for at least a 24 hour period;						
(c) Specially designed parts and accessories therefor.						
4757B Other compounds and metallic materials, as follows:		MG	PQSTVWYZ	100	100	100
(a) Single crystal sapphire substrates;						
(b) Monocrystalline silicon in the form of wafers (slices) or ingots (boules) having a resistivity of 50 ohm-cm or less;						
(c) Electronic grade polysilicon.						

Saving Clause

Shipments of commodities removed from general license as a result of changes set forth above that were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of export pursuant to actual orders for export prior to (effective date) may be exported under the previous general license provisions up to and including (48 hours after effective date). Any such shipment not laden aboard the exporting carrier on or before (48 hours after effective date) requires a validated license for export.

(Sections 4(c), 5, 13, 15, Pub. L. 96–72, 93 Stat. 503, to be codified at 50 U.S.C. App. 2401 *et. seq.*; Presidential Memorandum to the Secretary of Commerce, dated January 8, 1980; Department Organization Order 10–3, 45 FR 6141 (January 25, 1980); Department Organization Order 41–1, 45 FR 11862 (February 22, 1980))

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80–13729 Filed 4–30–80; 5:02 pm]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 270 and 271

[Docket No. RM80–53]

Rules Generally Applicable to Regulated Sales of Natural Gas and Definitions and Ceiling Prices; Order of the Director, OPPR of Publication of Maximum Lawful Prices Under Title I of the NGPA

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR § 375.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the NGPA. Section 101(b)(6) of the NGPA requires that the Commission compute and publish maximum lawful prices under Title I at the beginning of each month for which such figures apply.

EFFECTIVE DATE: April 25, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426 (202) 357–8500.

Order of the Director, OPPR

Issued April 25, 1980.

Publication of prescribed maximum lawful prices under the Natural Gas Policy Act of 1978.

Section 101(b)(6) of the NGPA requires that the Commission compute and make available maximum lawful prices prescribed in Title I and inflation adjustments before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of May, June, and July 1980, are issued by the publication of price tables for the applicable quarter. Pricing tables may be found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to section 102, 103, 106(b)(1)(B), 107, 108 and 109 of the NGPA. Table II of § 271.101(a) specifies the maximum lawful prices for section 104 and 106(a); Table III of § 271.102(a) sets forth the inflation adjustment.

Paul Hubbard,

Designee of the Director, Office of the Pipeline and Producer Regulation.

§ 271.101(a) [Amended].

1. Section 271.101(a) is amended in paragraph (a) by inserting the maximum lawful prices for May, June and July of 1980 in Tables I and II.

2. Section 271.101(a) is further amended in paragraph (a) by inserting "(c)(1)–(4)" in Table I on the line below Subpart "G", NGPA Section 107.

3. Section 271.101(a) is further amended in paragraph (a) by striking "(below 15,000 Only)" from Table I, on the line below Subpart "G", "High Cost Gas".

4. Section 271.101(a) is further amended in paragraph (a) by amending footnote number 2 in Table I to read as follows:

[2] Commencing November 1, 1979, the price of natural gas finally determined to be eligible as high-cost gas under section 107(c)(1) through (4) of the NGPA is deregulated. The prices shown for November 1979 through July 1980 apply to interim collection of the section 107(c)(1)–(4) category of high-cost gas.

§ 271.102(c) [Amended].

5. Section 271.102 is amended in paragraph (c) by the insertion of the inflation adjustment for the months of May, June and July of 1980 in Table III.

BILLING CODE 6450-85-M

Table I—*Natural Gas Ceiling Prices*

Subpart of Part 271	NGPA Section	Category of Gas	*(other than NGPA §§ 104 and 106(a))* Maximum lawful price per MMBtu for deliveries in Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979
B	102	New Natural Gas, Certain OCS Gas	$2.078	$2.096	$2.116	$2.136	$2.156	$2.177	$2.198	$2.220
C	103	New, Onshore Production Wells	1.969	1.980	1.993	2.006	2.019	2.033	2.047	2.062
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas [1]	1.121	1.128	1.136	1.144	1.152	1.160	1.168	1.176
G	107(c)(1)-(4)	High-Cost Gas [2]	2.078	2.096	2.116	2.136	2.156	2.177	2.198	2.220
H	108	Stripper Gas	2.224	2.243	2.264	2.285	2.306	2.329	2.352	2.375
I	109	Not Otherwise Covered	1.630	1.639	1.650	1.661	1.672	1.684	1.696	1.708

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this table. This alternative maximum lawful price for each month appears in this row of Table 1.

[2] Commencing November 1, 1979, the price of natural gas finally determined to be eligible as high-cost gas under section 107(c)(1) through (4) of the NGPA is deregulated. The prices shown for November 1979 through July 1980 apply to interim collection of the section 107(c)(1)-(4) category of high-cost gas.

Table I—(continued)

Subpart of Part 271	NGPA Section	Category of Gas	Aug. 1979	Sept 1979	Oct 1979	Nov. 1979	Dec. 1979	Jan 1980	Feb 1980	Mar. 1980	Apr 1980	May 1980	June 1980	July 1980
B	102	New Natural Gas, Certain OCS Gas	$2.244	$2.268	$2.292	$2.314	$2.336	$2.358	$2.381	$2.404	$2.428	—	—	.504
C	103	New Onshore Production Wells	2.079	2.096	2.113	2.128	2.143	2.158	2.173	2.188	2.204	2.221	2.238	2.255
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas[1]	1.185	1.195	1.205	1.213	1.221	1.229	1.238	1.247	1.256	1.266	1.276	1.286
G	107(c)(1)-(4)	High-Cost Gas [2]	2.244	2.268	2.292	2.314	2.336	2.358	2.381	2.404	2.428	2.453	2.478	2.504
H	108	Stripper Gas	2.400	2.426	2.452	2.478	2.499	2.523	2.548	2.573	2.598	2.625	2.652	2.680
I	109	Not Otherwise Covered	1.722	1.736	1.750	1.762	1.774	1.786	1.799	1.812	1.825	1.839	1.853	1.867

[1] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this table. This alternative maximum lawful price for each month appears in this row of Table 1.

[2] Commencing November 1, 1979, the price of natural gas finally determined to be eligible as high-cost gas under section 107(c)(1) through (4) of the NGPA is deregulated. The prices shown for November 1979 through July 1980 apply to interim collection of the section 107(c)(1)-(4) category of high-cost gas.

Table II—Natural Gas Ceiling Prices: NGPA § § 104 and 106(a) (Subpart D, Part 271)

Category of Natural Gas	Type of Sale or Contract	Maximum lawful price per MMBtu for deliveries made in:							
		Dec. 1978	Jan. 1979	Feb. 1979	Mar. 1979	Apr. 1979	May 1979	June 1979	July 1979
Post-1974 gas	All producers	$1.630	$1.639	$1.650	$1.661	$1.672	$1.684	$1.696	$1.708
1973-1974 Biennium gas	Small producer	1.379	1.387	1.396	1.405	1.414	1.424	1.434	1.444
	Large producer	1.058	1.064	1.071	1.078	1.085	1.093	1.101	1.109
Interstate Rollover gas [2]	Small producer	.702	.715	.715	.715	.715	.715	.715	.715
	Large producer	.603	.607	.611	.615	.619	.623	.627	.631
Replacement contract gas or re-completion gas	Small producer	.771	.775	.780	.785	.790	.796	.802	.808
	Large producer	.593	.596	.600	.604	.608	.612	.616	.620
Flowing gas	Small producer	.393	.395	.398	.401	.404	.407	.410	.413
	Large producer	.332	.334	.336	.338	.340	.342	.344	.346
Certain Permian Basin gas	Small producer	.462	.465	.468	.471	.474	.477	.480	.486
	Large producer	.405	.407	.410	.413	.416	.419	.422	.425
Certain Rocky Mountain gas	Small producer	.462	.465	.468	.471	.474	.477	.480	.483
	Large producer	.393	.395	.398	.401	.404	.407	.410	.413
Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	.368	.370	.372	.374	.376	.379	.382	.385
	Other Contracts	.344	.346	.348	.350	.352	.355	.358	.361
Minimum Rate Gas [1]	All Producers	.203	.204	.205	.206	.207	.208	.209	.210

Table II—(continued)

Category of Natural Gas	Type of Sale or Contract	Maximum lawful price per MMBtu for deliveries made in:											
		Aug. 1979	Sep. 1979	Oct. 1979	Nov. 1979	Dec. 1979	Jan. 1980	Feb. 1980	Mar. 1980	Apr. 1980	May 1980	June 1980	July 1980
Post-1974 gas	All producers	$1.722	$1.736	$1.750	$1.762	$1.774	$1.786	$1.799	$1.812	$1.825	1.839	1.853	1.867
1973-1974 Biennium gas	Small producer	1.456	1.468	1.480	1.490	1.500	1.510	1.521	1.532	1.543	1.555	1.567	1.579
	Large producer	1.118	1.127	1.136	1.144	1.152	1.160	1.168	1.176	1.184	1.193	1.202	1.211
Interstate Rollover gas	Small producer	.715	.715	.715	.715	.715	.728	.728	.728	.728	.728	.728	.728
	Large producer	.636	.641	.646	.650	.654	.659	.664	.669	.674	.679	.684	.689
Replacement contract gas or re-completion gas	Small producer	.815	.822	.829	.835	.841	.847	.853	.859	.865	.872	.879	.886
	Large producer	.625	.630	.635	.639	.643	.647	.652	.657	.662	.667	.672	.677
Flowing gas	Small producer	.416	.419	.422	.425	.428	.431	.434	.437	.440	.443	.446	.449
	Large producer	.349	.352	.355	.357	.359	.361	.364	.367	.370	.373	.376	.379
Certain Permian Basin gas	Small producer	.487	.491	.495	.498	.501	.504	.508	.512	.516	.520	.524	.528
	Large producer	.428	.431	.434	.437	.440	.443	.446	.449	.452	.455	.459	.463
Certain Rocky Mountain gas	Small producer	.487	.491	.495	.498	.501	.504	.508	.512	.516	.520	.524	.528
	Large producer	.416	.419	.422	.425	.428	.431	.434	.437	.440	.443	.446	.449
Certain Appalachian Basin gas	North subarea contracts dated after 10-7-69	.388	.391	.394	.397	.400	.403	.406	.409	.412	.415	.418	.421
	Other Contracts	.364	.367	.370	.373	.376	.379	.382	.385	.388	.391	.394	.397
Minimum Rate Gas [1]	All Producers	.212	.214	.216	.217	.218	.220	.222	.224	.226	.228	.230	.232

[1] Prices for minimum rate gas are expressed in terms of dollars per MCF, rather than per MMBtu.
[2] The price for interstate rollover gas is the higher of the price listed in this table or the just and reasonable price under the expired contract as adjusted for inflation. (See § 271.402(c)(3).)

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Table III.—*Inflation Adjustment*

Month of delivery:	Factor [1]
1977:	
May	1.00636
June	1.00636
July	1.00431
August	1.00431
September	1.00431
October	1.00463
November	1.00463
December	1.00463
1978:	
January	1.00597
February	1.00597
March	1.00597
April	1.00889
May	1.00889
June	1.00889
July	1.00581
August	1.00581
September	1.00581
October	1.00581
November	1.00581
December	1.00581
1979:	
January	1.00581
February	1.00667
March	1.00667
April	1.00667
May	1.00713
June	1.00713
July	1.00713
August	1.00805
September	1.00805
October	1.00805
November	1.00690
December	1.00690
1980:	
January	1.00690
February	1.00713
March	1.00713
April	1.00713
May	1.00774
June	1.00774
July	1.00774

[1] Factor by which price in preceding month is multiplied.

[FR Doc. 80-13455 Filed 5-2-80; 8:45 am]

BILLING CODE 6450-85-M

18 CFR Part 282

[Docket No. RM79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR § 375.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the incremental pricing acquisition cost thresholds prescribed under Title II of the NGPA. Section 203 of the NGPA requires that the Commission compute and publish incremental pricing acquisition cost thresholds under Title II prior to the beginning of each month for which such figures apply.

EFFECTIVE DATE: April 28, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8500.

Issued: April 28, 1980.

In the matter of publication of Prescribed Incremental Pricing Acquisition Cost Threshold of the NGPA of 1978, Docket No. RM79-14.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of May 1980, is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Table I.—*Incremental Pricing Acquisition Cost Threshold Prices*

	January	February	March	April	May
Incremental Pricing Threshold	$1.702	$1.738	$1.750	$1.762	$1.776
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380

[FR Doc. 80-13674 Filed 5-2-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 203

[Docket No. R-80-807]

Mutual Mortgage Insurance and Insured Home Improvement Loans; Mortgage Servicing Generally

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Pursuant to Court Order No. 73 C 334 of the United States District Court, Northern District of Illinois, Eastern Division, the Department of Housing and Urban Development is amending Section 203.500 relating to mortgage servicing generally. This amendment revises the present regulation with regard to cause for withdrawal of mortgagee approval and compliance with assignment procedures.

EFFECTIVE DATE: May 27, 1980.

FOR FURTHER INFORMATION CONTACT: Julius M. Williams, Director, Single Family Loan Servicing Division, Room 9272, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6700 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On November 8, 1979, in the case of *Ferrell* vs. *Landrieu*, No. 73 C 334, the United States District Court for the Northern District of Illinois, Eastern Division, approved and entered an Order of Court and Amended Stipulation filed in the case. The Amended Stipulation and Order require the Secretary to amend 24 CFR § 203.500 and to publish the amendment as a final rule. As required by the Amended Stipulation and Order, the Department finds that there is good cause for dispensing with notice and public procedure on the rule since the interests of persons affected by the rule are adequately protected by the Court and that the 30-day delay of effective date provided for in 5 U.S.C. § 553(d) is not required because of the need to effectuate the Court's initial order by promptly implementing the terms of the

Amended Stipulation. However, the Department is required to defer the rule's effective date for 20 session days, pursuant to Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. § 3535(o)).

The present § 203.500 specifically states that the servicing regulations are not intended to affect the rights and obligations of the parties under the mortgage. This amendment deletes this provision and states that the Department takes no position on whether failure to comply with the assignment program is a legal defense to foreclosure. The amendment also states that it is the intent of the Department that no mortgagee shall commence foreclosure until the requirements of the assignment program have been complied with.

The present regulation states that failure to comply with the servicing regulations may be cause for withdrawal of a mortgagee's approval. This amendment provides that a mortgagee's approval may be withdrawn if there is a pattern of refusal or failure to comply.

The Department has determined that an Environmental Impact Statement is not required with respect to this amendment.

A Finding of Inapplicability in accordance with HUD's environmental procedures is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is listed as item number H-44-79 in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR 203.500 is amended to read as follows:

§ 203.500 Mortgage servicing generally.

This subpart identifies servicing practices which the Secretary considers acceptable mortgage servicing practices of lending institutions servicing mortgages insured by the Secretary. Failure to comply with this subpart shall not be a basis for denial of insurance benefits but a pattern of refusal or failure to comply will be cause for withdrawal of a mortgagee's approval. It is the intent of the Department that no mortgagee commence foreclosure or acquisition of the property until the requirements of § 203.650-662 or instructions issued pursuant to said sections have been complied with. The Department takes no position on whether a mortgagee's refusal or failure to comply with § 203.650-662 is a legal defense to foreclosure; that is a matter to be determined by the courts.

Authority: The provisions of this Part 203 issued under § 211 of the National Housing Act, as amended, 12 U.S.C. 1709, 1715(b); § 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

* * * * *

Issued at Washington, D.C., April 29, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-13724 Filed 5-2-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 45

[Order No. 887-80]

Officers and Employees of the Department Participating in Fundraising Activities of Certain Organizations

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Section 45.735-12(d) of the Standards of Conduct for the Department of Justice in general restricts officers and employees of the Department from participating in fundraising activities of charitable and other organizations through speechmaking and lending the use of their names in support of such activities. It is the purpose of this order to amend paragraph (3) of § 45.735-12(d) to permit participation in fundraising activities of organizations that are exempt from taxation under the provisions of 26 U.S.C. 501(c)(3).

EFFECTIVE DATE: April 21, 1980.

FOR FURTHER INFORMATION CONTACT: John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530 (202-633-2041).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510, 5 U.S.C. 301 and section 702 of Executive Order 11222, it is hereby ordered as follows:

Section 45.735-12(d)(3) of Part 45 of Chapter I of Title 28, Code of Federal Regulations, is amended to read as follows:

§ 45.735-12 Speeches, lectures, and publications.

* * * * *

(d) * * *

(3) Nothing in this subsection shall apply to the Combined Federal Campaign or any other authorized fundraising drive directed primarily at Federal employees, or to a fundraising event of an organization which is exempt from taxation under 26 U.S.C. 501(c)(3).

* * * * *

Dated: April 21, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-13645 Filed 5-2-80; 8:45 am]

BILLING CODE 4410-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5-1, 5A-1

[APD 2800.2, CHGE 2; APD 2800.3, CHGE 5]

Certification Regarding Previous Crimes, Debarments, Suspensions, and Defaults

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations (GSPR 5) are amended to add a certification requirement regarding crimes, debarments, suspensions, and contract defaults. The amendment is based on a recommendation by the Inspector General of GSA. The intended effect is to provide information to contracting officers for use in making determinations of contractor responsibility.

EFFECTIVE DATE: April 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

CHAPTER 5—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATION

PART 5-1—GENERAL

The table of contents for Part 5-1 is amended by adding the following entries:

Subpart 5-1.12—Responsible Prospective Contractors

Sec.
5-1.1205-2 When information will be obtained.

Subpart 5-1.12 is added as follows.

Subpart 5-1.12—Responsible Prospective Contractors

§ 5-1.1205-2 When information will be obtained.

(a) the following certification regarding criminal indictments and convictions, debarments, suspensions, and contract defaults shall be included in all solicitations when the resulting contracts are expected to exceed $10,000 (excludes indefinite quantity and requirements contracts when the

contracting officer determines that the orders under the contract will not exceed $10,000):

Certification Regarding Previous Crimes, Debarments, Suspensions, and Defaults

(a) The offeror certifies that, within 3 years prior to the date of this solicitation, it and/or any of its officers and principal employees:

(1) have [ ] have not [ ] been indicted, otherwise charged, or convicted of:

(i) A criminal offense incident to obtaining or attempting to obtain a public (Federal, state, or municipal) or private contract or subcontract thereunder, or in the performance of such contract or subcontract;

(ii) A violation of the Organized Crime Control Act of 1970;

(iii) A violation of the Federal Antitrust statutes arising out of the submission of bids or proposals; or

(iv) Embezzlement, theft, forgery, bribery, falsification or destruction of records, fraud, tax fraud, receiving stolen property, or equivalent crimes which are indicative of a lack of business integrity.

(2) Have [ ] have not [ ] been debarred or suspended from the award of public contracts;

(3) Have [ ] have not [ ] had a public contract terminated for default.

(b) For the purpose of this certification, a principal employee is defined as that person(s) acting in a managerial or supervisory capacity who will be responsible for administering the offeror's performance of the contract to be awarded under this solicitation (e.g., project manager, plant manager).

(c) The knowledge of the person who executes this certification is not required to exceed the "knowledge" which that person reasonably can be expected to possess.

(d) A certification that any of the items in (a) above exist will not necessarily result in the withholding of an award under this solicitation. However, the certification will be considered in connection with the determination of an offeror's responsibility. Offeror's who fail to furnish the certification and provide such additional information as requested by the contracting officer will not be found responsible.

(b) When an offeror's certification indicates an indictment for or conviction of a specified offense, debarment or suspension, or default of a contract, the contracting officer shall:

(1) Request such additional information from the low, responsive offeror as the contracting officer deems necessary in order to make a determination of the offeror's responsibility;

(2) Notify the Office of Inspector General (OIG) in the case of a criminal indictment or conviction.

(c) Information furnished by offerors shall be used by contracting officers:

(1) In connection with the determination of an offeror's responsibility, and

(2) To determine, in accordance with § 5–1.6 whether debarment or suspension action should be initiated.

(d) Offerors who do not furnish the certification shall be given an opportunity to remedy the deficiency.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATION

PART 5A-1—GENERAL

Subpart 5A-1.12—Responsible Prospective Contractors

Section 5A–1.1205–2(c) is deleted as follows:

§5A-1.1205-2 When information will be obtained.

* * * * *

(c) [Deleted]

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

Dated: April 17, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-13643 Filed 5-2-80; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Part 5-1

[APD 2800.2 CHGE 3]

Small Business—Reviews of Solicitations, Contracts, and Subcontracting Plans

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations (GSPR 5) are amended to add procedures requiring the review of solicitations and contracts by the Small Business Administration for subcontracting opportunities. The Acting Administrator, Office of Federal Procurement Policy issued Policy Letter 80–1, January 24, 1980, which sets forth these procedures as an implementation of section 211 of Pub. L. 95–507 (Policy Letter 80–1 is published as Supplement 1 to FPR Temporary Regulation 50).

The intended effect is to determine whether a maximum practicable opportunity has been afforded small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in subcontracts.

EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–557–8947).

1. The table of contents for Part 5–1 is amended by adding the following entries:

Subpart 5-1.7—Small Business Concerns

Sec.
5–1.710 Subcontracting with small business concerns.
5–1.710–1 General.
5–1.710–50 Solicitation review.
5–1.710–51 Subcontracting plan review.
5–1.710–52 Copies of subcontracting plans.
5–1.710–53 Responsibility for notices.

2. Subpart 5–1.710 is added as follows:

Subpart 5–1.7—Small Business Concerns

§ 5–1.710 Subcontracting with small business concerns.

§ 5–1.710–1 General.

GSA contracting officers are required to take the actions set forth in this § 5–1.710 when a solicitation or contract is $500,000 or more ($1 million or more for construction).

§ 5–1.710–50 Solicitation review.

(a) Contracting Officers shall provide the Small Business Administration Procurement Center Representative (PCR) an opportunity to review any solicitation before release to the public that is $500,000 or more ($1 million or more for construction).

(b) Contracting Officers shall contact the PCR (by telephone, in writing, or otherwise) for the purpose of providing an opportunity at the contracting office to make the review.

(c) Contracting Officers shall provide a time period, which is reasonable under the circumstances of each solicitation, for the review by the PCR. The sole judge of the reasonableness of the time period is the Contracting Officer.

§ 5–1.710–51 Subcontracting plan review.

(a) Contracting Officers shall, before award of any negotiated contract requiring a subcontracting plan, make available to the PCR the total procurement package, including the proposed subcontracting plan.

(b) Contracting Officers shall make the procurement package available at the contracting office for a time period, which is reasonable under the circumstances of each solicitation, for review by the PCR. The sole judge of the reasonableness of the time period is the Contracting Officer.

(c) Any recommendations received from the PCR are advisory; however, recommendations should be given reasonable consideration.

§ 5-1.710-52 Copies of subcontracting plans.

A copy of each subcontracting plan which is part of an executed contract (negotiated or advertised) shall be furnished to the PCR following the award of the contract.

§ 5-1.710-53 Responsibility for notices.

(a) Contracting Officers shall notify the regional GSA Director, Office of Small and Disadvantaged Business Utilization, in the region where a contractor will perform a contract, of each contract award (negotiated or advertised) which is $500,000 or more ($1 million or more for construction) that contains a subcontracting plan. The notice shall contain the following information:

(1) Contractor's name.
(2) Address.
(3) Place of performance.
(4) Dollar amount of contract award.
(5) Period of contract performance.
(6) Description of contract items (supplies or services).
(7) Contracting officer's name and address.

(b) The regional GSA Director, Office of Small and Disadvantaged Business Utilization, shall send a copy of the notice to the Assistant Regional Administrator for Regional Programs in the Small Business Administration region where a contract will be performed.

(c) The regional GSA Director, Office of Small and Disadvantaged Business Utilization, shall retain a copy of each notice sent to the Small Business Administration together with a copy of the contractor's subcontracting plan.

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

Dated: April 23, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-13644 Filed 5-2-80; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Parts 5B-1, 5B-2, 5B-7, and 5B-16

[APD 2800.4 CHGE 2]

Payments to Contractor

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the General Services Administration Procurement Regulations (GSPR 5B) adds policies and procedures concerning the use of the Payments to Contractor clause which is prescribed in 41 CFR 1-7.602-7. The amendment also prescribes revised procedures concerning the Disputes clause and provides for the deletion of two forms. The amendment reflects the current policy covering the implementation of these two clauses by the Public Buildings Service. The intended effect is to provide uniform guidance to contracting officers.

EFFECTIVE DATE: April 17, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

PART 5B-1—GENERAL

1. The table of contents for Part 5B-1 is amended to delete 5B-1.318-1 in its entirety and to add a new entry as follows:

Sec.
5B-1.318-1 [Deleted]
5B-1.371 Construction progress payments.

Subpart 5B-1.3—General Policies

2. Section 5B-1.318 is revised and § 5B-1.318-1 is deleted as follows:

§ 5B-1.318 Disputes.

(a) A contractor may initiate an appeal from a final decision of the contracting officer by submitting a completed GSA form 2465, Notice of Appeal, as illustrated by § 5B-16.950-2465, within the time specified in the Disputes clause.

(b) If the contractor fails to file a Notice of Appeal within 90 days, the contracting officer's final decision will dispose of the dispute except for the contractor's appeal rights in the court of claims.

§ 5B-1.318-1 [Deleted]

3. Section 5B-1.371 is added as follows:

§ 5B-1.371 Construction progress payments.

When the contracting officer determines that progress on a construction contract is satisfactory, FPR 1-7.602-7(c) permits full payment of the current monthly progress payment. However, it is the policy of the Public Buildings Service for the contracting officer to retain 5 percent from each progress payment until substantial completion, even when progress is satisfactory, and to retain 10 percent when progress is not satisfactory. When substantially completed, the accumulated retained amounts may be reduced to the minimum amount that is required to protect the Government's interests and to promote timely completion of the remaining items of work.

PART 5B-2—PROCUREMENT BY FORMAL ADVERTISING

4. The table of contents for Part 5B-2 is amended to delete 5B-2.202-80 in its entirety.

Sec.
5B-2.202-80 [Deleted]

Subpart 5B-2.2—Solicitation of Bids

5. Section 5B-2.202-80 is deleted in its entirety.

§ 5B-2.202-80 [Deleted]

6. Section 5B-2.203-2(a) is revised as follows:

§ 5B-2.203-2 Displaying in public places.

(a) Complete sets of bidding documents will be provided for public examination to the:

(1) PBS area and buildings managers, and

(2) Custodian of the building where work is to be performed.

* * * * *

PART 5B-7—CONTRACT CLAUSES

7. The table of contents for Part 5B-7 is amended to delete 5B-7.601 and 5B-7.601-70 in their entirety.

Sec.
5B-7.601 [Deleted]
5B-7.601-70 [Deleted]

Subpart 5B-7.6—Fixed-Price Construction Contracts

8. Section 5B-7.601 and 5B-7.601-7 are deleted in their entirety.

§ 5B-7.601 [Deleted]

§ 5B-7.601-70 [Deleted]

9. Section 5B-7.602-70 is revised as follows:

§ 5B-7.602-70 Payments to contractors.

The following provision shall be included in all construction, repair, alteration, improvement, painting, or decorating contracts without regard to amount or form on which executed. This includes contracts of $10,000 or less made under the small purchases procedures as provided in Subparts 1-3.6 and 5B-3.6.

Payments to contractors

The Contractor, prior to receiving a progress or final payment under this contract, shall submit to the Contracting Officer a certification that the Contractor has made payment from proceeds of prior payments, or that he will make timely payment from the proceeds of the progress or final payment then due him to his subcontractors and suppliers in accordance with his contractual arrangements with them.

Note.—This provision appears in GSA Form 1139, General Conditions (§ 5B–16.950–1139) under the title "Certification of Payment." See § 5B–16.871(f) for use of GSA Form 2419, Certification of Payment to Subcontractors and Suppliers, in construction.

PART 5B–16—PROCUREMENT FORMS

10. The table of contents for Part 5B–16 is amended to delete 5B–16.901–19B and 5B–16.950–1085 in their entirety.

Sec.
5B–16.901–19B [Deleted]
5B–16.950–1085 [Deleted]

Subpart 5B–16.4—Forms for Advertised Construction Contracts

11. Section 5B–16.401 is revised as follows:

§ 5B–16.401 Forms prescribed.

The following GSA Forms are prescribed for use in accordance with this Part 5B–16. Their format shall not be changed. Instructions for preparation of these forms are included with the illustrations of the forms.

(a) GSA Form 1015, Instructions to Contractors (Constuction Contract), Data Required to Substantiate Equitable Adjustments of Time and Time Extensions.

(b) GSA Form 1083, Section 0020, Applicable Minimum Hourly Rates of Wages.

(c) GSA Form 1139, Section 00100, General Conditions.

(d) GSA Form 1747, Amendment to Bid Documents (Construction Contracts).

(e) GSA Form 1747A, Final Clarifications to Bid Documents (Construction Contract).

(f) GSA Form 1903, Notice to Bidder (Construction Contract).

(g) GSA Form 2056, Pre-Invitation Notice (Construction Contract).

12. Sections 5B–16.402 through 5B–16.402–3 are revised as follows:

§ 5B–16.402 Required use.

§ 5B–16.402–1 Contracts estimated not to exceed $2,000.

Standard Form 19 (GSA Overprint), Invitation, Bid, and Award (Constuction, Alteration or Repair), as illustrated in § 5B–16.901–19, and a modification as authorized by § 1–16.401(a) may be used for contracts estimated not to exceed $2,000 instead of adding like PBS data on the form illustrated in § 1–16.901–19. See §§ 1–16.402–1 and 1–16.403(b) for the use of other Standard forms.

§ 5B–16.402–2 Contracts estimated to exceed $2,000 but not to exceed $10,000.

Standard Form 19 (GSA Overprint), and a modification as authorized by § 1–16.401(a) may be used for contracts estimated to exceed $2,000 but not to exceed $10,000. See § 1–16.402–2 for use of other Standard Forms.

§ 5B–16.402–3 Contracts estimated to exceed $10,000.

Standard Form 20 (GSA Overprint), Invitation for Bids (Construction Contract), illustrated at § 5B–16.901–20, and Standard Form 21 (GSA Overprint), Bid Form (Construction Contract), illustrated at § 5B–16.901–21, with a modification as authorized by § 1–16.401(e), may be used instead of adding like PBS data to the forms illustrated in §§ 1–16.901–20 and 1–16.901–21, respectively. See § 1–16.402–3 for the use of other required Standard forms.

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

Dated: April 17, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80–13642 Filed 5–2–80; 8:45 am]

BILLING CODE 6820–61–M

National Archives and Records Service

41 CFR Part 105–61

[ADM 7900.2 CHGE 15]

National Archives Exhibition Hall: Hours of Operation

AGENCY: National Archives and Records Service, GSA.

ACTION: Final rule.

SUMMARY: This rule revises the hours of operation of the National Archives Exhibition Hall. It reduces the number of hours that the Exhibition Hall is open to the public to conform to the operating schedules of the other public institutions in the Washington metropolitan area. Attendance and sales figures indicate that it would be more cost effective to make this change.

EFFECTIVE DATE: April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Albert Meisel, Assistant Archivist for Educational Programs, Office of Educational Programs, National Archives and Records Service (202–523–3216).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Section 105–61.302–1 is revised to read as follows:

§ 105–61.302–1 General.

Unless otherwise directed by the Archivist of the United States, visitors are admitted to the Exhibition Hall from 10 a.m. to 9 p.m. except during winter months (the day after Labor Day through March 31) when the Exhibition Hall is closed at 5:30 p.m. The building is closed on Christmas Day. Visitors are admitted only through the Constitution Avenue entrance. However, the guards are authorized to admit handicapped visitors to the Exhibition Hall through the Pennsylvania Avenue entrance and the Main Floor gates.

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

Dated: April 21, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80–13641 Filed 5–2–80; 8:45 am]

BILLING CODE 6820–26–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FIA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (in Alaska and Hawaii Call Toll Free (800) 424–9080 Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An

opportunity for the community of individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Hayward (City), Alameda County FEMA-5765.	Alameda Creek—Line A (Zone 3A) Line A-2 (Zone 3A).	Crossing of Southern Pacific Railroad and channel	*9
			Crossing of Industrial Boulevard over channel	*9
			Intersection of Baumberg Avenue and Julia Street	*10
			Approximately 150 feet west of Capetown Avenue	*10
		Sulphur Creek—Line K (Zone 2)	Southern Pacific Railroad crossing over channel	*8
			Eastern side of Skywest Drive and Sulphur Creek crossing	*32
			Eastern side of Hesperian Boulevard and Sulphur Creek crossing	*39
			150 feet east of the intersection of Barker Avenue and Thelma Street.	*47
			Western side of the Fuller Avenue crossing of the channel	*57
			Intersection of Santa Clara Street and Elmood Lane	#2
		Line D (Zone 3A)	West Industrial Parkway Bridge over channel	*10
			Northeast side of Taylor Avenue Bridge over channel	*12
			Intersection of Pacific Street and Industrial Parkway	*14
			Southern side of end of Valle Vista Aveque	*17
		Ward Creek—Line B (Zone 3A)	Intersection of Industrial Parkway West and Stratford Road	*10
			Intersection of Windmere Road and Buckingham Way	*10
			Industrial Parkway West at channel crossing	*10
			Southern side of Folsom Street over the channel	*13
			Northern side of Shepherd Avenue crossing over the channel	*28
			Southern side of Schafer Road crossing over the channel	*34
			Western side of Huntwood Avenue crossing over the channel	*43
			Eastern side of whitman Street crossing over the channel	*56
			Approximately 50 feet south of Orchard Avenue crossing over channel.	*82
		Line E (Zone 3A)	North side of west Harder Road crossing the channel	*53
			Southern side of Orchard Avenue crossing over channel	*69
			Approximately 180 feet southeast of Soto Road and Traynor Street intersection.	*73
		Line C (Zone 3A)	Eastern side of Jane Avenue crossing over the channel	*53
			Northern end of Rider Court	*63
			Western side of Whitman Street over channel	*72
			Approximately 850 feet east along channel from the crossing of Bay Area Rapid Transit over channel.	*85
		Line A (Zone 4)	Western side of 1st Private Road west of Cabot Boulevard as it crosses the channel.	*9
			Crossing of Southern Pacific Railroad over channel, eastern side of tracks.	*21
			Approximately 100 feet west of crossing of Clawiter Road and channel.	*26
		San Francisco Bay	Intersection of Eden Landing Road and Arden Road	*7
			Intersection of Arden Road and Danti Court	*7
			Eastern end of Baumberg Court at Railroad tracks and area to the south.	*7
	Maps available from the Department of Public Works, 22300 Foothill Boulevard, Hayward, California.			
California	Sausalito (City), Marin County, FEMA-5765.	San Francisco Bay	400 feet east from intersection of main Street and Second Street 300	*6
		Richardson Bay	feet east from intersection of Locust Street and Bridgeway.	*6
	Maps available at the Department of Public Works, City Hall, 420 Litho Street, Sausalito, California.			
Connecticut	Clinton, Town, Middlesex County (Docket No. FEMA-5757).	Long Island Sound	Coastline	*11
		Menunketesuck River	State Route 145 (Upstream) (Downstream Corporate Limits)	*12
			Dam at Chapman Pond (Upstream)	*14
			Carter Hill Road (Upstream)	*24
			Valley Road (Upstream)	*33
			2nd Dam upstream of Woods Road (Downstream)	*38
			2nd Dam upstream of Woods Road (Upstream)	*51
			0.1 Mile upstream of Kelseytown Road	*58
		Hammonasset River	U.S. route 1	*11
			Dam upstream of River Road (Upstream)	*13
			Upstream Corporate Limits	*17
		Indian River	U.S. route 1	*11
			Dam upstream of Glenwood Road (Downstream)	*22
			Dam upstream of Glenwood Road (Upstream)	*27
			Farm road (Upstream)	*37
			0.26 Mile upstream of Hurd Bridge Road	*45
	Maps available at the Town Hall, Clinton, Connecticut.			
Connecticut	Stonington, Town, New London County (Docket No. FEMA-5757).	Whitford Brook	Confluence with Mystic River	*12
			Upstream of Lantern Hill Road	*14
			Downstream of State Route 184	*15
			Upstream of State Route 184	*22
			Upstream of Hyde Pond Dam	*25

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Cops Brook	Confluence with Quiambog Cove	*12
			Upstream of Mistuxet Avenue	*25
			Upstream of Jerry Browne Road	*26
			Upstream of Mystic Reservoir Dam	*45
			Downstream of Interstate Route 95	*46
			Upstream of Interstate Route 95 (S.B.)	*47
		Stony Brook	Confluence with Stonington Harbor	*12
			Upstream of Private Road approximately 1,400 feet upstream of Flanders Road.	*26
			3,050 feet upstream of Flanders Road	*29
			3,320 feet upstream of Flanders Road	*43
			Downstream of Silvias Pond Dam	*70
			Upstream of Silvias Pond Dam	*81
			Upstream of Private Road approximately 2,400 feet upstream of Silvias Pond Dam.	*83
			Downstream of Pequot Trail	*86
			Upstream of Pequot Trail	*92
		Anguilla Brook	Confluence with Wequetequock Cove	*12
			Upstream of Green Haven Road	*13
			Upstream of Wequetequock Pond Dam	*15
			Downstream of U.S. Route 1	*19
			Upstream of U.S. Route 1	*24
			Upstream of Dam approximately 1,000 feet upstream of U.S. Route 1	*26
			Upstream of South Anguilla road	*41
			Upstream of Pequot Trail	*43
			Upstream of Old Pequot Trail No. 2	*44
			Downstream of Interstate Route 95 (N.B.)	*49
			Upstream of Interstate Route 95 (S.B.)	*51
			3,000 feet upstream of Interstate Route 95 (S.B.)	*61
			Confluence with Wheeler Brook	*77
		Pawcatuck River	Upstream of State Route 78	*15
			Upstream of White Rock Road	*16
			Confluence of Spillway Bypass	*18
			Spillway Bypass	*23
			Upstream Corporate Limits	*23
		Fishers Island Sound	Entire Shoreline	*12
	Maps available at the office of the Town Clerk, Elm Street, Stonington, Connecticut.			
Idaho	Parma (City), Canyon County, FEMA-5748.	Boise River	Intersection of Roswell Boulevard and Starcher Street	*2,220
			Stockton Road 150 feet east from its intersection with 10th Street	*2,226
	Maps available at City Hall, 3rd and Bates, Parma, Idaho.			
Indiana	(Uninc.), Clark County (Docket No. FEMA-5749).	Ohio River	At upstream City of Jeffersonville corporate limits	*451
			At upstream county limits	*459
		Silver Creek	At upstream Town of Clarksville corporate limits	*448
			Just upstream Interstate 65	*456
			Just upstream of U.S. Route 31 East	*460
			Just upstream gaging station	*464
			Just downstream State Route 403	*470
			Just upstream Memphis Road	*475
			Just upstream Murphy Road	*488
			Just upstream State Route 160	*496
			At private road, approximately 1.70 miles upstream of State Route 160.	*505
		Muddy Fork	At Louisville Cement Company Bridge—Northwest	*472
			Just upstream Interstate 65	*475
			Just upstream Ebenezer Church Road	*485
			Just upstream of Switch Road	*491
			Just upstream of Lousiville and Nashville railroad	*505
			Just upstream U.S. Route 60	*555
			Approximately 2.1 miles upstream of U.S. Route 60	*599
		Lancassange Creek	At mouth	*452
			Just upstream Lancassange Drive	*456
			Just upstream of Middle Road	*459
			About 0.1 mile upstream of Presidential Place	*467
			Just upstream private road—approximately 0.90 mile upstream of Capitol Hill.	*476
		Mill Creek	1,000 feet downstream of Hamburg Pike	*445
			900 feet upstream of Hamburg Pike	*446
			0.7 mile upstream of Hamburg Pike	*449
		Woodland Court Tributary	At confluence with Lancassange Creek	*459
			Just downstream of Woodland Court	*461
			370 feet upstream of Woodland Court	*463
		Hamburg Pike Tributary	At mouth	*445
			Just upstream of county road	*452
			0.56 mile upstream of county road	*456
	Maps available at City-County Building, Jeffersonville, Indiana 47130.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kentucky	City of Fort Wright, Kenton County (FEMA-5769).	Banklick Creek	Just upstream of Interstate 275	*504
			Just upstream of Kentucky Highway 17	*504
		Banklick Creek Tributary	Just downstream of Kentucky Highway 17	*513
		Horse Branch	Approximately 200 feet downstream of I-275 Culvert Outlet	*505
			Just upstream of I-275 Culvert Inlet	*522
		Horse Branch Tributary	Just upstream of SPCA Shelter Road	*504
			Just upstream of Private Road	*543
	Maps available at the City Offices, 1661 Park Road, Fort Wright, Kentucky 41011.			
Louisiana	City of Lafayette, Lafayette Parish (FEMA-5713).	Coulee Mine	Just upstream of West Bayou Parkway	*17
			Just downstream of West Congress Street	*26
			Just upstream of Eraste Landry Road	*31
		Lateral No. 1	Just downstream of Dulles Boulevard	*30
			Just downstream of U.S. Highway 90	*36
		Coulee Mine Branch	Just upstream of Johnson Street	*22
			Just upstream of Jeanne Street	*33
			Just upstream of Cameron Street	*36
			Just downstream of N. University Ave.	*39
			Just upstream of N. University Ave.	*42
		St. John Coulee	Just upstream of University Ave.	*29
			Just upstream of West Congree Street	*31
		Breaux Bridge Coulee	At Dawn Street	*31
			Just downstream of Surrey Street	*34
		Jupiter Street Coulee	Just upstream of Center Street	*37
			Just downstream of Southern Pacific Railroad	*40
		Grand Avenue Coulee	Just upstream of Johnston Street	*28
			Intersection of Alyene Drive and Wayside Drive	*29
			Just downstream of Lionel Drive	*30
		Vermilion River	At Pinhook Street	*16
			At U.S. Highway 90	*16
			Just downstream of Interstate 10	*17
		Francois Coulee	Just downstream of Interstate 10	*17
		Old Coulee Mine	At Eastern downstream crossing of South College Road	*16
	Maps available at the Planning Commission Office, City Hall, 733 Jefferson, Lafayette, Louisiana 70502.			
Maine	Farmingdale (Town), Kennebec County, FI-4438.	Kennebec River	Confluence with Unnamed Brook No. 3	*29
			Confluence with Unnamed Brook No. 1	*29
			Confluence with Meadow Brook	*31
	Maps available at Town Hall, 175 Main Avenue, Gardner, Maine.			
Maryland	Walkersville, Town, Frederick County (Docket No. FI-5593).	Glade Creek	Fountain Rock Road (Upstream Side)	*283
			Farm Road	*283
			Private Drive (3,200 feet upstream of Fountain Rock Road)	*286
			Biggs Ford Road (Upstream Side)	*289
			Driveway to Microbiological Lab (5,580 feet upstream of Fountain Rock Road).	*290
			Private Drive (approximately 1,900 feet upstream of driveway to Microbiological Lab).	*293
			3,000 feet upstream of driveway to Microbiological Lab	*296
			4,230 feet upstream of driveway to Microbiological Lab	*299
		Dublin Branch	Confluence with Glade Creek	*283
			Farm Road (700 feet upstream of confluence) (Upstream Side)	*286
			Biggs Ford Road	*289
	Maps available at the Town Hall, Walkersville, Maryland.			
Massachusetts	Groveland (Town), Essex County (Docket No. FI-5175).	Merrimack River	Corporate Limits (approximately 8,300 feet downstream of Bates Bridge)—at centerline.	*18
			Bates Bridge—50 feet upstream from centerline	*20
		Argilla Brook	Main Street—50 feet upstream from centerline	*20
			Center Street—25 feet downstream from centerline	*50
		Johnson Creek	Main Street—50 feet upstream from centerline	*20
			Gravel Road over Dam—100 feet downstream from centerline	*26
			Gravel Road over Dam—50 feet upstream from centerline	*36
			Center Street—50 feet upstream from centerline	*40
			Salem Street—100 feet downstream from centerline	*66
			Salem Street—50 feet upstream from centerline	*76
			Uptack Road—50 feet upstream from centerline	*77
			Washington Street—50 feet downstream from centerline	*77
	Maps available at Town Hall, Main Street, Groveland, Massachusetts.			
Massachusetts	Harwich, Town, Barnstable County (Docket No. FEMA-5768).	Nantucket Sound	Entire Coastline	*10
		Chatham Harbor	Pleasant Bay	*8
			Muddy Creek	*8
		Herring River	Confluence with Nantucket Sound	*10
			Lower County Road	*9
			State Route	*8
			East Reservoir	*6
	Maps available at the office of the Town Engineer, Town Offices, Harwich, Massachusetts.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	Town of Holliston, Middlesex County (Docket No. FEMA-5724).	Chicken Brook	0.545 mile upstream Corporate Limits, at Conrail	*232
			Upstream side State Route 16 (Washington Street)	*244
			1.474 miles upstream Corporate Limits, at Private Road	*246
			Upstream side Prentice Street	*253
		Winthrop Canal	Upstream side Elm Street	*183
			Central Street	*186
			Arch Street	*188
		Dopping Brook	Hollis Street	*156
			Brook Street	*164
		Dirty Meadow Brook	Bullard Street	*150
		Bogastow Brook	Central Street	*150
			Fiske Street	*153
			Lowland Street	*158
		Jar Brook	Westfield Road	*188
			Richard Road	*194
			Maple Street	*201
			Winter Street	*210
			Dorset Road	*219
			Upstream side Stagecoach Road	*227
			Orchard Lane	*236
			Meadowbrook Lane	*239
Maps available at the office of the Town Clerk, Holliston, Massachusetts.				
Massachusetts	(T) Weymouth, Norfolk County (Docket No. FEMA-5769.	Hingham Bay	Along coastline	*12
		Herring Brook	Confluence with Weymouth Back River	*12
			Just downstream of Broad Street	*17
			Just upstream of Broad Street	*25
			Just upstream of Pleasant Street	*30
			Just downstream of Iron Hill Street	*35
			Just upstream of Iron Hill Street	*41
		Mill River	Just downstream of dam approximately 1,830 feet downstream of West Street.	*105
			Just upstream of dam approximately 1,830 feet downstream of West Street.	*111
			Just downstream of West Street	*126
			Just upstream of West Street	*130
			Just upstream of Columbian Street	*139
			Just upstream of Conrail	*140
			Just downstream of Hollis Street	*156
		Mill River Tributary A	Confluence with Mill River	*140
			Just upstream of Hollis Street	*144
			Just upstream of Conrail	*148
			Just upstream of Main Street	*152
		Mill River Tributary B	Confluence with Mill River Tributary A	*150
			Centerline of Conrail	*153
		Old Swamp River	Just downstream of Libbey Industrial Parkway	*74
			Just upstream of State Route 3 northbound lane	*77
			Just upstream of Pleasant Street	*87
			Just upstream of Elm Street	*107
			Just upstream of Talbot Street	*111
			Approximately 2,700 feet upstream of Talbot Street	*112
Maps available at the Planning Board Office, Town Hall, Weymouth, Massachusetts 02189.				
Michigan	(V) Dimondale, Eaton County (Docket No. FEMA-5702).	Grand River	Northern Corporate Limits	*844
			Southern Corporate Limits	*847
		Old Maid Dam	At mouth	*845
			Western Corporate Limits	*845
Maps available at Village Clerk's Office, P.O. Box 26, Dimondale, Michigan 48821.				
Minnesota	Andover (City), Anoka County FEMA-5765.	Rum River	Approximately 2,000 feet west from intersection of County Highway 7 and 148th Lane NW.	*854
			Approximately 400 feet south from the intersection of Mary Street and Marystone Lane.	*856
			Western end of 159th Avenue NW	*858
			Intersection of County Highway 7 (Roanoke Street Northwest) and 175th Avenue NW.	*863
			Approximately 150 feet south from the intersection of the northern corporate limits and the Rum River.	*865
		Cedar Creek	At confluence with Rum River	*864
		Coon Creek	Intersection of southern corporate limits and Coon Creek	*862
			Approximately 100 feet downstream from intersection of South Coon Creek Drive and the channel.	*866
			Approximately 200 feet upstream from intersection of Crosstown Boulevard Northwest and channel.	*872
			Approximately 100 feet upstream from intersection of Prairie Road and channel.	*878
Maps available from City Hall, 1685 Crosstown Boulevard, NW, Anoka, Minnesota.				
Mississippi	City of Mendenhall, Simpson County (FEMA-5769).	Seller Creek	Just downstream of U.S. Highway 13	*299
			Just downstream of Rials Creek Road	*321

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sellers Creek Tributary 1	Just upstream of Old U.S. Highway 49	*301
		Terrapin Creek	Just downstream of U.S. Highway 49	*325
		Patterson Branch	Just upstream of Court Avenue	*321
			Just downstream of Pine Avenue	*323
			Just downstream of Dear Drive	*535
	Maps available at City Hall, 167 Maud Street, Mendenhall, Mississippi 39114.			
Mississippi	Unincorporated Areas, of Simpson County (FEMA-5769).	Strong River	Just downstream of Mississippi State Highway 540	*295
			Just downstream of U.S. Highway 49	*297
		Sellers Creek	Just upstream of Mississippi State Highway 13	*300
			Just upstream of Rials Creek Road	*323
		Terrapin Creek	Just upstream of U.S. Highway 49	*330
	Maps available at County Administrator's Office, Pine Street, Mendenhall, Mississippi 39114.			
Montana	Missoula (City), Missoula County, (FEMA-5757).	Clark Fork River	Crossing of Russell Street over channel	*3,166
			Crossing of U.S. Highway 12 and 93	*3,179
			Crossing of Madison Street Bridge	*3,185
		Pattee Creek	South Higgins Avenue crossing—20 feet upstream of centerline	*3,223
			Pattee Canyon Road	*3,314
		Rattlesnake Creek	Crossing of East Front Street over channel	*3,188
			Private Road crossing	*3,260
		Bitterroot River	Westernmost corner of community approximately 3,000 feet west of intersection of Fort Road and Post Siding Road.	*3,123
		Sheetflow	Southern edge of southern I-90 exit ramp approximately 700 feet southeast from crossing of I-90 over Rattlesnake Creek.	#1
			100 feet northeast of intersection of Russell Street and 39th Street	#1
			South side of Whitaker Street from Crestline to Pineridge	#1
			Westernmost intersection of Arlington and Cyprus	#1
			300 feet south of intersection of 39th Street and Reserve Street	#1
			South side of U.S. Highway 12 and 93 approximately 500 feet southwest from its intersection with Dore Lane.	#1
			Bancroft Road between Benton and Livingston	#2
			100 feet south of intersection of Russell Street and 39th Street	#2
			Southern side of Southwest Higgins Avenue between Northview and Stephens.	#2
			750 feet south of intersection of 39th and Reserve Street	#2
			Old Childrens Fishpond	#3
	Maps available at the office of the Building Inspector, City Hall, 201 West Spruce Street, Missoula, Montana 59801.			
Nebraska	(C) Seward, Seward County (Docket No. FEMA-5702).	Big Blue River	Upstream side of County Road J3G34	*1,436
			Upstream side of Second Street	*1,444
			About 1000 feet upstream of U.S. Highway 34	*1,449
			Upstream side of County Road G817	*1,452
			About 2.1 miles upstream County Road G817	*1,456
		Plum Creek	Confluence with Big Blue River	*1,442
			About .25 miles upstream County Road G1015	*1,458
			Upstream side of Hillcrest Drive	*1,450
			About 2.4 miles upstream County Road G1015	*1,465
	Maps available at City Hall, P.O. Box 38, Seward, Nebraska 68434.			
Nevada	Las Vegas (City), Clark County (Docket No. FEMA-5701).	Las Vegas Wash	Monroe Avenue	#1
			East Stewart Avenue 50 feet downstream from centerline	*1,740
			East Stewart Avenue 40 feet upstream from centerline	*1,746
			Washington Avenue 50 feet upstream from centerline	*1,774
			Owens Avenue at centerline	*1,801
		Las Vegas Creek	Lamb Boulevard 25 feet upstream from centerline	*1,783
			Mojave Road 50 feet upstream from centerline	*1,819
			21st Street 50 feet upstream from centerline	*1,849
			Bruce Street 70 feet upstream from centerline	*1,870
			Fantasy Lane 50 feet upstream from centerline	*1,896
	Maps available at Engineering Design Building, 400 East Stewart, Las Vegas, Nevada.			
New Jersey	Emerson (Borough), Bergen County, FEMA-5765.	Pascack Brook	From Old Hook Road, 200 feet north along eastern corporate limit	*25
		Musquapsink Brook	150 feet northwest from the intersection of Dorchester Drive and Vivian Avenue.	*51
		Haunsmans Ditch	30 feet upstream from center of Main Street crossing of Haunsmans Ditch.	*30
		Oradell Reservoir	Within corporate limits	*25
	Maps available at Borough Hall, Municipal Building, Linwood Avenue, Emerson, New Jersey.			
New York	East Hampton, Village, Suffolk County (Docket No. FEMA-5768).	Atlantic Ocean	Entire Coastline and shoreline of Georgica Pond; Georgica Cove and Hook Pond within community.	*9
	Maps available at the Village Hall, East Hampton, New York.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
North Dakota	Harwood (City), Cass County, FEMA-5748.	Red River of the North	The entire incorporated area of the City of Harwood	*891
	Maps available at the home of the City Auditor, Box H8, Harwood, North Dakota.			
Ohio	(V) Hudson, Summit County (Docket No. FEMA-5702).	Brandywine Creek	Approximately 1,160 feet downstream of Lake Forest Dam	*984
			Just downstream of Lake Forest Dam	*997
			Just upstream of Lake Forest Dam	*1,003
			Just downstream of Ingleside Drive	*1,005
			Just downstream of Pine Lake Dam	*1,010
			Just upstream of Pine Lake Dam	*1,021
			Approximately 200 feet upstream of Atterbury Boulevard	*1,022
			Just downstream of Conrail	*1,025
			Just downstream of West Prospect Street	*1,029
			Confluence of Brandywine Creek Tributary	*1,031
			Approximately 1,000 feet upstream of Brandywine Creek Tributary	*1,032
		Brandywine Creek Tributary	Just downstream of Owen Brown State	*1,044
			Just upstream of Ravenny Street	*1,053
			Approximately 100 feet downstream of South Oviatt Street	*1,061
	Maps available at Village Hall, 130 North Main Street, Hudson, Ohio 44236.			
Oklahoma	City of Chickasha, Grady County (FEMA-5769).	Line Creek	Just upstream of Illinois Avenue	*1,093
			Just upstream of Twelfth Street	*1,096
			Just upstream of Iowa Avenue	11,106
		Rock Hollow Creek	Approximately 100 feet upstream of confluence with Line Creek at west side of Lake.	*1,099
		West Side Creek	Just downstream of Idaho Avenue	*1,109
			Just upstream of Georgia Avenue	*1,121
			Just downstream of Grand Avenue	*1,133
		Congo Creek	Just upstream of Second Street	*1,095
			Just upstream of Third Street	*1,100
			Just downstream of Ninth Street	*1,123
			Just downstream of Willow Creek Road	*1,177
		Middle Branch, Congo Creek	Just downstream of Bailey Turnpike	*1,133
			Approximately 100 feet upstream of Country Club Road	*1,152
		Golf Course Tributary to Congo Creek.	Just upstream of Clubhouse Road	*1,153
			Flanders Drive (Extended)	*1,176
		East Branch to Congo Creek	Approximately 75 feet upstream of Grand Avenue	*1,090
			Approximately 220 feet upstream of Bailey Turnpike	*1,109
	Maps available at City Manager's Office, City Hall, 6th and Chickasha Avenue, Chickasha, Oklahoma 73018.			
Oklahoma	City of Durant, Bryan County (FEMA-5713).	Mineral Bayou	Just downstream of South Ninth Ave	*623
			Just upstream of Southeast First Avenue	*612
			Just upstream of U.S. 70	*600
		Tributary 1	Just downstream of Northeast Second Avenue	*598
		Tributary 4	Just downstream of U.S. Hwy 69-75	*644
		Chuckwa Creek	Just downstream of Washington Avenue	*623
			Just downstream of Briarwood Avenue	*611
	Maps available at the Office of the City Clerk, City Hall, Third and Evergreen Street, Durant, Oklahoma 74701.			
Oregon	Central Point (City), Jackson County, FI-5109.	Griffin Creek	Southern Pacific Railroad Bridge—90 feet downstream from centerline	*1,252
			Southern Pacific Railroad Bridge—30 feet upstream from centerline	*1,254
			Pine Street (Bridge Culvert)—60 feet downstream from centerline	*1,271
			Pine Street (Bridge Culvert)—20 feet upstream from centerline	*1,276
			Beall Lane (Bridge Culvert)—20 feet downstream from centerline	*1,294
	Maps available at City Hall, 250 E. Pine Street, Central Point, Oregon.			
Oregon	Eagle Point (City), Jackson County, FI-5020.	Little Butte Creek	Corporate Limits (approximately 90 feet upstream from State Highway 62)—at centerline.	*1,281
			Little Butte Creek Bridge—80 feet upstream from centerline	*1,297
	Maps available at City Hall, 136 Main Street, Eagle Point, Oregon.			
Oregon	La Grande (City), Union County, FEMA-5765.	Grande Ronde River	Intersection of river and center of Interstate Highway 80	*2,793
			30 feet downstream from center of Harrison Avenue	*2,814
		Taylor Creek	30 feet upstream from center of Linda Lane	*2,819
			Intersection of creek and center of Highland Drive	*2,880
		Little Taylor Creek	Intersection of creek and center of Gemini Drive	*2,803
			30 feet upstream from center of Linda Lane	*2,818
			30 feet upstream from center of Jupiter Lane	*2,828
		Old Taylor Creek Channel	25 feet downstream from center of Pisces Place	*2,805
		Gekeler Slough	90 feet upstream from center of Forest Service Bridge	*2,746
			60 feet downstream from center of 20th Street	*2,753
			Intersection of I Avenue and 15th Street	*2,761
		Mill Creek	Intersection of creek and center of 20th Street	*2,753
			Intersection of B Avenue and 2nd Street	#1
		East West Diversion Channel	Confluence with Little Taylor Creek	*2,894
		Deal Creek	Intersection of N Avenue and Alder Street	#1
	Maps available from City Hall, 104 Elm Street, La Grande, Oregon.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oregon	Shady Cove (City), Jackson County (Docket No. FI-5021).	Rogue River	State Highway 62—100 feet upstream from centerline	*1,393
			Corporate Limits (1st crossing upstream from State Highway 62)—at centerline.	*1,400
	Maps available at City Hall, 22451 Highway 62, Shady Cove, Oregon.			
Pennsylvania	Arnold City, Westmoreland County (Docket No. FEMA-5757).	Allegheny River	Downstream Corporate Limits	*754
			Upstream Corporate Limits	*755
	Maps available at the City Hall, 1829 5th Avenue, Arnold, Pennsylvania.			
Pennsylvania	Ashley, Borough, Luzerne County (Docket No. FEMA-5768).	Solomon Creek	Upstream Conrail (Adjacent to St. Mary Road)	*590
			Upstream Carey Street	*598
			Downstream Richard Street (Extended)	*609
			Upstream Conrail	*615
			Upstream Access Road (Extended)	*639
			Downstream Main Street	*643
			Upstream Main Street	*649
			Downstream Wyoming Street (Extended)	*677
			Upstream Corporate Limits	*709
		Sugarnotch Run	Downstream Sively Street	*605
			Upstream Sively Street	*606
			Upstream Frederick Street	*607
			Upstream Corporate Limits	*610
	Maps available at the Town Hall Building, Ashley, Pennsylvania.			
Pennsylvania	Braddock, Borough, Allegheny County (Docket No. FEMA-5734).	Monongahela River	Downstream Corporate Limits	*738
			Upstream Corporate Limits	*739
	Maps available at the Borough Building, Braddock, Pennsylvania.			
Pennsylvania	East Caln, Township, Chester County (Docket No. FEMA-5768).	East Branch, Brandywine Creek	Downstream Corporate Limits	*225
			U.S. Route 322 (Upstream)	*227
			State Route 282 (Upstream)	*248
			Upstream Dam (Upstream)	*256
			Upstream Corporate Limits	*262
	Maps available at the East Caln Township Building, 103 Garris Road, Downingtown, Pennsylvania.			
Pennsylvania	Emsworth, Borough, Allegheny County (Docket No. FEMA-5768).	Ohio River Main Channel	Downstream Corporate Limits	*719
			Upstream of Emsworth Locks and Dam	*722
		Lowries Run	Upstream of confluence with Ohio River Main Channel	*721
			Upstream of Ohio River Boulevard	*724
			Upstream of Private Bridge that is upstream of Center Avenue	*739
			Upstream Corporate Limits	*752
	Maps available at the Municipal Building, Emsworth, Pennsylvania.			
Pennsylvania	Gamble, Township, Lycoming County (Docket No. FEMA-5768).	Loyalsock Creek	Downstream Corporate Limits	*623
			3,700 feet upstream of Corporate Limits	*634
			Confluence of Wallis Run	*638
			Confluence of Buternut Grove Run	*648
			Confluence of Dry Run	*667
			At Corporate Limits 30,090 feet upstream of Corporate Limits and 4,830 feet downstream of confluence of Cove Hollow Run.	*693
			At most upstream Corporate Limits	*720
		Wallis Run	Confluence of Loyalsock Creek	*638
			2,300 feet upstream of confluence of Loyalsock Creek	*650
			3,500 feet upstream of confluence of Loyalsock Creek	*660
			6,250 feet upstream of confluence with Loyalsock Creek	*680
			10,550 feet upstream of confluence with Loyalsock Creek	*700
			Confluence of Murray Run	*722
			Upstream of Legislative Route 41050	*743
			800 feet downstream of confluence of Roaring Run	*769
			At confluence of Roaring Run	*777
			2,950 feet upstream of Roaring Run	*800
			850 feet downstream of Joe Gray Run	*826
			At confluence of Joe Gray Run	*830
			At confluence of Salt Run	*849
			1,920 feet upstream of Salt Run	*865
			3,025 feet upstream of Salt Run	*880
			4,975 feet upstream of Salt Run	*910
	Maps available at the residence of Ms. Patricia Hipple, Secretary of the Township of Gamble, Winters Lane, Calvert, Pennsylvania.			
Pennsylvania	Great Bend, Borough, Susquehanna County (Docket No. FEMA-5768).	Susquehanna River	Downstream Corporate Limits	*874
			Upstream Corporate Limits	*874
	Maps available at the Borough Hall, Great Bend, Pennsylvania.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Hallstead, Borough, Susquehanna County (Docket No. FEMA-5768).	Susquehanna River	Downstream Corporate Limits	*874
			Upstream Corporate Limits	*875
		DuBois Creek	At Conrail Bridge	*874
			At State Rourte 70	*874
		Salt Lick Creek	At State Route 289	*875
			About 920 feet upstream of Township Route 842	*875
	Maps available at the Hallstead Borough Hall, Hallstead, Pennsylvania.			
Pennsylvania	Huston, Township, Blair County (Docket No. FEMA-5768).	Clover Creek	Downstream Corporate Limits	*1,075
			Private Road approximately 1,300 feet above Corporate Limits (Downstream).	*1,078
			Private Road approximately 1,320 feet above Corporate Limits (Upstream).	*1,079
			Legislative Route 07051 (Upstream)	*1,085
			Private Road approximately 5,100 feet above Corporate Limits	*1,097
			Private Road approximately 6,700 feet above Corporate Limits	*1,105
			Private Road approximately 9,200 feet above Corporate Limits	*1,113
			Private Road approximately 10,400 feet above Corporate Limits	*1,117
			Township Route 369 (Upstream)	*1,131
			Ye Olde Mill Dam Road (Downstream)	*1,139
			Ye Olde Mill Dam Road (Upstream)	*1,142
			Private Road approximately 15,700 feet above Corporate Limits (Upstream).	*1,144
			Private Road approximately 16,200 feet above Corporate Limits (Upstream).	*1,147
			Approximately 1,040 feet above Private Road located approximately 16,200 feet above Corporate Limits.	*1,148
	Maps available at the residence of Mr. Robert Fisher, Secretary of the Township of Huston, R.D. 2, Martinsburg, Pennsylvania.			
Pennsylvania	Muncy Creek, Township, Lycoming County (Docket No. FEMA-5768).	West Branch Susquehanna River	State Routes 54 and 405	*493
			Conrail Downstream	*501
			Confluence of Muncy Creek	*504
			Upstream Corporate Limits	*506
		Glade Run	Confluence with West Branch Susquehanna River	*504
			Legislative Route 41063 downstream	*517
			Downstream crossing Legislative Route 41064 upstream	*547
			Upstream crossing Legislative Route 41064 downstream	*583
			Approximately 2,000 feet upstream of Legislative Route 41064	*620
		Muncy Creek	Confluence of Wolf Run	*504
			State Route 405 (upstream)	*511
			Confluence of Little Muncy Creek	*514
			Upstream Corporate Limits	*525
		Little Muncy Creek	Confluence with Muncy Creek	*514
			State Route 442 downstream	*517
			Legislative Route 41063 upstream	*533
			Township Route 612 (Extended)	*555
			Legislative Route 41069 upstream	*568
			State Route 442 downstream	*576
		Wolf Run	Confluence with Muncy Creek	*504
			Old State Route 147	*505
			Upstream Corporate Limits	*505
	Maps available at the Muncy Creek Township Building, Route 442, Muncy, Pennsylvania.			
Pennsylvania	North Belle Vernon, Borough, Westmoreland County (Docket No. FEMA-5768).	Speers Run	Upstream of Interstate Route 70 Access Ramp	*763
			Upstream of Interstate Route 70	*763
			Approximately 1,100 feet upstream of Interstate Route 70	*764
	Maps available at the North Belle Vernon Borough Building, North Belle Vernon, Pennsylvania.			
Pennsylvania	Pequea, Township, Lancaster County (Docket No. FEMA-5768).	Conestoga Creek	Downstream Corporate Limits	*224
			1.1 Miles upstream of downstream Corporate Limits	*228
		Pequea Creek	Downstream Corporate Limits	*264
			Marticville Road Upstream	*272
			Byerland Church Road Upstream	*278
			Approximately 1,975 feet upstream of Byerland Church Road	*279
	Maps available at the Pequea Township Building, Pequea, Pennsylvania.			
Pennsylvania	Taylor, Township, Blair County (Docket No. FEMA-5768).	Plum Creek	Approximately 640' downstream of Decker Hollow Road	*1,262
			Decker Hollow road	*1,272
			Legislative Route 07074	*1,284
			Approximately 2,350' upstream of Township Route 164	*1,296
		Halter Creek	Approximately 1,100' downstream of northern intersection of Halter Creek Road.	*1,148
			Confluence of Cabbage Creek	*1,160
			Upstream of southern intersection of Halter Creek Road	*1,170
			Approximately 250' upstream of Halter Creek Road	*1,173
		Cabbage Creek	Confluence with Halter Creek	*1,160
			Approximately 480' upstream of confluence with Halter Creek	*1,170
			Approximately 850' upstream of confluence with Halter Creek	*1,180
			Approximately 1,400' upstream of confluence with Halter Creek	*1,190

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 760' upstream of Corporate Limits at private Driveway	*1,230
			Closson Road	*1,244
			Approximately 1,280' upstream of intersection with Closson Road	*1,254
			Approximately 1,980' upstream of intersection with Closson Road	*1,264
			Approximately 1,470' downstream of Orchard Road	*1,274
			Approximately 930' downstream of Orchard Road	*1,284
			Approximately 2,350' upstream of Orchard Road	*1,313
	Maps available at the Taylor Township Building, Taylor, Pennsylvania.			
Pennsylvania	Union, Township, Luzerne County (Docket No. FEMA-5768).	Shickshinny Creek	Downstream of Dam	*549
			Approximately 1,950 feet upstream of Dam	*580
			Approximately 2,900 feet upstream of Dam	*601
			Upstream of Legislative Route 235	*631
			Upstream of Township Route 461 (Extended)	*681
			Upstream of Private Bridge	*699
			Upstream of confluence of Tributary to Shickshinny Creek	*714
			Upstream Township Route 530 (Extended)	*733
			Downstream Township Route 451	*749
		Reyburn Creek	Confluence with Shickshinny Creek	*632
			Downstream Legislative Route 40072	*679
			Upstream Private Road	*695
			Approximately 800 feet upstream of Private Road	*730
			Upstream Township Route 469	*804
			Approximately 3,500 feet upstream of Township Route 469	*831
			Township Route 479	*859
	Maps available at the Union township Secretary's residence, R. D. 1, Shickshinny, Pennsylvania.			
Pennsylvania	Upper Pottsgrove, Township, Montgomery County (Docket No. FI-5768).	Sprogels Run	Upstream side of Charlotte Road	*199
			1,500' upstream of Charlotte Road	*213
			1,150' downstream of Mauger's Mill Road	*228
			Upstream side of Mauger's Mill Road	*243
			1,170' upstream of Mauger's Mill Road	*266
			400' upstream of Snyder Road	*289
	Maps available at the Upper Pottsgrove Township Municipal Building, Upper Pottsgrove, Pennsylvania.			
Pennsylvania	Uwchlan, Township, Chester County (Docket No. FEMA-5768).	East Branch Brandywine Creek	Downstream Corporate Limits	*261
			Confluence of Shamona Creek	*273
			Upstream Corporate Limits	*283
		Shamona Creek	Confluence with East Branch Brandywine Creek	*273
			Dowlin Forge Road (Upstream)	*275
	Maps available at the Uwchlan Township Building, 715 North Ship Road, Uwchlan, Pennsylvania.			
Pennsylvania	Vandergrift, Borough, Westmoreland County (Docket No. FEMA-5768).	Pine Run	Downstream Corporate Limits	*789
			Upstream side of Abandoned bridge piers	*795
	Maps available at the Vandergrift Borough Hall, Vandergrift, Pennsylvania.			
Tennessee	City of Carthage, Smith County (FEMA-5769).	Cumberland River	Jefferson Avenue extended	*485
	Maps available at City Hall, 306 Spring Street, Carthage, Tennessee 37030.			
Tennessee	Unincorporated Areas of Roane County (FEMA-5769).	Tennessee River	Just downstream of the confluence of Whites Creek	*745
			Just upstream of the confluence of Hines Creek	*750
		Clinch River	Just upstream of the confluence of Emory River	*747
			Just upstream of the confluence of Caney Creek	*749
		Black Creek	Just upstream of Black Creek Road	*794
			Just downstream of U.S. Highway 70	*851
		Whites Creek	Just downstream of U.S. Highway 27	*776
		Pawpaw Creek	Just upstream of Buttermilk Road	*768
		Caney Creek	Just upstream of Buttermilk Road	*750
		Indian Creek	Approximately 600 feet downstream of the southern corporate limits of the Town of Oliver Springs.	*780
		Emory River	Just upstream of the confluence of Swan Pond Creek	*748
			Just upstream of the confluence of Bullard Branch	*763
		Little Emory River	Approximately 264 feet upstream of U.S. Highway 27	*752
		Poplar Creek	Approximately 600 feet downstream of the confluence of Indian Creek	*776
	Maps available at Budget Director's Office, Roane County Courthouse, Roane Tennessee.			
Texas	City of Castle Hills, Bexar County (FEMA-5773).	Olmos Creek	Just upstream of southwestern corporate limits (Jackson Keller Road)	*772
			Just upstream of U.S. Highway 410 Westbound Access Road	*778
		Olmos Creek Tributary	Just upstream of Irongate Street	*806
	Maps available at City Secretary's Office, City Hall, 6915 West Avenue, Castle Hills, Texas 78213.			
Texas	City of Cleburne, Johnson County (FEMA-5769).	Unnamed	Just upstream of Country Road	*757
		McAnear Creek	Just downstream of Westhill Drive	*758
			Just upstream of West Henderson Drive	*771
			Just upstream of Woodard Street	*787
		West Buffalo Creek	Just upstream of Smith Street	*750

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Wilson Street	*764
			Just upstream of State Highway 171	*791
		East Buffalo Creek	Just upstream of State Highway 174	*741
			Just downstream of Walters Street	*749
			Just upstream of Olive Street	*759
		Lockett Branch	Just upstream of Henderson Street (U.S. Highway 67)	*770
Maps available at Engineering Department, City Hall, Cleburne, Texas.				
Texas	City of Crockett, Houston County (FEMA-5713).	Spring Creek	Just downstream of State Highway 287	*286
			Just upstream of Loop 304	*294
		Town Branch Creek Main	Just upstream of Loop 304	*285
			Approximately 120 feet upstream of the Missouri and Pacific Railroad	*305
		Town Branch Creek Tributary	Approximately 60 feet downstream of F. M. 229	*290
			Just downstream of upstream of (Western) Corporate Limits	*300
Maps available at City Clerk's Office, City Hall, South Fifth Street, Crockett, Texas 75835.				
Texas	City of Farmers Branch, Dallas County (FEMA-5748).	Elm Fork of the Trinity River	Just upstream of Royal Lane	*430
			Just upstream of Valley View Lane	*434
		Cooks Branch	Just downstream of Dention Road	*454
			Just downstream of Rollingdale-Lane	*494
Maps available at Director of Public Works' Office, City Hall, 13000 William Dodson Parkway, Farmers Branch, Texas 75324.				
Texas	City of Hillsboro, Hill County (FEMA-5713).	Hackberry Creek	Abernathy Street (Extended)	*560
			Approximately 100 feet upstream of downstream corporate limits	*558
		Tributary of Hackberry Creek	Just downstream of Church Street	*592
			Approximately 100 feet downstream of Covington Street	*587
			Just upstream of Hawkins Street	*581
			Just upstream of Morgan Street	*576
		Little Hackberry Creek	Upstream Corporate Limits	*568
		Pecan Creek	Just downstream of U.S. Highway 81 and 77	*585
			Just upstream of State Highway 171	*579
		Bond Creek	Approximately 200 feet downstream of Missouri-Kansas Texas Railroad.	*584
			Just upstream of State Highway 171	*579
		Tributary of Pecan Creek	Just upstream of Brandon Road	*616
Maps available at City Hall, 115 S. Wico Street, Hillsboro, Texas 76645.				
Texas	City of Terrell, Kaufman County (FEMA-5713).	Bachelor Creek	Just upstream of Interstate Highway I-20	*470
			Just upstream of U.S. Highway 80	*489
			Just upstream of Farm Market Road 205	*493
			Just upstream of Farm Market Road 986	*506
		Kings Creek	Just upstream of College Mound Road	*459
			Just upstream of Texas and Pacific Railroad	*463
			Just upstream of U.S. Highway 80 (E. Moore Street)	*471
Maps available at the Office of the City Manager, 201 E. Nash Street, Terrell, Texas 75160.				
Vermont	(T) Canaan, Essex County (Docket No. FEMA-5749).	Connecticut River	Downstream corporate limit	*1,010
			About 211 feet upstream of confluence with Willard Stream	*1,012
			About .45 mile upstream of confluence with Capon Brook	*1,013
			About 1.95 miles upstream of confluence with Capon Brook	*1,014
			About 4 miles upstream of confluence with Capon Brook	*1,017
			About .48 mile downstream of Gale Street	*1,019
			About 317 feet upstream of Gale Street	*1,027
			Just downstream of dam	*1,041
			Just upstream of dam	*1,057
			About .75 mile upstream of North Stratford Railroad	*1,063
			About 160 feet downstream of Vermont Avenue	*1,076
			About 1.68 miles upstream of confluence with Halls Stream	*1,087
			Upstream corporate limit	*1,106
		Willard Stream	Mouth at Connecticut River	*1,012
			About 106 feet downstream of State Route 102	*1,014
			About 211 feet upstream of State Route 102	*1,019
			About .41 mile upstream of State Route 102	*1,029
			About .86 mile upstream of State Route 102	*1,100
		Morrill Brook	Mouth at Leach Creek	*1,307
			About .31 mile upstream of mouth at Leach Creek	*1,313
		Leach Creek	Mouth at Connecticut River	*1,018
			About 106 feet upstream of State Route 102	*1,022
			About .3 mile downstream of U.S. and Canada Border	*1,031
			Mouth at Wallace Pond	*1,296
			Just upstream of State Route 114	*1,305
			About .23 mile upstream of confluence with Morrill Brook	*1,324
		Halls Stream	Just upstream County Route 1	*1,080
			Upstream Canada Border	*1,081
		Capon Brook	Mouth at Connecticut River	*1,013
			Just downstream of State Route 102	*1,013
			About 106 feet upstream of State Route 102	*1,021
			About .44 mile upstream of State Route 102	*1,059
Maps available at Town Office, Canaan, Vermont 05903.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Vermont	Fayston, Town, Washington County (Docket No. FEMA-5749).	Mill Brook	Downstream Corporate Limits	*757
			1st crossing upstream side of McCullough Turnpike from downstream Corporate Limits.	25*839
			2nd crossing upstreams side of McCullough Turnpike from downstream Corporate Limits.	*864
			3rd crossing upstream side of McCullough Turnpike from downstream Corporate Limits.	*905
			German Flats Road	*925
			Approximately 3,000 feet upstream of German Flats Road	*967
			Approximately 6,480 feet upstream of German Flats Road	*1,006
	Maps available at the Office of the Town Clerk, Fayston, Vermont.			
West Virginia	Wheeling, City, Ohio County (Docket No. FEMA-5757).	Ohio River	Downstream Corporate Limits	*657
			U.S. Route 40	*659
			Confluence of Glenns Run	*661
			Upstream Corporate Limits	*662
		Wheeling Creek	Confluence w/Ohio River	*659
			Washington Avenue (Upstream side)	*667
			State Route 88 (Upstream side)	*687
			Upstream Corporate Limits	*706
		Little Wheeling Creek	Confluence w/Wheeling Creek	*685
			Shilling Street Bridge	*690
			Upstream Corporate Limits	*702
	Maps available at the City Engineer's Office, Wheeling, West Virginia.			
Wisconsin	(V) Wind Point, Racine County (Docket No. FI-5683).	Unnamed Tributary No. 1	Approximately 125 feet downstream from Lighthouse Drive (mouth of the unnamed Tributary No. 1).	*584
			Approximately 30 feet upstream from Lighthouse Drive	*587
			Upstream side of First Private Drive which is approximately 530 feet upstream from Lighthouse Drive.	*590
			Approximately 50 feet upstream from Second Private Drive which is approximately 2,400 feet upstream from Lighthouse Drive.	*591
			Approximately 50 feet upstream from Third Private Drive which is approximately 3,100 feet upstream from Lighthouse Drive.	*592
			Approximately 1,120 feet upstream from Third Private Drive	*593
		Unnamed Tributary No. 2	Confluence with Unnamed Tributary 1; 760 feet downstream from Lakemeadow Drive.	*593
			Approximately 320 feet downstream from Lakemeadow Drive	*604
			Approximately 50 feet downstream from Lakemeadow Drive	*606
			Approximately 60 feet upstream from Lakemeadow Drive	*608
			Approximately 1,980 feet upstream from Lakemeadow Drive	*608
		Lake Michigan	Lake Michigan	*584
	Maps available at Office of the Village Clerk, 5120 Hunt Club Road, Racine, Wisconsin 53402.			

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968, as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: April 11, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13395 Filed 5-2-80; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR 163c

Community Education Program

Correction

In FR Doc. 80-9528, appearing on page 22702, in the issue of Tuesday, April 3, 1980, make the following correction:

On page 22711, first column, in § 163c.40(b), in the second line "80 percent" should read "90 percent", and in the third line "90 percent" should read "80 percent".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 33, 35, 71, 75, 78, 91, 94, 97, 160, 189, 192, 196

[CGD 76-033a]

Lifesaving Equipment for Great Lakes Vessels; Exposure Suits for Vessels Operating on the Great Lakes; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 80-10443 appearing on page 24471 in the **Federal Register** of Thursday, April 10, 1980, the effective date of the rulemaking was incorrectly given as April 10, 1980. This should be changed to November 1, 1980 in the dates section of the preamble, and in §§ 33.37-5(d), 75.41-5(e), 94.41-5(d), and 192.41-5(d) of the rule.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (G-MMT-3/12), Department of Transportation, U.S. Coast Guard Headquarters, Washington, DC 20593, (202) 426-1444.

Dated: April 29, 1980.

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 80-13731 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 125

[FRL 1482-2]

National Pollutant Discharge Elimination System (NPDES); NPDES Best Management Practices Guidance Document and Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Continuation of deferral of effective date and extension of comment period.

SUMMARY: This notice announces that EPA is extending the review and comment period on the National Pollutant Discharge Elimination System (NPDES) Best Management Practices (BMP) Guidance Document and is continuing the deferral of the effective date of the BMP requirements.

DATES: Comments on the draft NPDES Best Management Practices Guidance Document must be received on or before **June 19, 1980.**

The effective date of the BMP requirements continues to be deferred until EPA completes the review of the comments submitted in response to this notice and announces the new effective date in the **Federal Register.**

ADDRESSES: Interested persons may obtain copies of the draft Guidance Document by written request addressed to the contact person listed below. Comments on the Document should be submitted to the same address.

FOR FURTHER INFORMATION CONTACT: Harry M. Thron, Office of Water Enforcement (EN-336), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 426-7010.

SUPPLEMENTARY INFORMATION: EPA stated in the June 7, 1979 **Federal Register** that technical guidance on the development of BMP programs would be provided in a publication entitled "NPDES Best Management Practices Guidance Document." See comment following 40 CFR 125.104(b) (44 FR 32955). However, publication of the Guidance Document was delayed beyond the August 13 effective date. Therefore, on August 10, 1979, EPA deferred applicability of the BMP portions of the NPDES regulations until 60 days after publication in the **Federal Register** of a notice of availability of the BMP Guidance Document. 44 FR 47063. EPA later announced on March 20, 1980 the availability of the draft report "NPDES Best Management Practices Guidance Document" (EPA-600/9-79-045, December 1979), and provided a 45-day comment period on the Guidance Document. 45 FR 17997. EPA today announces that the comment period on the BMP Guidance Document is extended by 45 days to a total of 90 days. The comment period is being extended in response to public comments that the initial comment period of 45 days is insufficient due to the technical nature and length of the Document and to mail delays. Comments should address only the technical aspects of the Guidance Document since EPA previously has solicited and received comments on the BMP regulation itself.

After reviewing comments, EPA will finalize the Guidance Document and publish a notice in the **Federal Register** announcing the effective date of the BMP regulations, 40 CFR Part 125 Subpart K. 40 CFR Part 122 is unaffected by this action.

Dated: April 23, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-13935 Filed 5-2-80; 9:17am]

BILLING CODE 6560-01-M

Proposed Rules

Federal Register
Vol. 45, No. 88
Monday, May 5, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Improving Government Regulations; Semi-Annual Agenda of Regulations Under Review and Development

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of Semi-annual Agenda of Regulations under Review and Development.

SUMMARY: This notice contains the semi-annual list of existing FMCS Regulations presently under review by the Service and the list of proposed Regulations currently under development. The Regulations discussed are those governing Federal Sector mediation; grants pursuant to the Labor-Management Cooperation Act; and Arbitration under the Federal Insecticide, Fungicide, and Rodenticide Act. The list is published pursuant to Section 2(a) of Executive Order 12044.

FOR FURTHER INFORMATION CONTACT: Daniel Dozier, Associate General Counsel, Federal Mediation and Conciliation Service, Washington, DC 20427, (202) 653–5305, FTS 653–5305.

SUPPLEMENTARY INFORMATION: This Agenda of Regulations under development or review by Federal Mediation and Conciliation Service is published semi-annually pursuant to Section 2(a) of Executive Order 12044. This Agenda has been approved by the Director of FMCS.

The following Regulations are under review or development:

1. Revised proposed regulations governing FMCS Mediation Services in the Federal Sector (29 CFR Part 1425) were published on April 1, 1980, for a 90-day period of public comment. Revision of the Regulations was necessary in order to comply with Section 7119(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 5 U.S.C. 1101 et seq.) and to incorporate changes in FMCS procedures due to the evolving nature of Federal sector labor relations. The agency will review all comments received and publish the final Regulation in the **Federal Register** shortly after the close of the comment period. A regulatory analysis is not required for these Regulations.

Inquiries regarding the Federal Sector Regulations may be directed to David Vaughn, General Counsel or Nancy Broff, Assistant General Counsel, (202) 653–5305.

2. FMCS has developed new Regulations for appointment of arbitrators in disputes regarding compensation for the use or development of data in connection with the registration of pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (Pub. L. 95–386, September 30, 1978), and the procedure and rules that will be applicable to such arbitration proceedings. Development of Regulations is necessary for FMCS to perform its statutory responsibility under FIFRA. A regulatory analysis is not required for these Regulations.

The proposed Regulations, which were developed after extensive discussions with the Environmental Protection Agency, were published in the **Federal Register** on July 24, 1979 (44 FR 43292) for a 60-day period of public comment. The comment period was reopened on November 13, 1979 (44 FR 65407) to allow further comment. FMCS published interim final Regulations on April 28, 1980 (45 FR 28105). Inquiries concerning the FIFRA Regulations may be directed to Nancy Broff, Assistant General Counsel, (202) 653–5305.

3. The Labor-Management Cooperation Act of 1978 (Pub. L. 95–524) authorized FMCS to provide assistance, including grants and contracts, for establishment and operation of labor-management committees. The Service expects that Congress will provide funding for this legislative in FY 1981.

The Service is presently developing regulations to implement the grant program. Inquiries concerning this program may be directed to Daniel Dozier, Associate General Counsel, (202) 653–5305.

Wayne L. Horvitz,

Director.

[FR Doc. 80–13667 Filed 5–2–80; 8:45 am]

BILLING CODE 6732–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286b

[OSD Admin. Instr. No. 81]

Personal Privacy and Rights of Individuals Regarding Their Personal Rights; Proposed Rulemaking Amendment

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Proposed rulemaking amendment.

SUMMARY: OSD proposes to amend its rule regarding the implementation of the Privacy Act by redesignating four system identification numbers of specific exemptions, deleting one exemption and inserting a new system name and exemption. These amendments will reflect an internal reassignment of responsibilities regarding Industrial Personnel Security Clearance Case Files and Special Personnel Security Cases.

DATES: Comments must be received by June 4, 1980.

ADDRESS: OSD Privacy Act Officer, Office of the Deputy Assistant Secretary of Defense (Administration), Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, 202–697–2501.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–22331, appearing in the **Federal Register** on August 3, 1977 (32 FR 39214), the Office of the Secretary of Defense published a final rule pertaining to the implementation of the Privacy Act (see also § 286.11(c)(1), 32 FR 51458, September 28, 1977). The Office of the Secretary of Defense proposes to amend this rule by revising § 286b.11 to (a) redesignate four of the system identification numbers of specific exemptions; (b) delete the present § 286b.11(c)(3)–SYSID–DCOMP SP02, SYSNAME, Industrial Personnel Security Clearance Case Files; (c) insert a new SYSID DGC 04, SYSNAME, Industrial Personnel Security Case Files as § 286b.11 (c)(3); and (d) insert a new specific exemption SYSID–DUSDPR 02, SYSNAME, Special Personnel Security Cases, as § 286b.11(c)(6). Public comment should be limited to the additions, although comments on any other area will not be refused. This

amendment is proposed under the authority of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 552a.

Section 286.11 is proposed to be amended as follows:

"§ 286b.11 **Procedures for exemptions.**

* * * * *

(c) *Specific exemptions.*

Delete lines eight through fourteen, and insert: "Executive Order 11265, 'National Security Information,' dated June 28, 1979, as amended, and required by the Executive Order to be kept classified in the interest of national defense or foreign policy."

* * * * *

The following system identification numbers for specific exemptions previously approved by the Secretary of Defense are revised as shown below:

Old SYSID	*Redesignated SYSID*
(1) SYSID–DCOMP P26	(1) SYSID–DWHS P26
(2) SYSID–DCOMP P28	(2) SYSID–DWHS P28
(3) SYSID–DCOMP SP02	(3) SYSID–DGC 04
(4) SYSID–DCOMP P32	(4) SYSID–DWHS P32

Delete the present § 286b.11(c)(3)-SYSID-DCOMP SP02, SYSNAME, Industrial Personnel Security Clearance Case Filed, and insert the following revised § 286b.11(c)(3), which reads as follows:

§ 286b.11 **Procedures for exemptions.**

* * * * *

(c) *Specific exemptions.*

* * * * *

(3) SYSID DGC 04, SYSNAME. Industrial Personnel Security Clearance Case Files.

Exemption—All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of Title 5 U.S.C. 552a: (c)(3); (d).

Authority—5 U.S.C. 552a(k)(5).

Reasons—This system of records is exempt from subsections (c)(3) and (d) of Section 552a of 5 U.S.C. which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it."

The Secretary of Defense has designated the following new OSD system of records described below specifically exempted from the appropriate provisions of the Privacy Act pursuant to the designated authority contained therein:

SYSID-DUSDPR 02, SYSNAME, "Special Personnel Security Cases."

This additional specific exemption shall be added to § 286b.11 as § 286b.11(c)(6), and shall read as follows:

§ 286b.11 **Procedures for exemptions.**

* * * * *

(c) *Specific exemptions.*

* * * * *

(6) SYSID-DUSDPR 02, SYSNAME, Special Personnel Security Cases.

Exemption: All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3); (d).

Authority: 5 U.S.C. 552a(k)(5).

Reasons: This system of records is exempt from subsections (c)(3) and (d) of 5 U.S.C. 552a which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

Accordingly, it is proposed to revise 32 CFR Chapter I, § 286b.11, reading as follows:

§ 286b.11 **Procedures for exemptions.**

(a) *General information.* The Secretary of Defense designates those Office of the Secretary of Defense (OSD) systems of records which will be exempt from certain provisions of the Privacy Act. There are two types of exemptions, general and specific. The general exemption authorizes the exemption of the system of records from all but a few requirements of the Act. The specific exemption authorizes exemption of a system of records or portion thereof, from only a few specific requirements. If an OSD Component originates a new system of records for which it proposes an exemption, or if it proposes an additional or new exemption for an existing system of records, it shall submit the recommended exemption with the records system notice as outlined in § 286b.9(c). No exemption of a system of records shall be considered automatic for all records in the system. The systems manager shall review each requested record and apply the exemptions only when this will serve a significant and legitimate Government purpose.

(b) *General exemptions.* [Reserved]

(c) *Specific exemptions.* All systems of records maintained by any OSD Component shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to subsection (k)(1) of that section to the extent that the system contains any information properly classified under Executive Order 11265, "National Security Information," dated June 28, 1979, as amended, and required by the Executive Order to be kept classified in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified. The Secretary of Defense has designated the following OSD systems of records described below specifically exempted from the appropriate provisions of the Privacy Act pursuant to the designated authority contained therein:

(1) SYSID–DWHS P26, SYSNAME. Protective Services File.

Exemption. This system of records is exempt from subsections (c) (3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of 5 U.S.C. 552a, which would require the disclosure of investigatory material compiled for law enforcement purposes; or a record maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible, as a result of the maintenance of the material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its

disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k)(2) and (3).

Reasons. These exemptions are necessary to maintain the confidentiality of the records compiled for the purpose of law enforcement, or protecting the President of the United States or others pursuant to 18 U.S.C. 3056.

(2) SYSID–DWHS P28, SYSNAME. The Office of the Secretary of Defense Clearance File:

Exemption. This system of records is exempt from subsections (c) (3) and (d) of 5 U.S.C. 552a, which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information but only to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning the specific information which would reveal the identity of the source.

Authority. 5 U.S.C. 552a(k)(5).

Reasons. This exemption is required to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(3) SYSID–DGC 04, SYSNAME. Industrial Personnel Security Clearance Case Files.

Exemption. All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of Title 5 U.S.C. 552a: (c)(3);(d).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. This system of records is exempt from subsections (c)(3) and (d) of Section 552a of 5 U.S.C. which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

(4) SYSID–DWHS P32, SYSNAME. Standards of Conduct Inquiry File.

Exemption. This system of records is exempted from subsections (c)(3) and (d) of 5 U.S.C. 552a, which would require the disclosure of: investigatory material compiled for law enforcement purposes; or investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or Federal contracts, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or othewise be eligible, as a result of the maintenance of investigatory material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k)(2) and (5).

Reasons. These exemptions are necessary to protect the confidentiality of the records compiled for the purpose of: enforcement of the conflict of interest statutes by the Department of Defense Standards of Conduct Counselor, General Counsel, or their designees; and determining suitability, eligibility or qualifications for Federal civilian employment, military service, or Federal contracts of those alleged to have violated or caused others to violate the Standards of Conducts regulations of the Department of Defense.

(5) SYSID–DGC 03, SYSNAME. General Administrative File.

Exemption. This system of records is exempt from subsections (c) (3) and (d), Title 5 U.S.C. 552a, which would require the disclosure of: Investigatory material compiled for law enforcement purposes; investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence; or any record maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056. If any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or otherwise be eligible as a result of the maintenance of material compiled for law enforcement purposes, the material shall be provided to that individual, except to the extent that its disclosure would reveal the identity of a source who furnished information to the Government under an express promise or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

Authority. 5 U.S.C. 552a(k)(2), (3) and (5).

Reasons. These exemptions are necessary to protect the confidentiality of the records compiled for the purpose of enforcing the law by or at the request of the General Counsel or his professional staff, determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, or protecting the President of the United States or others pursuant to 18 U.S.C. 3056.

(6) SYSID–DUSDPR 02, SYSNAME. Special Personnel Security Cases.

Exemption. All portions of this system which fall under 5 U.S.C. 552a(k)(5) are exempt from the following provisions of 5 U.S.C. 552a: (c)(3); (d).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. This system of records is exempt from subsections (c)(3) and (d) of 5 U.S.C. 552a which would require the disclosure of investigatory material compiled solely for the purpose of determining access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an expressed promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. A determination will be made at the time of the request for a record concerning whether specific information would reveal the identity of a source. This exemption is required in order to protect the confidentiality of the sources of information compiled for the purpose of determining access to classified information. This confidentiality helps maintain the Government's continued access to information from persons who would otherwise refuse to give it.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

April 29, 1980.

[FR Doc. 80-13707 Filed 5-2-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CCGD3-80-2A]

Shelburne Bay, Vt.; Special Anchorage Area

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: At the request of the Town of Shelburne, Vermont, the Coast Guard is proposing to establish a Special Anchorage in Shelburne Bay in the vicinity of the Town of Shelburne. This designation is needed to accommodate existing, and anticipated increases of, recreational boating in the area. The proposal will enhance navigational safety by providing charter indication (by depiction on appropriate charts) to passing vessels that unlighted vessels or vessels not sounding fog signals may be present in the anchorage, and by reducing congestion in the adjacent, existing Special Anchorage described in 33 CFR 110.8(c).

DATES: Comments must be received on or before June 19, 1980.

ADDRESS: Comments should be submitted to, and are available for examination at the Office of the Commander (mps), Third Coast Guard District, Building 108, Governors Island, New York 10004. Working hours 8:00 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Contact Captain J. B. Ekman, Project Manager, Chief, Port Safety Branch, Coast Guard District Three (mps), Building 108, Room 108, Governors Island, New York 10004 (212-668-7179).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writer's name and address, identify the specific section of the proposal to which the comment applies, and give reason for the comments. Persons wishing acknowledgement of their comments should include a stamped, self-addressed postcard. All comments received before the expiration of the comments period will be considered before final action is taken on the proposal.

Drafting information

The principal persons involved in drafting this proposal are: Lieutenant William St. J. Chubb, Port Safety Officer, Third Coast Guard District Port Safety Branch, and Lieutenant Thomas J. Donlon, Project Attorney, Third Coast Guard District Legal Office.

Discussion of the proposed regulation

The area proposed for designation as a Special Anchorage lies in Lake Champlain at the southwestern part of Shelburne Bay, between Allen Hill and the mouth of the La Platte River. This is an area of heavy recreational boating concentration, and the area proposed for designation has been used as an anchorage by small boats for several years.

This rule would allow anchoring of small boats (vessels under 65 feet in length) without requiring that they display anchor lights or sound fog signals. In addition (as provided by Articles 11 and 15 of the Inland Rules of the Road (33 U.S.C. 180 and 33 U.S.C. 191)), anchored barges, canal boats, scows, and other non-descript craft may display only one anchor light where two would otherwise be required; and need not sound fog signals regardless of size. Depiction of the anchorage on appropriate nautical charts will enhance navigational safety by alerting passing vessels to the presence of such anchored vessels. In addition, congestion in the existing Special Anchorages in Shelburne Bay will be reduced.

Anchoring, mooring, and other water-related activities in the area affected by the proposed rule are administered by an ordinance of the Town of Shelburne, Vermont. The proposed rule will not affect this local administration.

This regulation has been reviewed under DOT Order "Improving Government Regulation" (44 FR 11034) and determined not to be significant. A Draft Evaluation has been prepared and is available for public inspection at the Project Manager's address indicated above. In accordance with DOT Order 5610.1B an environmental assessment was prepared and resulted in a finding of no significant impact on the human environment. This environmental assessment is also available for public inspection at the Project Manager's address indicated above.

In consideration of the foregoing, it is proposed to amend Part 110 of Title 33 Code of Federal Regulations by adding § 110.8(c-2) to read as follows:

§ 110.8 Lake Champlain, N.Y. and VT.

* * * * *

(c-2) *Shelburne Bay Allen Hill to La Platte River.* That portion of the waters of Shelburne Bay west of the line from a point at Allen Hill at latitude 44°24'35" N., longitude 73°14'14" W.; to a point near the mouth of the La Platte River at latitude 44°24'03" N., longitude 73°14'05" W.

Note.—The anchoring of vessels and placement of temporary morings in the anchorage area described in paragraph (c-2) of this section are administered by the Harbormaster appointed by the Town of Shelburne, Vermont.

* * * * *

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6 (g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655 (g)(1)(B)), 49 CFR 1.46 (c)(2); 33 CFR 1.05-1(g))

Dated: April 3, 1980.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 80-13732 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 80-49]

Drawbridge Operation Regulations; St. Croix River, Wisconsin and Minnesota

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rule.

SUMMARY: The Coast Guard is considering changing the regulations governing the Stillwater Highway lift bridge across the St. Croix River, Mile 23.4, to provide a more equitable arrangement for operation of the draw. A significant increase in weekend recreational boating dictates the need for a regulation to fit the different requirements of weekday and weekend operation. This proposal will provide for the reasonable needs of navigation and also minimize the traffic congestion in Stillwater which occurs when the draw opens.

DATE: Comments must be received on or befor June 19, 1980.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (obr), Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103.

FOR FURTHER INFORMATION CONTACT:
S. W. Thoroughman, Chief, Bridge Branch, Room 400, 1430 Olive Street, St. Louis, MO 63103 (314–425–4607).

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Second Coast Guard District, will evaluate all communications received and take final action on this proposal. The proposal may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: S. W. Thoroughman, Project Manager, and R. A. Knee, Project Attorney, both of the Commander, Second Coast Guard District.

Discussion of the Proposed Regulations

A public hearing on this proposal was held in Stillwater on 8 November 1979. Testimony presented at this hearing by both land and marine interests favor the proposal. Statements received from the City of Stillwater and from the Minnesota Department of Transportation, owner of the bridge, also favor the proposal.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by revising § 117.560 (g)(16) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.560 Mississippi River an its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(16) St. Croix River, Wisconsin and Minnesota; State of Minnesota Highway bridge at Stillwater, Minnesota.

(i) From May 15 through October 15 the draw shall open on signal as follows:

(A) Weekdays:

8 a.m. to 11 a.m., every hour on the hour
11 a.m. to 3 p.m., every half hour
3 p.m. to 6 p.m., every hour on the hour
6 p.m. to 10 p.m., every half hour
10 p.m. to 8 a.m., two hours notice is required

(B) Saturdays, Sundays, and holidays:

8 a.m. to 11 a.m., every half hour
11 a.m. to 8 p.m., every hour on the hour
8 p.m. to midnight, every half hour
midnight to 8 a.m., two hours notice is required

(ii) From October 16 through May 14 the draw shall open on signal if at least 24 hours notice is given.

(iii) During the period of hourly and half hourly openings, the draw tender will be in constant attendance and will open the draw at any time for emergencies.

(iv) The provisions of this regulation and the name and telephone number of the person to contact when advance notice is required shall be conspicuously posted on the upstream and the downstream sides of the bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05(g)(3))

Dated: April 22, 1980.

J. W. Leadbetter,

Captain, U.S. Coast Guard, commander, Second Coast Guard District, Acting.

[FR Doc. 80-13733 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 80-48]

Drawbridge Operation Regulations; Reynolds Channel, NY

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the County of Nassau, New York, the Coast Guard will consider changing the regulations governing the operation of the Long Beach drawbridge across Reynolds Channel, mile 4.7, Nassau County, New York, to require at least four hours advance notice of the estimated time of opening during the hours of midnight to 7 a.m. daily to open the draw. The County of Nassau made this request because the annual number of draw openings during the hours of midnight to 7 a.m. has decreased from fourteen in 1977 to three in 1979. If the County's request is granted, it will be relieved of the expense of providing full-time drawtenders during these hours, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before June 19, 1980.

ADDRESS: Comments should be submitted to and are available for examination during normal business hours at the office of the Commander (OAN–BR), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004 (212–668–7165).

FOR FURTHER INFORMATION CONTACT:
William C. Heming, Bridge Administrator, Aids to Navigation Branch, Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004 (212–668–7165).

SUPPLEMENTARY INFORMATION:
Interested persons are invivted to participate in this proposed rulemaking by submitting views, data or arguments. Each person submitting comments should include his name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowlegement that their comments have been received should enclose a stamped self-addressed postcard or envelope. The Commander, Third Coast Guard District, will evaluate all communications and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager, and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of the Proposed Regulations

The Long Beach drawbridge provides access to the island of Long Beach for vehicular traffic. The openings of this bridge are largely for pleasure sailboats. In 1979 there were only three openings, all for sailboats, during the hours of midnight to 7 a.m.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be

amended by revising § 117.180(j) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.180 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal; bridges.

* * * * * *

(j) Long Beach Bridge across Reynolds Channel. The draw shall open on signal except:

(1) From midnight to 7 a.m. the draw need only open when at least four hours advance notice of the estimated time of transit has been given; and

(2) From 3 p.m. to 8 p.m. on Memorial Day, Independence Day, Labor Day, and Saturdays and Sundays from May 15 through September 30, the draw need only open on the hour and half hour.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: April 7, 1980.

R. I. Price,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 80-13734 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1484-5]

North Dakota; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This Action proposes to approve revisions and amendments to the North Dakota State Implementation Plan (SIP) submitted by the Governor of North Dakota on January 25, 1980. The revisions are concerned with Section 110(A)(2)(k) of the Clean Air Act (CAA) regarding collection fees for permit review, Section 127 CAA regarding public notification, Part 58 of Title 40, *Code of Federal Regulations* Addressing monitoring requirements, and Section 109 CAA which will add an ambient standard for lead. An amendment will change the title of photochemical oxidents to ozone and raise the ambient standard to .12 parts per million (ppm).

DATES: Comments must be received on or before June 4, 1980.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

North Dakota Department of Health, Divison of Environmental Engineering, Missouri Office Building, 1200 Missouri Avenue, Bismarck, North Dakota 58505

Written comments should be sent to:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3471.

SUPPLEMENTARY INFORMATION: On January 17, 1980, pursuant to § 51.285, Part 58, Part 50.12 of Title 40, *Code of Federal Regulations,* the State of North Dakota submitted proposed State Implementation Plan revisions for public notification, monitoring requirements, and an ambient standard for lead respectively. Also submitted was a permit processing fee and a change to the ozone standard. The following is a discussion of these provisions and the issues involved.

Public Notification

Since the State of North Dakota has no cities larger than 200,000 people they are only required to present an annual report. North Dakota plans to announce violations on a regular basis to the appropriate news media when an Ambient Air Quality Standard has been exceeded. The notices will include any potential health hazard associated with the exceedance and measures the public can take to prevent future exceedances.

Monitoring Requirements

This SIP revision establishes the State and local air monitoring stations (SLAMS), special purpose monitoring stations (SPMS), and their maintenance plus the method of data reporting and annual reviews which pertain to the above stations. The SLAMS stations will monitor ambient levels of "criteria pollutants" or pollutants which have an estabished national ambient air quality standard (NAAQS). Once obtained, this data will be used mostly for determining compliance with the NAAQS, determining if a source which emits criteria pollutants requires controls, tracking air pollution episodes and determining the impact of certain sources. The process of network design was carried out as required by Appendix D of 40 CFR Part 58. A network description will be available for review at the Missouri Office Building 1200, Missouri Avenue, Bismarck, North Dakota, which will include the following: (a) Saroad site identification form for existing stations, (b) analyzer description, (c) sample of analysis procedure, (d) operating schedule, (e) monitoring objective, and (f) spatial scale of representativeness. All SLAMS stations will be operated in accordance with the criteria established in Subpart B to 40 CFR Part 58, sited according to Appendix E to 40 CFR Part 58. Reference or equivalent monitors will be used as defined in 40 CFR 50.1 and the quality assurance procedures will be followed as outlined in Appendix A to 40 CFR Part 58.

Beginning January 1, 1980, the State will annually review their SLAMS network to insure that the monitors are located where needed. A report shall be submitted to EPA Region VIII by April 1 of each year, which will include a schedule to add, relocate, or eliminate stations. These needs will be determined based on the requirements in Appendix D to 40 CFR Part 58 or references therein.

The State of North Dakota will establish and operate a network of National Air Monitoring Stations (NAMS) as required in Subpart D of 40 CFR Part 58. The NAMS stations will also be SLAMS stations and the design procedure for NAMS will be identical to that for SLAMS.

Lead Standard

The State of North Dakota has adopted an ambient lead standard of 1.5 ug/m^3 set forth by the U.S. E.P.A. At the present time, the State feels a lead control strategy is not warranted since measured lead levels at seven sites in rural and urban areas are much below the ambient standard. However, the adoption of a standard and the inclusion of its consideration in the existing new source review program should provide for maintenance of the national standard for lead.

Permit Fees

In accordance with Section 110(A)(2)(k) for Implementation Plans of the Clean Air Act, North Dakota proposes to require a permit or registration processing and inspection fee. A section of the North Dakota Century Code has been amended to provide for registration of certain air contaminant sources. The new requirement provides for collection of reasonable fees for the issuance of permit or registration certificates and for

conduction of an inspection program to determine the compliance status of sources with the permits or registration certificates. The amendment allows certain air contaminant sources to be registered in lieu of being issued a permit. A construction permit fee also has been proposed.

Ozone Standard

The Photochemical Oxidant Category has been renamed to read Ozone and the Ambient Standard has been raised to .12 ppm to coincide with the federal standard.

The Administrator hereby issues this notice setting forth, as proposed, rulemaking pursuant to approval of Section 127, Section 110(A)(2)(k), and Section 109 of the Clean Air Act and 40 CFR Part 58 approval of the North Dakota SIP revisions received on January 24, 1980.

(Sec. 127, Clean Air Act, sec. 110(A)(2)(k), Clean Air Act, sec. 109, Clean Air Act)

Dated: April 18, 1980.

Irwin L. Dickstein,

Acting Regional Administrator.

[FR Doc. 80-13671 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1484-4]

South Dakota; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: This Action proposes to approve revisions to the South Dakota State Implementation Plan (SIP) submitted by the Governor of South Dakota on January 21, 1980. The revision is concerned with Section 127 of the Clean Air Act (CAA) regarding public notification, and Part 58 of Title 40, *Code of Federal Regulations* regarding monitoring requirements.

DATES: Comments must be received on or before June 4, 1980.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection.

Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

South Dakota Department of Health, Division of Air Quality and Hazardous Materials, Joe Foss Building, Pierre, South Dakota

Written comments should be sent to:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

FOR FURTHER INFORMATION CONTACT:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-3471

SUPPLEMENTARY INFORMATION: On January 21, 1980, pursuant to Part 51.285 and Part 58 of Title 40, *Code of Federal Regulations*, the State of South Dakota submitted proposed State Implementation Plan revisions for public notification and certain monitoring requirements respectively. The following is a discussion of these provisions and the issues involved.

Public Notification

Since the State of South Dakota has no cities larger than 200,000 people they are only required to present an annual report. South Dakota plans to announce violations one each calendar quarter to the appropriate news media, concerned interest groups, and the Regional Administrator of the Environmental Protection Agency. The notices will include the date, location, and pollutant standard violated with the possible health effects and measures the public can take to help prevent future exceedances.

Monitoring Requirements

This SIP revision establishes the state and local air monitoring stations (SLAMS), special purpose monitoring stations (SPMS), and their maintenance plus the method of data reporting and annual reviews which pertain to the above stations. The SLAMS stations will monitor ambient levels of "criteria pollutants" or pollutants which have an established national ambient air quality standard (NAAQS). Once obtained, this data will be used mostly for determining compliance with the NAAQS, determining if a source which emits criteria pollutants requires controls, tracking air pollution episodes and determining the impact of certain sources. The process of network design was carried out as required by Appendix D of 40 CFR Part 58. A network description will be available for review at the Joe Foss Building in Pierre, South Dakota, which will include the following: (a) Saroad site identification form for existing stations, (b) analyzer description, (c) sample of analysis procedure, (d) operating schedule, (e) monitoring objective, and (f) spatial scale of representativeness. All SLAMS stations will be operated in accordance with the criteria established in Subpart B to 40 CFR Part 58, sited according to Appendix E to 40 CFR Part 58, reference or equivalent monitors will be used as defined in 40 CFR 50.1 of and the quality assurance procedures will be followed as outlined in Appendix A to 40 CFR Part 58.

South Dakota will operate SPMS monitoring stations to determine the effect of point sources, doing research studies, and to judge the anticipated growth patterns. Episode monitoring will also be conducted when it appears the conditions are right for an episode.

All SLAMS data for a calendar year will be summarized and submitted to EPA by July 1 of the following year. The information reported will be those values required by Appendix F to CFR Part 58.

Beginning January 1, 1980, the State will annually review their SLAMS network to insure that the monitors are located where needed. A report shall be submitted to EPA Region VIII by April 1 of each year, which will include a schedule to add, relocate, or eliminate stations. These needs will be determined based on the requirements in Appendix D to 40 CFR Part 58 or references therein.

The State of South Dakota will establish and operate a network of National Air Monitoring Stations (NAMS) as required in Subpart D of 40 CFR Part 58. The NAMS will be SLAMS stations and the design procedure for NAMS will be identical to that for SLAMS.

The Administrator hereby issues this notice setting forth as proposed rulemaking, pursuant to approval of Section 127 of the Clean Air Act 40 CFR Part 51, and 40 CFR Part 58 approval of the South Dakota revision received on February 12, 1980.

(Sec. 127, Clean Air Act)

Dated: April 18, 1980.

Irwin L. Dickstein,

Acting Regional Administrator.

[FR Doc. 80-13672 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1483-5]

Proposed Rulemaking on Approval of Colorado State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In February 5, 1980, final rulemaking on the Colorado State Implementation Plan (SIP), 45 FR 7801, EPA approved the Colorado Plan

conditioned on submittal by January 1, 1980, of the transportation control measure schedules for Denver and Larimer-Weld areas.

On January 22 and February 6, 1980, the Governor of Colorado submitted schedules for the implementation of transportation control measures for the Denver and Larimer-Weld elements of the SIP, respectively.

EPA today is proposing to approve these schedules and requests comments on this proposed action.

DATES: Comments due June 4, 1980.

ADDRESSES: Comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the materials submitted by the Governor of Colorado and comments received on this proposal may be examined during normal business hours at:

Air Programs Branch, Regin VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3471.

SUPPLEMENTARY INFORMATION: On January 2, 1979, the Governor of Colorado submitted to EPA the SIP revision for Colorado. This plan revision was prepared by the State to meet the requirements of Part D (Plan Requirements for Nonattainment Areas) of the Clean Air Act.

On May 11, 1979 (44 FR 27693), EPA published a notice of proposed rulemaking which described the nature of the SIP revision and requested public comment.

On October 5, 1979, EPA published a notice of final rulemaking which conditionally approved some elements of the Colorado SIP including the Denver and Larimer-Weld transportation control measure shcedules. The detailed schedules call for expeditious evaluation, adoption and implementation of transportation control measures (e.g., HOV lane bicycle plan, ride share program, transit improvement, etc.). The schedules identify key milestones, dates, funding sources and responsible agencies for each strategy and activity.

Also, on October 5, 1979, EPA requested comments on the January 1, 1980 deadline for compliance with this condition. Comments were received but the deadline was not changed in the final rulemaking (45 FR 7801, February 5, 1980).

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: March 27, 1980.

David D. Emery,

Acting Regional Administrator.

[FR Doc. 80-13670 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Parts 167 and 169

[FRL 1484-3]

Pesticide Enforcement; Registration of Pesticide Producing Establishments, Submission of Pesticide Reports, and Labeling; Notification to the Secretary of Agriculture of a Proposed Regulation

AGENCY: Environmental Protection Agency (EPA), Office of Enforcement.

ACTION: Notification to the Secretary of Agriculture of a Proposed Regulation.

SUMMARY: Notice is given as required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's proposed amendment to the Section 7 Regulations, 40 CFR 167, Registration of Pesticide Producing Establishments, Submission of Pesticide Reports, and Labeling, and to the Section 8 Regulations, 40 CFR Part 169, Maintenance of Records. This amendment will require producers of active ingredients used in producing pesticides to register their establishments and to file annual production reports.

FOR FURTHER INFORMATION CONTACT:

Peter J. Niemiec, Environmental Protection Agency, Office of Enforcement, Pesticides and Toxic Substances Enforcement Division (EN–342), Room 3624E, 401 M Street SW., Washington, D.C. 20460, (202–755–9404).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA states that the Administrator shall provide the Secretary of Agriculture, a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register.** If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the **Federal Register** (with the proposed regulations) the comments of the Secretary, if requested, and the response thereto of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign such regulation for publication in the **Federal Register** any time after any such 30 day period.

Pursuant to FIFRA section 25(a)(3), a copy of this proposed regulation has also been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate. This proposed amendment has also been submitted to the FIFRA Scientific Advisory Panel as required by section 25(d).

(Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: April 29, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-13668 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1483-7; PP 9E2138/P137]

Bromoxynil; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the herbicide bromoxynil on garlic at 0.1 part per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This regulation would establish a maximum permissible level for residues of bromoxynil on garlic.

DATE: Comments must be received by May 20, 1980.

ADDRESS: Address comments to: Mrs. Patricia Critchlow, Office of Pesticide Programs, Registration Division (TS–767), Environmental Protection Agency, 401 M. St., SW, Washington, DC 20460, 202–426–0223.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of California, has submitted a pesticide petition (PP 9E2138) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.324 be amended by the establishment of a tolerance for negligible residues of the herbicide bromoxynil (3,5–dibromo–4–hydroxybenzonitrile) from application of its octanoic acid ester in or on the raw agricultural commodity garlic at 0.1 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the propsed tolerance included a subacute oral dog feeding study with a no-observed-effect-level (NOEL) of 5 milligrams (mg)/kilogram (kg) of body weight (200 ppm/day) and a subacute oral rat feeding study with an NOEL of 312 ppm. The residues remaining on garlic have been determined to be "negligible" since the amount of the pesticide chemical that remains on the raw agricultural commodity results in a daily intake regarded as toxicologically insignificant. While the toxicity of this chemical has not been completely characterized, the incremental residue contribution from this use is calculated to be insignificant since it will add much less that 1% of the theoretical maximum residue contribution (TMRC). A tolerance of 0.1 ppm had been previously established for several agricultural commodities from application of the herbicide as its octanoic ester.

The metabolism of bromoxynil is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. Because no feed items are involved, there is no reasonable expectation of residues in meat, milk, poultry, and eggs. There are presently no actions pending against the continued registration of this chemical, and no other considerations are involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.1 ppm on garlic established by amending 40 CFR 180.324 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

An person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before May 20, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the time for comment period is shortened to 15 days because the pesticide is needed for use on the 1980 garlic crop. Garlic producers and processors and Cooperative Extension Personnel have indicated an urgent need for this pesticide. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 9E2138/P137". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Mrs. Patricia Critchlow, Room 107, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e) 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: April 28, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

It is proposed that Part 180, Subpart C, § 180.324 be revised by editorially reformatting the section into an alphabetized columnar listing and by alphabetically inserting garlic at 0.1 ppm, as follows:

§ 180.324 Bromoxynil; tolerances for residues.

Tolerances are established for negligible residues (N) of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) from application of its octanoic acid ester in or on the following raw agricultural commodities:

Commodity:	Parts per million
Barley, forage, green	0.1 (N)
Barley, grain	0.1 (N)
Barley, straw	0.1 (N)
Cattle, fat	0.1 (N)
Cattle, mbyp	0.1 (N)
Cattle, meat	0.1 (N)
Flaxseed	0.1 (N)
Flax straw	0.1 (N)
Garlic	0.1 (N)
Goats, fat	0.1 (N)
Goats, mbyp	0.1 (N)
Goats, meat	0.1 (N)
Hogs, fat	0.1 (N)
Hogs, mbyp	0.1 (N)
Hogs, meat	0.1 (N)
Horses, fat	0.1 (N)
Horses, mbyp	0.1 (N)
Horses, meat	0.1 (N)
Oats, forage, green	0.1 (N)
Oats, grain	0.1 (N)
Oats, straw	0.1 (N)
Rye, forage, green	0.1 (N)
Rye, grain	0.1 (N)
Rye, straw	0.1 (N)
Sheep, fat	0.1 (N)
Sheep, mbyp	0.1 (N)
Sheep, meat	0.1 (N)
Wheat, forage, green	0.1 (N)
Wheat, grain	0.1 (N)
Wheat, straw	0.1 (N)

[FR Doc. 80-13669 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5813]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street SW., Washington, D.C. 20410

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood

Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C) Caruthersville, Pemiscot County.	Local Runoff in vicinity of ditch No. 1.	Interstate 155 and State Highway Y Interchange	*264
			Approximately 950 feet south of the intersection of the center line of Interstate 155 and the center line of State Highway Y.	*264
			Just west of Oxidation Pond	*265
			Intersection of the center line of Interstate 155 and the center line of Greenwell Road.	*265
			End of Ditch No. 1 at State Highway Y	*265
			Approximately 1,000 feet north of the end of Ditch No. 1 along State Highway Y.	*265
			Approximately 1,100 feet north of the end of Ditch No. 1 along State Highway Y.	*266
			Approximately 50 feet due south of the intersection of Magnolia and Poplar Streets.	*266
			Approximately 2,000 feet east of intersection of State Highway Y and Poplar Street on eastern corporate limits.	*266
		In Vicinity of Ditch No. 2 Lateral	Intersection of Ditch No. 2 lateral and southern corporate limits	*268
			Intersection of Caffin Drive and 19th Street	*268
		Local Runoff in Vicinity of Southwestern Corporate Limits.	Southern end of Caruthersville Airport north-south runway	*265
			Approximately 1,500 feet north of the southern end of Caruthersville Airport north-south runway.	*266
			Approximately 2,200 feet due west of the intersection of Magnolia and Poplar Streets.	*266
			Southern half of golf course	*267
			Northern half of golf course	*268
			Northern end of Caruthersville Airport north-south runway	*268
		In Vicinity of Ditch No. 6 Lateral A and Ditch No. 6 Lateral AA.	Just north of intersection of State Highway U and western corporate limits.	*269
			Intersection of 15th Street and Ward Avenue	*269
			Intersection of Ditch No. 6 Lateral A and western corporate limits	*269
			At intersection of Grand Avenue and 6th Street	*269
			Approximately 3,200 feet north of intersection of St. Louis-San Francisco Railway and western corporate limits on northern corporate limits.	*269
		Mississippi River	At downstream corporate limits	*281
			At upstream corporate limits	*282

Maps available at City Hall, 200 W. 3rd, Caruthersville, Missouri.

Send comments to Honorable B. F. Rogers, Mayor, City of Caruthersville, 200 W. 3rd, Caruthersville, Missouri 63830.

Missouri	(C) Florissant, St. Louis County	Coldwater Creek	Downstream corporate limits	*504
			Just upstream of Charbonier Road	*514
			Upstream corporate limits	*516
		Fountain Creek	Just upstream St. Denis Street	*513
			Just upstream Graham Road	*515
			About 400 feet downstream of New Florissant Road	*520
			Just upstream New Florissant Road	*525
			Just downstream Dunn Road	*542
		Paddock Creek	About 660 feet downstream of corporate limits	*506
			Just downstream Paddock Drive	*513
			Upstream corporate limits	*527
		Daniel Boone Creek	Just upstream Patterson Road	*511
			Just downstream Loveland Drive	*520
			Just upstream Loveland Drive	*525
			Upstream corporate limits	*539
		Anthony Creek	Mouth at Fountain Creek	*525
			Just upstream St. Malachy Lane	*534
			Just upstream St. Anthony Lane	*536
			Just downstream Derhake Street	*544
		Missouri River	Entire length of community along Missouri River	*445

Maps available at the Office of City Planner, City Hall, 955 Rue Ste. Francois, Florissant, Missouri.

Send comments to Honorable James Eagan, Mayor, City of Florissant, City Hall, 955 Rue Ste. Francois, Florissant, Missouri 63031 to the attention of Mr. Charles Hoehn, Director of Planning.

Missouri	(T) Grantwood Village, St. Louis County.	Gravois Creek	Downstream corporate limits	*489
			Just downstream of Dam, approximately 100 feet upstream of service road.	*500
			Approximately 1,040 feet downstream from Pardee Road	*502
			About 1,200 feet upstream Pardee Road	*510

Maps available at the City Hall Meeting Room, Basement of Slay's Restaurant, Grantwood, Missouri.

Send comments to Mr. John Milanovits, Chairman of the Board of Trustees, Town of Grantwood Village, 43 Grantwood Lane, Grantwood, Missouri, 63123.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C) Kirksville, Adair County	Bear Creek	About 490 feet downstream of Shepherd Avenue connection	*909
			Approximately 120 feet upstream of Shepherd Avenue connection	*913
			Just downstream of Halliburton Street	*916
			Just upstream of Halliburton Street	*918
			Just downstream of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*925
			Just upstream of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*927
			Just downstream of Grim Drive	*933
			Just upstream of Grim Drive	*936
			Just downstream of second crossing of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*936
			Just upstream of second crossing of U.S. Highway 63 (Business) and Missouri Highway 6 (Business).	*939
			Just downstream of Patterson Street	*939
		Ownbey Lake Tributary	At confluence with Bear Creek	*918
			About 1,400 feet upstream of confluence with Bear Creek	*919
			Just downstream of First Street	*925
		Steer Creek	At east central corporate limits	*911
			Just downstream of Baltimore Street	*921
			Just upstream of Baltimore Street	*922
			Just upstream of New Street	*925
			Just upstream of Green Street	*935
			Just downstream of Elson Street	*935
			About 150 feet upstream of Elson Street	*940
			Just downstream of Osteopathy Street	*946
		Big Creek	Just upstream west central corporate limit	*861
			About 1,550 feet upstream of west central corporate limit	*880
			About 3,000 feet upstream of western corporate limit	*898

Maps available at City Hall, Kirksville, Missouri.

Send comments to Honorable Glenn H. Estes, Mayor, City of Kirksville, City Hall, Kirksville, Missouri 63501.

Missouri	(C) Oakland, St. Louis County	Gravois Creek	Downstream corporate limit	*564
			Just upstream of St. Louis San Francisco Railroad	*569
			Just downstream Oakland Avenue	*570
			Just upstream of Oakland Avenue	*574
			Just downstream Missouri Pacific Railroad	*579
			Just upstream Missouri Pacific railroad	*587
			Just upstream of Sappington Road	*592

Maps available at the City Clerk's Office, 1007 Oakland Ave., Oakland, Missouri.

Send comments to Honorable Steve Elsner, Mayor, City of Oakland, 722 Lexington Ave., Oakland, Missouri 63122.

Montana	Missoula County, Unincorporated Areas.	Bitterroot River	100 feet upstream of intersection of River and McClay Bridge	*3,110
			Intersection of River and U.S. Highways 93 and 12	*3,127
			200 feet south on Trudy Lane from the intersection with Leo Hanson Road.	*3,178
		Blackfoot River	Intersection of River and Chicago, Milwaukee, St. Paul and Pacific Railroad.	*3,271
			100 feet upstream of intersection of River and Marco Flat Bridge	*3,288
		Clark Fork	50 feet upstream of intersection of Clark Fork and Harper Bridge Road.	*3,056
			150 feet north on Big Flat Road from the intersection with Virginia Drive.	*3,074
			Intersection of Clark Fork with Russell Street Bridge	*3,166
			100 feet upstream of intersection of Clark Fork and Montana Power Company Dam at Milltown.	*3,265
		Clearwater River	100 feet downstream of intersection of River and Placid Lake Road	*3,929
			50 feet upstream of intersection of River and Riverview Road	*3,997
		Lolo Creek	50 feet downstream of intersection of Creek and Burlington Northern Railroad.	*3,171
			Intersection of Creek and Mormon Creek Road	*3,308
		Rattlesnake Creek	Intersection of Creek and Lolo Street	*3,300
			Intersection of Creek and Rattlesnake Creek Road	*3,555
			Intersection of Missoula and Lolo Street	#1
		Pattee Creek	At the upstream corporate limits of the City of Missoula	*3,348
		Shallow Sheet Flow	Intersection of Cloverdale and 23rd Avenue near South Hills	#2

Maps available at Missoula County Courthouse, 200 W. Broadway, Missoula, Montana.

Send comments to Mr. Wilfred V. Thibodeau, Chairman, Board of County Commissioners, Missoula County, Missoula County Courthouse, 200 W. Broadway, Missoula, Montana 59801.

New Jersey	Hillsborough, Township, Somerset County.	Raritan River	Downstream Corporate Limits	*46
			U.S. Highway 206	*48
			Raritan Dam	*52
			Beekman Lane (Extended)	*57
			Confluence with North and South Branch Raritan River	*62
		South Branch Raritan River	Confluence with Raritan River	*62
			River Road (Downstream crossing)	*69
			River Road (Upstream crossing)	*73
			Elm Street	*77
			Confluence of Neshanic River	82
			Woodfern Road	86
			Upstream Higginsville Road	*93
			Upstream Corporate Limits	*97

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Neshanic River	Confluence with South Branch Raritan River	*82
			Amwell Road	*87
			Upstream Montgomery Road	*92
			Private Road Bridge	*97
			Upstream Corporate Limits	*104
		Millstone River	Corporate Limits (with Borough of Manville)	*42
			Downstream Corporate Limits (with Borough of Millstone)	*43
			Upstream Corporate Limits (with Borough of Millstone)	*45
			Blackwell Mills Causeway	*46
			Corporate Limits (with Township of Montgomery)	*47
			Township Line Road (Extended)	*
		Pike Run	Township Line Road	*72
			Downstream U.S. Highway 206	*81
			Upstream U.S. Highway 206	*83
			Confluence of Pike Run Tributary	*86
			Pleasant View Road	*91
		Pike Run Tributary	Confluence with Pike Run	*86
			Upstream Pleasant View Road	*92
			3,100' upstream Pleasant View	*97
		Royce Brook	Downstream Corporate Limits	*42
			Confluence of Royce Brook Tributary C	*43
			Upstream Sunnymeade Road	*45
			Upstream Falcon Road	*47
			Confluence of Royce Brook Tributary B	*51
			Hamilton Road	*55
			Upstream Amwell Road	*59
			Upstream Conrail Bridge (Upstream crossing)	*64
			Confluence of Royce Brook Tributary A	*72
			Upstream Homestead Road	*78
			Pleasant View Road	*86
		Royce Brook Tributary A	Confluence with Royce Brook	*72
			Amwell Road	*75
			Auten Road	*86
			Aquarius Court	*98
			Beekman Lane	*101
		Royce Brook Tributary B	Confluence with Royce Brook	*51
			Upstream Private Bridge	*53
			Upstream U.S. Highway 206	*59
			Upstream Andria Drive	*61
			Triangle Road	*76
		Royce Brook Tributary C	Confluence with Royce Brook	*43
			Dam	*51
			Upstream U.S. Highway 26	*56
			Valley Road	*62
			Upstream Roycefield Road	*65
			Conrail	*69
	Maps available at the City Clerk's Office, Hillsborough, New Jersey.			
	Send comments to Honorable Patricia McKiernan, Mayor of Hillsborough, Amwell Road, Neshanic, New Jersey 08853.			
New Jersey	Westwood (Borough), Bergen County.	Pascack Brook	150 feet upstream from center of Emerson Road	*32
			150 feet upstream from center of Demarest Avenue	*43
			50 feet upstream from center of Fairview Avenue	*54
		Musquapsink Brook	50 feet upstream from center of Old Hook Road	*41
			Intersection of Musquapsink Brook and center of Lafayette Avenue	*54
	Maps available at Borough Hall, 51 Jefferson Avenue, Westwood, New Jersey.			
	Send comments to the Honorable Charles A. Bellon, Mayor, Borough of Westwood, Borough Hall, 51 Jefferson Avenue, Westwood, New Jersey 07675.			
New Mexico	City of Artesia, Eddy County	North Eagle Creek	Just upstream of 1st Street	*3,371
			Washington Avenue extended and Atchison, Topeka and Santa Fe Railroad.	*3,379
			Approximately 120 feet upstream of 7th Street	*3,385
			Just upstream of Main Street	*3,415
	Maps available at City Hall, 511 West Texas, Artesia, New Mexico 88210.			
	Send comments to Mr. Joe Howell, City Manager, P.O. Drawer 1309, Artesia, New Mexico 88210.			
New York	Dunkirk, City, Chautauqua County	Lake Erie	Entire City Shoreline	*578
		Crooked Brook	At Lake Erie	578
			Upstream side of Park Drive West	*580
			Downstream side of Lake Shore Drive	*583
			Upstream side of Lake Shore Drive	*586
			Confluence of Tributary of Crooked Brook	*587
			Downstream side of Conrail	*590
			Upstream side of Conrail	*593
			Downstream of culvert outlet beneath Brigham Road	*594
			Area of shallow flooding along culvert beneath West Sixth Street	
			Upstream of culvert inlet beneath Woodrow Avenue	*607
			Upstream side of Arch culvert approximately 1,300 feet downstream of West Sixth Street.	*619
			Downstream side of Lucas Avenue	*620
			Upstream side of Lucas Avenue	*627
			Upstream side of Norfolk and Western Railroad	*629
			Upstream side of Howard Avenue	*631
			Upstream side of Central Avenue	*633
		Tributary of Crooked Brook	Confluence with Crooked Brook	*587

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream side of Conrail	*590
			Upstream side of Conrail	*594
			Upstream side of Norfolk and Western Railroad	*603
			Downstream side of Willow Road	*611
			Upstream side of Willow Road	*616
			Downstream of culvert outlet beneath Brigham Road	*616
			Upstream of culvert outlet beneath Brigham Road	*628
			Corporate Limits, approximately 250 feet upstream of Willowbrook Avenue.	*632
			Corporate Limits, approximately 2,450 feet upstream of Willowbrook Avenue.	*641
			Downstream of culvert outlet beneath Central Avenue	*652
			Upstream of culvert inlet beneath Central Avenue	*665
			Downstream of culvert outlet beneath New York State Thruway	*667
			Upstream of culvert outlet beneath New York State Thruway	*685
			Upstream Corporate Limits	*685
	Maps available at the City Clerk's Office, City Hall, Dunkirk, New York.			
	Send comments to Honorable Gilbert W. Snyder, Mayor of Dunkirk, City Hall, Dunkirk, New York 14048.			
North Carolina	Cabarrus County, Unincorporated Areas.	Anderson Creek	Intersection of creek and center of U.S. Highway 601	*499
			100 feet upstream from center of Troutman Road	*512
			50 feet upstream from center of Bethel Church Road	*567
		Back Creek	Intersection of creek and center of North Carolina State Route 1158	*540
			100 feet downstream from center of Stallings Road	*555
		Caldwell Creek	100 feet upstream from center of Pine Grove Church Road	*554
			300 feet downstream from center of North Carolina State Route 1134.	*588
		Chambers Branch	100 feet downstream from Lake Concord Dam	*642
			100 feet upstream from Lake Concord Dam	*665
			100 feet upstream from center of U.S. Highway 29 and 601	*702
		Coddle Creek	100 feet upstream from center of Southern Railway	*548
		Cold Water Creek	100 feet upstream from center of U.S. Highway 601	*526
			100 feet upstream from center of North Carolina Highway 49	*549
			100 feet upstream from Lake Fisher Dam	*651
		Common Ford Branch	100 feet upstream from downstream crossing of Penninger Road	*588
			100 feet upstream from upstream crossing of Penninger Road	*615
		Davis Branch	At confluence with Rocky River	*557
			100 feet downstream from center of North Carolina Highway 49	*588
		Dutch Buffalo Creek	Intersection of creek and center of North Carolina Highway 200	*506
		Fisher Town Branch	At confluence with Irish Buffalo Creek	*666
		Hamby Branch	Intersection of creek and North Carolina Highway 200	*512
		Hamby Branch Tributary	At confluence with Hamby Branch	*530
		Horse Branch	Intersection of branch and Parks Lafferty Road	*518
		Horton Branch	100 feet upstream from center of Robert Bost Road	*545
			50 feet upstream from center of Bethel Church Road	*576
		Irish Buffalo Creek	At confluence with Cold Water Creek	*525
			100 feet upstream from center of North Carolina Highway 49	*567
			100 feet upstream from center of North Carolina Highway 73	*619
			100 feet upstream from center of Rainbow Drive	*670
		Little Cold Water Creek	100 feet upstream from center of Old Airport Road	*552
			100 feet upstream from center of North Carolina Highway 73	*572
			100 feet upstream from center of Sapp Road	*613
		Little Meadow Creek	At confluence with Rocky River	*496
		Mallard Creek	Intersection of creek and center of State Route 1300	*570
		McCachern Branch	At confluence with Rocky River	*556
		Morris Branch	100 feet upstream from center of Old Farm Road	*595
		Muddy Branch	At confluence with Rocky River	*480
		Overcash Branch	At confluence with Irish Buffalo Creek	*558
		Patterson Branch	100 feet upstream from center of Stepleton Drive	*709
			100 feet upstream from center of Central Drive	*746
		Reedy Creek	100 feet upstream from center of Lower Rocky River Road	*543
		Rocky River	100 feet upstream from center of Southern Railway	*484
			100 feet downstream from center of North Carolina Highway 27	*494
			100 feet upstream from center of North Carolina State Route 1006	*508
			100 feet upstream from center of North Carolina State Route 1132	*531
			100 feet downstream from center of North Carolina State Route 1158.	*547
			At confluence with Mallard Creek	*570
		Rogers Lake Branch	100 feet upstream from center of Oakwood Avenue	*640
			100 feet upstream from center of Rogers Lake Road	*716
		Shinn Branch	Intersection of River and center of Reed Mine Road	*506
			50 feet upstream from center of North Carolina Highway 200	*560
		Threemile Branch	100 feet upstream from center of Cloverleaf Plaza Road	*671
		Tucker Branch	At confluence with Anderson Creek	*499
		Yow Branch	Intersection of branch and North Carolina Highway 200	*508
	Maps available at Cabarrus County Courthouse, 77 Union Street, Concord, North Carolina.			
	Send comments to Mr. Troy Cook, Chairman, County of Board of Commissioners, Cabarrus County, Cabarrus County Courthouse, P.O. Box 707, Concord, North Carolina 28205.			
North Dakota	Crystal (City), Pembina County	Cart Creek	Intersection of Lafayette Avenue and 3rd Street	*906
			Intersection of State Highway 66 and 4th Street	*911
	Maps available at City Hall, Crystal, North Dakota.			
	Send comments to Honorable Harold Johnson, Mayor, City of Crystal , Box 122, Crystal, North Dakota 58222.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Batavia, Clermont County	East Fork Little Miami River	At confluence of Ungamed Tributary (about 1.3 miles downstream of State Route 32).	*561
			Just downstream State Route 32	*567
			About 1,800 feet upstream State Route 32	*572
			Just downstream Main Street	*574
			Upstream corporate limit	*583
	Maps available at Village Hall, 389 Main Street, Batavia, Ohio.			
	Send comments to Honorable Edmund Parrott, Mayor, Village of Batavia, Village Hall, 389 Main Street, Batavia, Ohio 45103.			
Ohio	(C) Brecksville, Cuyahoga County.	Chippewa Creek	Just upstream of Chippewa Road	*809
			Just upstream of Brecksville Road	*815
			About 200 feet downstream of western corporate limit	*870
	Maps available at City Hall, 9069 Brecksville Road, Brecksville, Ohio.			
	Send comments to Honorable Jack A. Hruby, Mayor, City of Brecksville, City Hall, 9069 Brecksville Road, Brecksville, Ohio 44141.			
Ohio	(V) Chilo, Clermont County	Ohio River	Downstream corporate limit	*509
			Upstream corporate limit	*510
	Maps available at the Village Hall, Chilo, Ohio 45112.			
	Send comments to The Honorable Matthew Bonzella, Village Hall, Chilo, Ohio 45112.			
Ohio	(Uninc.) Erie County	Taylor Creek	Confluence with Sulphur Brook	*583
			About 120 feet upstream of Dewitt Avenue	*598
			About 150 feet upstream of Columbus Avenue	*617
			About 120 feet upstream of State Route 2	*623
			About 350 feet upstream of Bogart Road	*625
		Pipe Creek	About 250 feet downstream of confluence with Taylor Creek	*583
			Just downstream of Chessie System Railroad	*597
			About 800 feet downstream of Strub Road	*608
			Just downstream of Chessie System Railroad near Bogart Road	*626
			Just upstream of Chessie System Railroad near Bogart Road	*632
			About 100 feet downstream of NASA property boundary	*632
		Storrs-Hemminger Ditch	About 1,050 feet upstream of confluence with Kob Ditch	*583
			Just downstream of Milan Road	*603
			About 1,300 feet upstream of Milan Road	*611
			About 100 feet downstream from Columbus Avenue	*623
			About 950 feet upstream from Columbus Avenue	*624
		Kob Ditch	About 80 feet upstream from Perkins Avenue	*581
			About 1,100 feet upstream from confluence with Storrs-Hemminger Ditch.	*583
			Just downstream from Hull Drive	*594
		Windau Ditch	Confluence with Mills Creek	*607
			About 450 feet downstream of Ohio Turnpike	*614
		Sulphur Brook	About 60 feet upstream from confluence with Taylor Creek	*585
			Just downstream from Columbus Avenue	*589
			Just upstream from Columbus Avenue	*595
			Just upstream from Marshall Avenue	*599
			Just downstream from Schiller Avenue	*601
			Just upstream from Schiller Avenue	*607
			Just upstream from Strub Road	*614
			About 960 feet downstream from Bogart Road	*623
		Plum Brook	Just downstream from Cleveland Sandusky Road	*577
			About 1,240 upstream of Perkins Avenue	*581
		Boos Ditch	Mouth at Sandusky Bay	*577
			Just downstream of Cleveland Sandusky Road	*583
		Sawmill Creed	About 2,800 feet downstream of Cleveland Sandusky Road	*577
			About 30 feet upstream of Conrail	*589
			Confluence with Dautch Ditch	*603
		Huron River	About 1,600 feet downstream of Milan Road	*579
			Just downstream of Mason Road	*588
		Edson Creek	About 4,000 feetk downstream of State Route 2	*613
			Just downstream of State Route 2	*636
		Mills Creek	About 270 feet upstream of Norfolk and Western Railroad	*598
			About 60 feet downstream of confluence with Windau Ditch	*607
			About 2,200 feet upstream of State Route 2	*626
		Lake Erie	Along the shoreline	*577
		Shallow flooding (from Sulphur Brook).	Intersection of Columbus and Marshall Avenues	#1.2
	Maps available at the Erie County Courthouse, Sandusky, Ohio.			
	Send comments to Mr. John Hoover, Acting County Administrator, Erie County, Erie County Courthouse, Sandusky, Ohio 44870.			
Ohio	(V) Milford, Hamilton County	Little Miami River	At the southern corporate limit	*511
			Approximately 250 feet upstream of the U.S. Route 50 bridge	*523
			At the northern corporate limit, approximately 4,665 feet upstream of the U.S. Route 50 bridge.	*532
	Maps available at the Village Hall, 29 High Street, Milford, Ohio.			
	Send comments to Mr. Harry Hodges, Village Manager, Village of Milford, Village Hall, 29 High Street, Milford, Ohio 45150.			
Oklahoma	City of Okmulgee, Okmulgee County.	Cussetah Creek	Just upstream of U.S. Highway 62	*640
		Stream "B"	Just upstream of 36th Street	*642
			Just upstream of Mission Road	*649
	Maps available at City Hall, 114 E. Seventh Street, Okmulgee, Oklahoma 74447.			
	Send comments to Mayor Paul Broron or Gregg Hanison, City Manager P.O. Box 250 Okmulgee, Oklahoma 74447.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oklahoma	City of Tonkawa, Kay County	Salt Fork Arkansas River	Just downstream of extension of Main Street	*959
	Maps available at City Hall, 117 South Seventh Street, Tonkawa, Oklahoma 74653.			
	Send comments to Mayor Ronnie Blubaugh or Joe Yowell, Vice Mayor, P.O. Box 467 Tonkawa, Oklahoma 74653.			
Pennsylvania	Antis, Township, Blair County	Riggles Gap Run	Upstream First Conrail Bridge	*1,064
			Upstream Second Conrail Bridge	*1,073
			Upstream Second Private Road	*1,080
			Approximately 1,200' downstream of Legislative Route 07026	*1,105
			Upstream Legislative Route 07026	*1,120
			Upstream Third Private Road	*1,156
			Upstream Fourth Private Road	*1,172
			Upstream Asbury Road	*1,208
			Approximately 1,200' upstream of Asbury Road	*1,230
			Upstream of Fifth Private Road	*1,262
			Upstream of Sixth Private Road	*1,275
			Upstream of Seventh Private Road	*1,294
			Approximately 525' upstream of Private Road	*1,302
		Sugar Run	Upstream Conrail Bridge	*1,055
			Downstream Township Route 490	*1,068
			Downstream Becker Road	*1,109
			Approximately 1,500' upstream of Becker Road	*1,135
			Legislative Route 07026	*1,176
			Upstream Private Road approximately 1,250' upstream of Legislative Route 07026.	*1,214
			Approximately 1,300' upstream of Private Road	*1,251
			Upstream Private Road	*1,302
			Approximately 1,500' upstream of Private Road	*1,367
		Bells Gap Run	Downstream Township Route 490	*1,045
			Downstream Conrail	*1,049
			Upstream Conrail	*1,059
			Approximately 1,800' upstream of Conrail	*1,070
			Downstream Dam	*1,102
			Upstream Hunter Road	*1,146
			Downstream Legislative Route 07026	*1,186
			Approximately 800' downstream of First Private Road	*1,209
			Approximately 800' upstream of First Private Road	*1,234
		Tipton Run	Upstream River Road	*959
			Upstream Township Route 510	*979
			Upstream Conrail	*999
			Approximately 2,400' upstream of Legislative Route 07028	*1,029
			Approximately 4,000' upstream of Legislative Route 07028	*1,049
			Upstream Cedar Lane	*1,074
			Upstream Private Road	*1,108
			Approximately 2,800' upstream of Private Road	*1,150
			Approximately 350' downstream of confluence of Mulligan Hollow Run	*1,181
		Little Juniata River	Downstream Corporate Limits	*927
			Downstream Private Walkway	*934
			Approximately 3,600' downstream of U.S. Route 220	*950
			Upstream U.S. Route 220	*958
			Approximately 3,600' downstream of Private Road	*971
			Upstream Private Road	*983
			Downstream U.S. Route 220	*1,002
			Downstream next crossing of U.S. Route 220	*1,026
			Upstream Legislative Route 07027	*1,044
			Confluence of Sugar Run	*1,054
			Confluence of Riggles Gap Run	*1,062
			Upstream Corporate Limits	*1,081
	Maps available at the Antis Township Building, 909 North 2nd Street, Bellwood, Pennsylvania.			
	Send Comments to Mr. Robert Wigman, Chairman of the Antis Board of Supervisors, 909 North 2nd Street, Bellwood, Pennsylvania 16617.			
Pennsylvania	Bart, Township, Lancaster County	West Branch Octoraro Creek	Colerain Corporate Limits	*498
			2,000 feet upstream from Colerain Corporate Limits	*507
			Hollow Road (Upstream side)	*516
			Mt. Pleasant Road (Upstream side)	*526
			900 feet upstream of Mt. Pleasant Road	*532
			Willson Road extended	*539
			Dry Wells Road (Upstream side)	*551
			Confluence of Meetinghouse Creek and Nickel Mines Run	*559
		Meetinghouse Creek	Confluence with West Branch Octoraro Creek and Nickel Mines Run	*559
			Lamparter Road (Upstream side)	*563
			Conrail (Upstream side)	*573
			Valley Road (Downstream side)	*585
			Valley Road (Upstream side)	*590
			Quarry Road (Upstream side)	*597
			Private Road 2,800 feet upstream from Quarry Road (Upstream side)	*605
			Haiti Road (Upstream side)	*614
		Nickel Mines Run	Confluence with West Branch Octoraro Creek and Meetinghouse Creek.	*559
			Gibble's Mill Road (Upstream side)	*565
			Conrail (Upstream side)	*567
			Route 372 Valley Road (Upstream side)	*578
			Green Tree Road (Upstream side)	*583
			Private Road 1,150 feet upstream of Green Tree Road (Upstream side).	*589
			Private Road 1,400 feet upstream of Green Tree Road (Upstream side).	*590

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Private Road 1,600 feet upstream of Green Tree Road (Upstream side).	*592
			Private Road 3,500 feet upstream Green Tree Road (Upstream side)	*603
			State Route 896 Christiana Pike (Downstream side)	*612
			State Route 896 Christiana Pike (Upstream side)	*619
			Old Dam Road (Upstream side)	*621
Maps available at the Bart Township Building, Quarry Road.				
Send comments to Mr. Donald J. Armer, Chairman of the Board of Supervisors of Bart, Hollow Road, R.D. 3, Quarryville, Pennsylvania 17566.				
Pennsylvania	Irwin, Borough, Westmoreland County.	Brush Creek	Downstream Corporate Limits	*879
			Conrail Upstream	*885
			Upstream Corporate Limits	*889
		Tributary No. 1 to Tinkers Run	Fairwood Drive	*948
			Caruthers Lane Upstream	*966
			Upstream Corporate Limits	*973
Maps available at the Borough Hall, Irwin, Pennsylvania.				
Send comments to Mr. Joseph Pues, Borough Manager of Irwin, 424 Main Street, Irwin, Pennsylvania 15642.				
Pennsylvania	Oakmont, Borough, Allegheny County.	Allegheny River	Downstream Corporate Limits	*742
			Upstream Corporate Limits	*743
		Plum Creek	Downstream Corporte Limits	*742
			160 feet upstream of Plum Street	*748
			Upstream of Conrail Bridge	*755
			Dark Hollow Road (extended)	*766
			Upstream Corporate Limits	*771
			At Conrail Track crossing of Corporate Limits	*776
Maps available at the Oakmont Municipal Building, 5th and Virginia Avenue, Oakmont, Pennsylvania.				
Send comments to Frederick Favo, Council President of Oakmont, 5th and Virginia Avenue, Oakmont, Pennsylvania 15139.				
Pennsylvania	Penn, Borough, Westmoreland County.	Brush Creek	Downstream Corporate Limits	*958
			Abandoned Railroad Bridge (Upstream side)	*964
			Upstream Corporate Limits	*969
Maps available at the Penn Borough Hall.				
Send comments to Mr. William B. Otto, Council President of Penn, 533 Rugh Street, Greensboro, Pennsylvania 15601.				
Pennsylvania	Pittsburgh, City, Allegheny County	Ohio River	Downstream Corporate Limits	*724
			Confluence with Monongahela and Allegheny Rivers	*730
		Monongahela River	Confluence w/Ohio and Allegheny Rivers	*730
			Tenth Street Bridge Downstream	*730
			Monongahela connecting Railroad Bridge Downstream	*732
			Glenwood Bridge Upstream	*735
			Upstream Corporate Limits	*737
		Allegheny River	Confluence with Monongahela and Ohio Rivers	*730
			Sixteenth Street Bridge Upstream	*731
			31st Street Bridge Upstream	*732
			51st Street (Extended)	*734
			Lock and Dam No. 2 Upstream	*738
			Upstream Corporate Limits	*739
		Chartiers Creek	Pittsburgh and Lake Erie Railroad (Upstream)	*730
			Wind Gap Bridge Downstream	*733
			Round House Bridge Downstream	*735
			Scully Bridge Downstream	*738
			Thornburg Bridge	*748
			Turner Road Upstream	*758
			Corporate Limits	*763
		Saw Mill Run	Westend By-pass Upstream	*740
			Independence Street Upstream	*745
			Pittsburgh and West Virginia Railroad Upstream	*751
			Shaler Street Downstream	*760
			Shaler Street Upstream	*764
			Penn Lincoln Parkway Downstream	*773
			Penn Lincoln Parkway Upstream	*778
			Pittsburgh and West Virginia Railroad Bridge (Downstream of Watkins Lane Bridge) Upstream.	*802
			Watkins Lane Bridge Upstream	*808
			Private Bridge Upstream	*827
			Crane Avenue Upstream	*838
			Liberty Tunnels Upstream	*854
			Armory Bridge Upstream	*869
			Interval Street Upstream	*874
			Edgebrook Avenue Upstream	*888
			Railway Company Bridge	*907
			Midwood Street Downstream	*910
			Footbridge Upstream	*925
			Footbridge Downstream	*938
			State Road 88 and Saw Mill Run Boulevard Upstream	*942
			State Route 88	*955
			Corporate Limit	*967
Maps available at the City Planning Department, City County Building, Pittsburgh, Pennsylvania.				
Send comments to Honorable Richard Caliquiri, Mayor of Pittsburgh, City County Building, Room 514, Pittsburgh, Pennsylvania 15219.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Quarryville, Borough, Lancaster County.	Beaver Creek	Downstream Corporate Limits	*456
			Downstream of North Church Street Bridge	*457
			Downstream of Private Drive	*482
			Downstream of Conrail Bridge	*486
			Upstream of Conrail Bridge	*489
			East State Street Bridge (State Route 372)	*490
			Downstream of South Broad Street Bridge	*496
			Downstream of East 2nd Street Bridge	*499
			Downstream of South Park Avenue	*512
	Maps available at Quarryville Municipal Building, 300 Catherine Street, Quarryville, Pennsylvania.			
	Send comments to Mr. Carroll Baker, Council President of Quarryville, 221 South Hillcrest Avenue, Quarryville Pennsylvania 17566.			
Pennsylvania	Strasburg, Township, Lancaster County.	Pequea Creek	Penn Grant Road Upstream	*311
			Edisonville Road (Extended)	*318
			State Route 741 Upstream	*319
			Upstream of Tributary B	*322
			Upstream of Strasburg Pike	*326
			Approximately 1.5 miles upstream of Strasburg Pike	*330
			Upstream of Hartman Bridge Road	*333
			Approximately 0.54 mile upstream of Hartman Bridge Road	*334
		Big Beaver Creek	Approximately 700' downstream of Private Lane	*353
			Private Lane Upstream	*355
			Approximately 2,500' upsteam of Private Lane	*363
			Upstream of Main Street	*374
			White Oak Road (Extended) upstream	*377
			Approximately 1,800' downstream of U.S. Route 222	*389
	Maps available at the residence of Mr. Robert Weaver, Township Secretary, by appointment			
	Send comments to Mr. Elvin Hess, Jr., Chairman of the Board of Supervisors of Strasburg, Box 125, R.D. 2, Strasburg, Pennsylvania 17579.			
Pennsylvania	Verona, Borough, Allegheny County.	Allegheny River	Downstream Corporate Limits	*741
			Upstream Corporate Limits	*742
		Plum Creek	At confluence with Allegheny	*742
			Allegheny River Boulevard Upstream	*743
			Conrail Spur Line	*745
			Upstream Corporate Limits	*749
	Maps available at Borough Building, 601 Allegheny River Boulevard, Verona, Pennsylvania.			
	Send comments to Mr. Ted Luczak, Council President of Verona, 601 Allegheny River Boulevard, Verona, Pennsylvania 15147.			
Pennsylvania	Township of Wright, Luzerne County.	Big Wapwallopen Creek	Downstream Corporate Limits	*1,064
			Blytheburn Road (Upstream)	*1,088
			Confluence of Bow Creek	*1,233
			Upstream Corporate Limits	*1,346
		Watering Run	Confluence with Big Wapwallopen Creek	*1,070
			Private Road (Upstream)	*1,186
			Legislative Route 40023 (Upstream)	*1,220
			State Route 309 (Downstream)	*1,343
			State Route 309 (Upstream)	*1,349
			Approximately 2,820' upstream of State Route 309	*1,410
		Bow Creek	Confluence with Big Wapwallopen Creek	*1,233
			Legislative Route 40023 (Upstream)	*1,270
			Approximately 280' upstream State Route 309	*1,327
			Upstream Corporate Limits	*1,347
		Tributary A	Approximately 300' upstream confluence with Bow Creek	*1,327
			Upstream Corporate Limits	*1,342
	Maps available at the Wright Township Building, 321 South Mountain Boulevard, Mountain Top, Pennsylvania 18707.			
	Send comments to Mr. Allen Bayley, Chairman of the Board of Supervisors of Wright, 321 South Mountain Boulevard, Mountain Top, Pennsylvania.			
Tennessee	City of Bartlett, Shelby County	Harrington Creek	Approximately 800 feet upstream of corporate limits	*252
			Just upstream of Bartlett Road	*258
			Just downstream of Louisville and Nashville Railroad	*261
			Just upstream of North Street	*270
		Lateral A	Approximately 250 feet upstream of Louisville and Nashville Railroad	*252
			Just downstream of Stage Road	*264
			Just upstream of Woodland Street	*269
		Lateral B	Just downstream of Alfaree Street extended	*258
			Just upstream of Stage Road	*266
			Just downstream of Lynchburg Road	*271
		Lateral C	Just upstream of culvert on upstream side of Bartlett Boulevard	*257
			Just upstream of Kenwood Drive extended	*263
			Just downstream of Hawthorne Road	*280
		Lateral D	Just downstream of Elmore Park Road	*273
		Lateral E	Just upstream of culvert under Bartlett Boulevard	*270
	Maps available at City Hall, 5727 Woodlawn Street, Bartlett, Tennessee 38134.			
	Send comments to Mayor Oscar T. Yates or Bobby K. Flaherty, Vice Mayor, 5727 Woodlawn Street, P.O. Box 341148, Bartlett, Tennessee 38134.			
Tennessee	City of Collierville, Shelby County.	Lateral I	Just upstream of Shelton Road	*302
			Approximately 240 feet upstream of Bouldincrest Avenue	*309
		Lateral J	Approximately 300 feet upstream of Peterson Lake Road	*298
			Approximately 350 feet upstream of Powell Road	*315
		Lateral K	Just downstream of Collierville Arlington Road	*334
		Lateral KA	Just upstream of Collierville Arlington Road	*308
		Lateral L	Approximately 150 feet downstream of State Highway 57	*323

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Nonconnah Creek	Approximately 250 feet upstream of Southern Railroad	*329
			Approximately 250 feet upstream of Byhalia Road	*341
		Lateral C	Just upstream of U.S. Highway 72	*353
			Approximately 150 feed downstream of Sycamore View Road	*356
	Maps available at City Hall, 101 Walnut Street, Collierville, Tennessee 38017.			
	Send comments to Mayor Herman W. Cox, Jr., or Mr. Mike McDowell, City Administrator, City Hall, 101 Walnut Street, Collierville, Tennessee 38017.			
Vermont	(T) Mt. Tabor, Rutland County	Mill Brook	Just upstream of Vermont Railway	*674
			Just upstream of U.S. Route 7	*679
			About 530 feet upstream of U.S. Route 7	*687
		Otter Creek	About 2,850 feet downstream of downstream corporate limits	*644
			About 700 feet downstream of Vermont Railway (crossing north of National Forest Highway 10).	*655
	Maps available at Town Clerk's Office, Mt. Tabor, Vermont.			
	Send comments to Mr. William Beauregard, Chairman, Board of Selectmen, Mt. Tabor, Vermont 05739.			
Commonwealth of Virgin Islands	Island of St. Croix	Gut No. 1—(mouth at Sugar Beach).	100 feet upstream from center of the third bridge upstream from the mouth.	*38
		Gut No. 2—(mouth in Christiansted at Christiansted Harbor).	Intersection of gut and center of King Street	*49
		Gut No. 3—(mouth at Gallows Bay).	Intersection of gut and center of Highway 66	*19
			100 feet upstream from center of Highway 669	*67
		Gut No. 4—(mouth at Altona Lagoon).	100 feet upstream from center of Highway 66	*29
		Gut No. 5—(mouth at Carlton Beach).	150 feet upstream from center of Highway 64	*69
			Intersection of gut and center of Centerline Road	*109
		Gut No. 6—Fredericksted	150 feet upstream from center of Queen Cross Street (Highway 70)	*21
			Intersection of gut and center of the upstream crossing of Highway 70	*103
		Tributary of Gut No. 6	Intersection of gut and center of the most downstream road crossing	*16
		Salt River	Intersection of river and center of Highway 77	*23
			100 feet upstream from center of the third bridge upstream from the mouth.	*90
		Carribbean Sea	Shoreline of Salt River Bay	*5
			Shoreline of Great Pond	*6
	Maps available at Director of Banks and Insurance, Office of the Lieutenant Governor, St. Thomas, Virgin Islands.			
	Send comments to the Honorable Juan F. Luis, Governor, Commonwealth of Virgin Islands, Government House, Charlotte Amalie, St. Thomas, Virgin Islands 00801.			
Virginia	Wise County	Powell River	0.94 mile downstream of Cadet School Bridge	*1,458
			1.41 miles upstream of Cadet School Bridge	*1,465
			0.61 mile downstream of the confluence of Halfway Branch	*1,656
			0.79 mile upstream of the confluence of Halfway Branch	*1,686
			1.18 miles upstream of the confluence of Halfway Branch	*1,706
			0.34 mile downstream of U.S. Route 23	*2,012
			1.16 miles upstream of U.S. Route 23	*2,022
			Interstate Railroad located 1.68 miles upstream of U.S. Route 23 Upstream side.	*2,033
			2.29 miles upstream of U.S. Route 23	*2,053
			3.72 miles upstream of U.S. Route 23	*2,091
			4.48 miles upstream of U.S. Route 23	*2,118
		South Fork Pound River	0.42 mile downstream of U.S. Route 23	*1,558
			Upstream side of U.S. Route 23	*1,561
			1.54 miles upstream of U.S. Route 23	*1,581
			Upstream State Route 679	*1,603
			0.10 mile upstream of State Route 679	*1,605
		Indian Creek	0.16 mile downstream of State Route 693	*1,590
			U.S. Route 23 located 1.23 miles upstream of State Route 693	*1,609
			2.3 miles upstream of State Route 693	*1,621
		Pound River	0.21 mile downstream of the confluence of Bad Creek	*1,543
			0.98 mile upstream of the confluence of Bad Creek	*1,549
		North Fork Pound River	0.85 mile downstream of County Boundary	*1,557
			0.2 mile upstream of County Boundary	*1,559
		Bold Camp Creek	County Boundary	*1,556
			0.83 mile upstream of County Boundary	*1,562
		Bad Creek	Confluence with Pound River	*1,545
			0.75 mile upstream of the confluence with Pound River	*1,570
			1.32 miles upstream of the confluence with Pound River	*1,601
		Mullins Fork	Confluence with Bold Camp Creek	*1,562
			0.20 mile upstream of the confluence with Bold Camp Creek	*1,584
			0.40 mile upstream of the confluence with Bold Camp Creek	*1,608
			0.60 mile upstream of the confluence with Bold Camp Creek	*1,622
			0.93 mile upstream of the confluence with Bold Camp Creek	*1,630
		Yellow Creek	Confluence with Bear Creek	*2,084
			0.20 mile upstream of the confluence with Bear Creek	*2,100
			0.40 mile upstream of the confluence with Bear Creek	*2,131
			0.58 mile upstream of the confluence with Bear Creek	*2,159
		Pigeon Creek	0.1 mile downstream of the confluence of Looney Creek	*1,623
			0.27 mile upstream of the confluence of Looney Creek	*1,633
			Downstream Southern Railway Bridge	*1,650
			Downstream Access Road	*1,664
			0.11 mile upstream of Access Road	*1,672
		Little Toms Creek	0.30 mile downstream of Norfolk & Western Railroad	*2,002
			Upstream Gravel Road	*2,015
			0.1 mile upstream of Gravel Road	*2,017

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary to Toms Creek	Confluence with Toms Creek	*2,005
			0.35 mile upstream of State Route 652	*2,010
			Upstream County Route 796	*2,021
			Upstream County Route 687	*2,036
			0.2 mile upstream County Route 687	*2,046
			0.45 mile upstream of County Route 687	*2,076
			0.51 mile upstream of County Route 687	*2,100
		Sepulcher Creek	0.56 mile downstream of State Route 625	*2,120
			Upstream State Route 625	*2,133
			0.50 mile upstream State Route 625	*2,163
			Downstream State Route 625 located 0.4 mile upstream of Access Road.	*2,173
		Bear Creek	0.59 mile downstream of county Route 681	*2,079
			Confluence of Yellow Creek	*2,084
			0.25 mile upstream of the confluence of Yellow Creek	*2,094
			0.47 mile upstream of the confluence of Yellow Creek	*2,124
			0.98 mile upstream of the confluence of Yellow Creek	*2,184
			1.08 miles upstream of the confluence of Yellow Creek	*2,217
		South Fork Powell River	State Route 613 (Downstream crossing)	*1,492
			Upstream State Route 613 (Upstream crossing)	*1,518
			Upstream State Route 609	*1,529
			0.4 mile upstream of State Route 609	*1,549
			0.6 mile upstream of State Route 609	*1,559
			0.1 mile upstream of State Route 612	*1,579
			0.48 mile upstream of State Route 612	*1,594
			30 feet upstream of State Route 722	*1,658
			0.45 mile upstream of State Route 609	*1,699
		Looney Creek	0.31 mile downstream of Southern Railway Switchyard Road	*1,623
			Southern Railway Switchyard Road	*1,628
			0.43 mile upstream of Southern Railway Switchyard Road	*1,652
		Callahan Creek	0.74 mile downstream of the confluence of Preacher Creek	*1,659
			Upstream Access Road located 0.27 mile downstream of Preacher Creek.	*1,676
			Upstream Interstate Railroad located 0.08 mile upstream of the confluence of Preacher Creek.	*1,689
			0.57 mile upstream of Preacher Creek	*1,708
			Upstream State Route 78	*1,736
			0.22 mile upstream of State Route 78	*1,740
		Guest River	1.23 miles downstream of State Route 72	*1,912
			1.02 miles downstream of State Route 72	*1,922
			0.77 mile downstream of State Route 72	*1,932
			0.13 mile downstream of State Route 72	*1,942
			0.68 mile upstream of State Route 72	*1,952
			1.07 miles upstream of State Route 72	*1,962
			1.68 miles upstream of State Route 72	*1,972
			1.35 miles upstream of Hicks Avenue	*1,982
			Hicks Avenue	*1,987
			3.48 miles upstream of Hicks Avenue	*1,997
			6.48 miles upstream of Hicks Avenue	*2,007
			7.63 miles upstream of Hicks Avenue	*2,017
			8.18 miles upstream of Hicks Avenue	*2,037
			9.23 miles upstream of Hicks Avenue	*2,057
			9.93 miles upstream of Hicks Avenue	*2,072
			3.43 miles downstream of the confluence of Sepulcher Creek	*2,097
			2.9 miles downstream of the confluence of Sepulcher Creek	*2,102
			2.2 miles downstream of the confluence of Sepulcher Creek	*2,112
			0.40 mile upstream of State Route 625 (Upstream crossing)	*2,139
			0.85 mile upstream of State Route 625 (Upstream crossing)	*2,149
			0.38 mile downstream of Downstream crossing of State Route 620	*2,169
			Upstream Gravel Road	*2,178
			Upstream State Route 620 (Downstream crossing)	*2,191
			0.20 mile downstream of State Route 626	*2,211
			0.74 mile upstream of State Route 620 located at Mile 30.5	*2,230
		Toms Creek	2.3 miles downstream of Norfolk & Western Railway	*1,986
			Confluence of Tributary to Toms Creek	*2,005
			0.20 mile downstream of State Route 652	*2,010
			Upstream State Route 652	*2,014
			0.7 mile upstream of State Route 652	*2,027

Maps available at the Office of the County Administrator, County Courthouse, Wise, Virginia.

Send comments to Mr. Paul Varson, Wise County Administrator, County Courthouse, Wise, Virginia 24293.

West Virginia	City of Williamson, Mingo County.	Tug Fork	Just upstream of U.S. Highway 119 (River Mile 57.3)	*667
			Just upstream of Norfolk and Western Railway (River Mile 58.1)	*670
			Confluence of Tug Fork and Sycamore Creek (River Mile 59.5)	*673

Maps available at, City Clerk's Office, City Hall, 2 East Third Avenue, Williamson, West Virginia 25661.

Send comments to, Mayor Sam Kapourales, P.O. Box 1517, or Mr. Jerry Sherman, Planning and Zoning Commission, P.O. Box 1150, Williamson, West Virginia 25661.

Wisconsin	(C) Black River Falls, Jackson County.	Black River	At the downstream corporate limit	*756
			Just downstream of dam	*761
			Just upstream of dam	*770
			At the upstream corporate limit	*771

Maps available at Office of the City Clerk, City Hall, Second and Filmore, Black River Falls, Wisconsin.

Send comments to Mr. William Arndt, City Clerk, City of Black River Falls, City Hall, Second and Filmore, Black River Falls, Wisconsin 54615.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(V) Chaseburg, Vernon County	Coon Creek	Northern corporate limits	*678
			Just upstream of convergence of divided channel	*682
			At Mill Street	*683
			Eastern corporate limits	*685
Maps available at Office of the Village Clerk, 212 Swain Street, Chaseburg, Wisconsin.				
Send comments to Mr. Earl Tumlinson, Village President, Village of Chaseburg, Box 96, Chaseburg, Wisconsin 54621.				
Wisconsin	(V) Coon Valley, Vernon County	Coon Creek	Just upstream Central Avenue	*727
			Approximately 100 feet upstream of western corporate limit	*728
			Approximately 900 feet downstream of gravel road	*735
			Approximately 260 feet downstream of corporate limit, near gravel road bridge.	*738
Maps available at Office of the Village Clerk, Village Hall, Coon Valley, Wisconsin.				
Send comments to Mr. Vernon T. Silha, Village President, Village of Coon Valley, 402 Lien Street, P.O. Box 691, Coon Valley, Wisconsin 54623.				
Wisconsin	Jackson County (Uninc.)	Black River	At western county boundary	*695
			About 4.0 miles upstream of County Highway V	*702
			About 4.5 miles downstream of State Highway 71	*708
			About 500 feet downstream of State Highway 71	*719
			Just upstream of State Highway 71	*721
			About 4.5 miles upstream of State Highway 71	*728
			About 9.0 miles upstream of State Highway 71	*736
			About 9.5 miles downstream of City of Black River Falls southern corporate limits.	*744
			At City of Black River Falls southern corporate limits	*756
			At City of Black River Falls southeastern corporate limits	*760
			At City of Black River Falls northeastern corporate limits	*771
			Just upstream of Chicago and North Western Railroad	*776
			At southern Black River State Forest boundary	*781
			At northwestern Black River State Forest boundary	*795
			About 2.3 miles downstream of Hatfield Dam	*818
			About 2.1 miles downstream of Hatfield Dam	*827
			Just downstream of County Highway K	*834
			About 1,000 feet downstream Hatfield Dam	*854
			Just upstream of Hatfield Dam	*885
			At northern county boundary	*885
		Trempealeau River	At western county boundary	*866
			Just upstream of County Highway P	*880
			Just upstream of Green Bay and Western Railroad (downstream crossing).	*890
			Just upstream of Green Bay and Western Railroad (upstream Crossing).	*903
			At Village of Hixton western corporate limits	*916
			Just upstream of Interstate 94	*925
			About 250 feet upstream of North Branch Road	*933
			About 300 feet upstream of State Highway 95	*941
		North Fork Buffalo River	At western county boundary	*990
			Just upstream of County Highway G	*1,010
			Just upstream of County Highway M	*1,026
			Just downstream of Moe Road	*1,044
			About 0.5 mile upstream of Moe Road	*1,051
Maps available at the Office of the Zoning Administrator, Jackson County Courthouse, Black River Falls, Wisconsin.				
Send comments to Mr. Steve Raith, Zoning Administrator, Jackson County, Jackson County Courthouse, Black River Falls, Wisconsin 54615.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: April 17, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-13396 Filed 5-2-80 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 276

Construction-Differential Subsidy Repayment; Total Repayment Policy

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed Rule.

SUMMARY: As a result of a recent Supreme Court decision in favor of the Secretary of Commerce, the Maritime Subsidy Board (Board) is republishing its proposal to amend 46 CFR Part 276. This proposed amendment would include a new § 276.3, describing the Board's policy in considering all applications for the total repayment of construction-differential subsidy (CDS), as authorized under provisions of the Merchant Marine Act, 1936, as amended. The purpose of this republication is to generate further comment on the proposed amendment, in light of the recent Supreme Court decision, and to request comments on several new issues which are broader in scope and effect than the concerns existing when the proposed amendment was originally published.

DATE: Written comments by interested persons must be received by the close of business July 7, 1980.

ADDRESS: Send comments to the Secretary, Maritime Subsidy Board/ Maritime Administration, Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099B, Department of Commerce building.

FOR FURTHER INFORMATION CONTACT: Mr. J. B. Young, Director Office of Trade Studies, Maritime Administration, Washington, D.C. 20230, telephone (202) 377–4758.

SUPPLEMENTARY INFORMATION: On November 2, 1978, the Maritime Subsidy Board (Board) published in the **Federal Register** of (43 FR 51045–47) a proposed amendment of 46 CFR Part 276 describing its policy in considering all applications for the total repayment of construction-differential subsidy (CDS) in exchange for the removal of domestic restrictions prescribed in section 506 of the Merchant Marine Act, 1936, as amended (the Act).

The Board originally published this proposed amendment at the suggestion of the U.S. District Court for the District of Columbia and in response to a formal petition for such rulemaking. The suggestion of the District Court was contained in its opinion disposing of the litigation challenging the authority of the Secretary of Commerce (Secretary) to accept full CDS repayment in return for the removal of the Act's domestic trading restrictions on CDS vessels. However, since the original publication in 1978, no further action has been taken by the Board pending a final resolution of the question concerning the Secretary's authority under the Act.

Sections 501–507 of the Act (46 U.S.C. 1151–1157) contain the provisions relating to qualifications and conditions for the award of CDS by the Secretary, which authority has been delegated to the Board. Essentially, CDS represents the excess of the cost of constructing (including reconstructing or reconditioning in exceptional cases) a vessel in a United States shipyard (excluding the cost of national defense features) over the fair and reasonable estimated cost of its construction in a foreign shipbuilding center considered to be a representative example for the determination of such estimated foreign cost. This excess is paid by the Secretary to the United States shipyard only with respect to a vessel "to be used in the foreign commerce of the United States."

Section 506 of the Act (46 U.S.C. 1156) requires the owner of every vessel for which CDS has been paid to agree that the vessel be operated "exclusively in foreign trade," as defined in section 905 of the Act (46 U.S.C. 1244), or in foreign trade with specified incidental domestic service. It provides that if the vessel is operated in the domestic trade in connection with any of these services, there shall be an annual repayment by the owner, determined by applying to one twenty-fifth of the CDS paid the ratio of the gross revenue derived from the domestic trade to the gross revenue derived from the entire voyages completed during the preceding year. With respect to any tanker or other liquid bulk carrier, an economic useful life of 20 years is applicable, pursuant to section 9 of Pub. L. 86–518 (74 Stat. 216). Accordingly, the ratio would be applied to one-twentieth of the CDS paid on such vessels. Section 506 also provides for the temporary transfer of such vessel to services other than those covered by the owner's CDS agreement for periods "not exceeding 6 months in any year," with the consent of the Secretary. A condition for consent to such temporary transfer is the agreement by the owner to repay, on conditions that the Secretary may prescribe, an amount which bears the same proportion to CDS paid as such temporary period bears to the entire economic life of the vessel.

The fundamental question of the Secretary's authority to accept full repayment of CDS in return for the removal of the domestic trading restrictions in § 506 has recently been decided by the U.S. Supreme Court. *Seatrain Shipbuilding Corp., et al. v. Shell Oil Co. et al.*, No. 78–1651, U.S. (February 20, 1980). The Court held that the Secretary is empowered by statute to approve full repayment of CDS with permanent release of all restrictions on a vessel's operation in domestic trade. The Court, without indication of its views, explicitly noted that two issues were not before it and, accordingly, were not decided: (1) Whether CDS repayment may be made by promissory note; and (2) what the merits were of the Secretary's particular exercise of discretion with regard to the specific facts in the case. The Court also observed that failure of the Secretary to seek a reasonable amount of interest upon the CDS during the period of construction might raise serious questions of inconsistency with the entire thrust of the Act.

Subsequent to remand by the Supreme Court, one of the original plaintiffs filed a motion for rebriefing and reargruing the issue of repayment by promissory note before the Court of Appeals for the District of Columbia Circuit. The Court has not ruled on the motion to date. However, on April 14, 1980, that Court advised all counsel that briefs or memoranda would be accepted.

In light of the Supreme Court's decision and the lapse of time since the original publication of the proposed amendment, the Board has concluded that a new Notice should be published to provide interested parties with the opportunity to comment further on the proposed amendment.

However, it is the Board's desire that, because of the Supreme Court decision and the passage of time since publication of the original notice,

comments not be restricted just to the terms and language of the proposed amendment. For example, when the proposal was originally published, only tankships were in issue, even though the language of the amendment was not so limited. Attention should now be given to the question of what specific types of vessels should be encompassed by a repayment policy.

Accordingly, comments are invited on the following issues as well as any other related issues not listed:

- Should an ad hoc approach to processing requests be used in lieu of adopting regulations?
- Should a single policy be adopted for all CDS vessels, or should separate policies be adopted for different types, and should such policies be restricted in some manner, such as by size (only VLCC's and ULCC's)?
- Should additional circumstances be added to the list of exceptional circumstances?
- Should full repayment be restricted to only exceptional circumstances, as in the proposed amendment?
- What role should considerations of competition or potential competition play in the Board's decision?
- What types of procedures should be adopted in connection with an application for repayment to insure that all interested parties have an opportunity to present their views?

Consequently, the proposed amendment should be regarded mainly as a vehicle for prompting a general discussion of the question concerning the full repayment of CDS in exchange for the removal of the § 506 domestic trading restrictions.

One change has been made in the proposed amendment that differs from the amendment as originally published. The words "plus interest" have been added to paragraph (c) of § 276.3 immediately following "CDS" in that paragraph.

All comments received in response to the original publication of the proposed amendment have been retained and will be treated as responses to this publication. Of course, respondents to the first proposal may submit further comments in response to this Notice.

A determination has been made that no regulatory analysis is required under provision of E.O. 12044 and implementing procedures of the Department of Commerce and the Maritime Administration. Accordingly, it is proposed that 46 CFR Part 276 be amended as follows:

1. The citation of "Source" is deleted and the table of sections and statement of "Authority" are revised to read as follows:

PART 276—CONSTRUCTION-DIFFERENTIAL SUBSIDY REPAYMENT

Sec.

276.1 Partial repayment-incidental domestic trading.
276.2 Reporting requirement-partial repayment.
276.3 Total repayment.

Authority.—Sec. 204(b), 207, 506, and 714, Merchant Marine At, 1936, as amended (46 U.S.C. 1114(b), 1117, 1156, and 1204) Pub. L. 86–518 (74 Stat. 216); Reorganization Plans No. 21 of 1960 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91–469 (84 Stat. 1036); and Department of Commerce Organization Order 10–8 (36 FR 19707, July 23, 1973).

2. The captions of §§ 276.1 and 276.2 are amended to be identical in content to those in the table of sections.

§ 276.1 Partial repayment—incidental domestic trading.

* * * * *

§ 276.2 Reporting requirement—partial repayment.

* * * * *

3. A new § 276.3 is added to read as follows:

§ 276.3 Total repayment

(a) *Policy.* The Secretary of Commerce (Secretary), under authority delegated to the Maritime subsidy Board, shall have the discretion to allow the total repayment of CDS and to rescind permanently domestic trading restrictions related to the grant of CDS at any time prior to or after delivery of the vessel, but only upon a determination that all of the exceptional circumstances set forth in paragraph (b) of this section exist. Approval of total repayment shall be irreversible and the vessel owner may not subsequently elect to retain or recover CDS. The existence of a temporary cyclical downturn in the market for the profitable employment of the vessel will not be sufficient to warrant exercise of this discretion. The Secretary shall publish in the **Federal Register** a notice of any application for the total repayment of CDS, and shall allow all interested parties to submit written comments not later than 10 days after the date of such publication. After considering all comments, the Secretary shall advise the applicant, as well as those submitting comments, of the action taken, with a concise explanation of such action in writing.

(b) *Exceptional circumstances.* The exceptional circumstances necessary to allow a total repayment of CDS shall be as follows:

(1) It is apparent that no favorable opportunities exist for employment of the vessel in the foreign trade during a protracted period of a duration considerably in excess of that normally associated with cyclical market downturns.

(2) Because of the absence of adequate employment opportunities for the vessel in the foreign trade, the vessel owner or other party responsible for payment of debt guaranteed or insured by the Secretary under Title XI of the Act is or will be unable to make the required periodic principal and interest payments on that debt and faces imminent bankruptcy;

(3) The Secretary will sustain substantial financial loss in the event of the bankruptcy of the debtor because of its responsibility to pay under the Title XI guarantees or insurance; and

(4) Operation of the vessel in the domestic trade is not likely to have any significant adverse competitive effect on other vessels operating in that trade.

(c) Repayment terms. The total repayment of CDS, plus interest, shall be made in any manner acceptable to the Secretary, consistent with the purposes of the Act, after consideration of all pertinent factors, including, but not limited to the financial condition of the owner, security for the Government and effect on competition.

(Secs. 204(b), 207, 506, and 714 Merchant Marine Act, 1936, as amended (46 U.S.C. 114(b), 1117 and 1156 and 1204; Pub. L. 86–518 (74 Stat. 216); 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); and Department of Commerce Organization Order 10–8 (36 FR 19707, July 23, 1973))

Dated: April 29, 1980.

By order of the Maritime Subsidy Board/ Maritime Administration.

Robert J. Patton, Jr.,

Secretary, Maritime Subsidy Board, Maritime Administration.

[FR Doc. 80-13735 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-15-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 4

Administrative Matters; Contract Reporting

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment, a segment of the draft Federal Acquisition Regulation regarding contract reporting.[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before July 7, 1980.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William J. Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Maraist (202) 395–3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subpart of the draft Federal Acquisition Regulation is available upon request for public and Government agency review and comment.

PART 4—ADMINISTRATIVE MATTERS

Subpart 4.6—Contract Reporting

This subpart prescribes the reporting requirements of the Federal Procurement Data System (FPDS). Contract reporting by executive agencies under the FPDS was established by the OFPP on February 3, 1978 under the authority of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.). Agency reporting to the Federal Procurement Data Center was required to begin with FY 1979 data. No substantive changes to current FPDS reporting requirements are included in this FAR coverage.

The FPDS prescribes the minimum essential data elements for contract obligations in excess of $10,000 and a summary report for all obligations under $10,000. It contains two optional forms, the SF 279 (over $10,000) and the SF 281 (under $10,000). The FPDS does not restrict further data collection by the agencies for their internal management purposes. Agency implementing regulations may therefore contain different forms and procedures for internal reporting as long as such systems provide for reporting to the data center in conformance with FPDS requirements.

Subpart 4.6 is organized as follows:

Subpart 4.6—Contract Reporting

Sec.

4.600 Scope of subpart.
4.601 Federal Procurement Data System.
4.602 Responsibilities.
4.603 Reportable contract actions.
4.604 Procedures for reporting contract actions.
4.605 Publications required for coding and submitting data.
4.606 Instructions for preparing SF 279, FPDS—Individual Contract Action Report (Over $10,000).
4.606–1 General.
4.606–2 Item entries.
4.607 Instructions for preparing SF 281, FPDS—Summary of Contract Actions of $10,000 of Less and Subcontract Data on Selected Prime Contracts.
4.607–1 General.
4.607–2 Item entries.
4.608 Special reporting instructions.

Dated: April 30, 1980.

LeRoy J. Haugh,

Associate Administrator for Regulations and Procedures.

[FR Doc. 80–13728 Filed 5–2–80; 8:45 am]

BILLING CODE 3110–01–M

[1] Filed as part of the original document with the Office of the Federal Register.

Notices

Federal Register
Vol. 45, No. 88
Monday, May 5, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee; Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the Flue-Cured Tobacco Advisory Committee for an additional period of two years.

This committee represents all segments of the flue-cured tobacco industry. It recommends opening dates and selling schedules for the flue-cure marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors.

Membership of the Committee is balanced and consists of 37 representatives of the flue-cured area—20 producers, 9 warehousemen, and 8 buyers.

The Committee shall report to the Director, Tobacco Division, Agricultural Marketing Service.

Authority for this committee will expire 2 years from date of filing unless the Secretary formally determines that continuance is in the public interest.

This notice is given in compliance with Pub. L. 92–463.

Dated: April 30, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80–13660 Filed 5–2–80; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Paddy Creek Wilderness Study Area Report; Public Hearing

Notice is hereby given that public hearings will be held on a proposal for the future management of the Paddy Creek Wilderness Study Area comprised of approximately 6,888 acres within the Mark Twain National Forest in Texas County, Missouri. The hearings will be held according to the following schedule:

Beginning at 6:30 p.m., June 5, 1980, Intercounty Electric Cooperative, Maple Avenue, Licking, Missouri.

Beginning at 1:30 p.m., June 6, 1980, Lester B. Rickman Conference Center (Highway 54 South past Ellis Boulevard), Jefferson City, Missouri.

A draft study report/environmental impact statement may be obtained from the Forest Supervisor, Mark Twain National Forest, 401 Fairgrounds Road, Rolla, Missouri 65401.

Individuals and organizations may express their views by appearing at these hearings or may submit written comments for inclusion in the official record to the Forest Supervisor. Those persons wishing to present oral testimony at the hearing should notify the Forest Supervisor prior to May 23, 1980. Written comments must be postmarked by June 30, 1980, to be considered prior to preparation of the final environmental impact statement.

Dated: April 25, 1980.

D. R. Leisz,

Acting Chief, Forest Service.

[FR Doc. 80–13661 Filed 5–2–80; 8:45 am]

BILLING CODE 3410–11–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on May 13, 1980, at 7 p.m., a public information meeting will be held at the Petersburg Redevelopment and Housing Authority, Sycamore Towers, 128 S. Sycamore Street, Petersburg, Virginia.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed Hickory Hill Road Public Housing project, an undertaking of the Department of Housing and Urban Development (HUD) that will adversely affect the Petersburg National Battlefield, Petersburg, Virginia, a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by HUD.

III. A statement by the Virginia State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statement to five (5) minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005; 202–254–3495 (Attention: Charlene Dwin).

Dated: April 29, 1980.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 80–13629 Filed 5–2–80; 8:45 am]

BILLING CODE 4310–10–M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission originally scheduled for May 6, 1980, at Albuquerque, New Mexico, (FR Doc. 80–10982 on page 24907) has been changed.

The meeting now will be held on May 22, 1980. The time and place will remain the same.

Dated at Washington, D.C., April 30, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-13723 Filed 5-2-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Tuesday, June 3, 1980, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initally established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Consideration of the Committee's recommendation of the Qualified Product License.
4. Committee and subcommittee reports.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on December 21, 1978 (43 FR 59537).

Copies of the minutes of the open portion of the meeting can be obtained by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, International Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: April 29, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, Department of Commerce.

[FR Doc. 80-13689 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Baylor College of Medicine; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, NW. (Room 735), Washington, D.C.

Docket Number 80-00007. Applicant: Baylor College of Medicine, 1200 Moursund, Houston, TX 77030. Article: Cryokit, LKB 14801-1 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in preparing frozen thin sections of normal and infarcted rat myocardium in order to detect intracellular ion shifts which occur during infarction. The overall goal of the experiment is to elucidate the role of ion movements during cell injury and death and to assess the efficacy of agents in preventing or delaying cell death.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The article is being manufactured by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the Department of Health, Education and Welfare in its memorandum dated February 21, 1980 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessory manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13690 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Cornell University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, NW. (Room 735) Washington, D.C.

Docket Number 79-00436. Applicant: Cornell University, 625 Clark Hall, Ithaca, New York 14853. Article: Electron Microscope, Model JEM-100B/SEG with side entry goniometer and accessories. MANUFACTURER: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for various research objectives including the following examples:

a. High resolution studies of grain boundaries,

b. Electron diffraction and high resolution studies of grain boundaries,

c. Lattice Imaging Studies of NaB Alumina,

d. Weak beam studies of heavily deformed material,

e. Lattice imaging studies of defects in germanium, and

f. Lattice imaging studies of defects and grain boundaries in silicon.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended ot be used, was being manufactured in the United States at the time the article was ordered (August 2, 1979).

Reasons: The description of the applicant's research and/or educational purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purpose for which the article is intended to be use. We know of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered. ("Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the Unites States at the time the article was ordered.

In a letter dated January 30, 1980, the U.S. Customs Service advised the applicant institution that while the electron microscope covered by the application was actually being purchased the accessories described in the application are provided to the University on a no charge trial basis. The Customs Service has held that the accessories are not eligible for duty-free entry under item 851.60, TSUS. Accordingly, this approval decision is limited to the JEOL-JEM-100B Electorn Microscope.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Scientific and Educational Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13691 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Duke University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5: p.m. at 666 11th Street, NW. (Room 735) Washington, D.C.

Docket Number 80-00023. Applicant: Duke Univeristy, Durham, North Carolina 27710. Article: 12KW High Brilliance Rotating Anode Generator and Accessories. Manufacturer: Rigaku Corporation, Japan. Intended use of article: The article is intended to be used for studies of human liver manganese superoxide dismutase and chicken liver sulfite oxidase. Experiments to be conducted will consist of: (1) The collection of complete 3-dimensional X-ray diffraction data on crystals of both enzymes, out to at least 3 Angstroms resolution, for both the native crystals and crystals containing heavy atom derivatives, (2) location of the heavy atoms and use of them to determine phases for the native data, and (3) calculation of electron density maps at 3 Angstroms resolution or better. The objective of these experiments is the determination of a backbone tracing complete 3-dimensional structure for both the Mn superoxide dismutase and the sulfite oxidase molecules. In addition, the article will be used in the training of advanced graduate students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size (0.2×2 millimeters) and a maximum x-ray beam source of 12 kilowatts. The Department of Health, Education and Welfare advises in its memorandum dated February 21, 1980 that (1) the capabilities described above pertinent to the purposes for which the article is intended to be used and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13693 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Department of Health, Education and Welfare; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 80-00056. Applicant: Department of Health, Education & Welfare, PHS, FDA/National Center for Toxicological Research, Jefferson, AR 72079. Article: NMR Spectrometer, Model WM500 with Accessories. Manufacturer: Bruker Analytische Messtechnik, GMBH, West Germany. Intended use of article: The article is intended to be used to analyze toxic substances, metabolites and regulatory samples primarily to determine structure and purity. Typical examples are as follows: aminofluoremes; aminonaphthalene-nucleosides; benzanthracenes; benzopyrenes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a working field strength of 11.7 tesla for a proton frequency of 500 megahertz and a large magnet bore of 54 millimeters. The National Bureau of Standards advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or appartus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13692 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Johns Hopkins University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket Number 80-00078. Applicant: The Johns Hopkins University School of Medicine, Department of Ophthalmology, 720 Rutland Avenue, Baltimore, Maryland 21205. Article: Automatic Visual Perimeter. Manufacturer: Bara Elektronik, Sweden. Intended use of article: The article is intended to be used for research studies including evaluation of the instrument in the diagnosis of visual field loss. Medical doctors of the ophthalmic residency program will be instructed in the use of the article for the diagnosis of visual field loss.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article measures visual field loss automatically as opposed to a non-automated and, therefore, subjective procedure. The Department of Health, Education and Welfare advises in its memorandum dated March 28, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

FR Doc. 80-13694 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Montana State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket Number 79-00408. Applicant: Montana State University, Department of Physics, Bozeman, MT 59717. Article: CPS-2 Plug-in Unit 6.5 MHz with Standard Probe Head. Manufacturer: Spin Lock Ltd., Canada. Intended use of article: The article is an accessory to an existing NMR spectrometer manufactured by the same manufacturer used in pulsed nuclear magnetic resonance experiments. Investigations will consist of the study of lanthanum chromite based materials to determine the concentration of hydrogen, diffusion rate of hydrogen, and hydrogen site location in the materials under high temperatures and in various atmospheres. Studies will also include measurements on the H-bonded ferroelectrics to study slow and ultraslow motions due to phase transitions and clustering above T_c as a function of temperature, pressure, and electric field. In addition, the article will be used for educational purposes in the courses: Physics 461-62-63, 590 and 690.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13695 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

NBS/Boulder, Colo.; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a

scentific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 80–00034. Applicant: U.S. Department of Commerce—National Bureau of Standards, 325 Broadway, Boulder, CO 80303. Article: Microfabrication System, Scanning Electron Microscope/Electron Beam, Type S150–1 and Accessories. Manufacturer: Cambridge Instrument Co., United Kingdom. Intended use of article: The article is intended to be used primarily for research in superconducting electronics, i.e. electronics based on superconducting materials. In addition, the article will be used in the development of linewidth measurement artifacts in the submicrometer dimensional regime.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides linewidths of 0.125±20% or 0.025 microns with rapid slope writing. Comparable domestic instruments are the Model Ee–BES–40 manufactured by Varian-Extrion, Gloucester, Massachusetts and the instrument, Model LEBES D, proposed by ETEC, Hayward, California. The Varian Model Ee–BES–40 provides linewidths of 1.0±0.1 micron. The ETEC Model LEBES D offered 0.125±40% or 0.05 microns with no high speed slope writing. The Department of Health, Education, and Welfare advises in its memorandum dated March 30, 1980 that the features described above for the foreign article are pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that neither the Varian Model Ee–BES–40 nor the ETEC Model LEBES D is of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–13696 Filed 5–2–80; 8:45 am]

BILLING CODE 3510–25–M

Princeton University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 80–00031. Applicant: Princeton University, Director of Purchases, P.O. Box 33, Princeton, New Jersey 08544. Article: 12KW High Brilliance Rotating Anode X-ray Generator. Manufacturer: Rigaku Corporation, Japan. Intended use of article: The article is intended to be used to study the structure of complex biological systems including vertebrate muscles and the rod outer segment disk membranes of the vertebrate eye. The article will also be an essential part of training of graduate students doing doctoral thesis work.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size (2x0.2 millimeters) with a rotating target for maximum x-ray beam intensity of 12 kilowatts per square millimeter. The Department of Health, Education, and Welfare advises in its memorandum dated March 10, 1980 that the capability described above is pertinent to the purposes for which the article is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–13697 Filed 5–2–80; 8:45 am]

BILLING CODE 3510–25–M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, NW. (Room 735) Washington, D.C.

Docket Number 79–00394. Applicant: University of California at Los Angeles, Physics Department, Los Angeles, California 90024. Article: Infrared Detector. Manufacturer: Unicam Goley, United Kingdom. Intended use of article: The article is intended to be used to measure the infrared absorption in semiconductors and insulators in the spectral region from 20 to 1000 microns for the purpose of studying the electronic properties of these materials. In addition, training for graduate students in Physics 596—Solid State Research will be augmented by these studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible component for an instrument that had been previously imported for the use of the applicant institution. The article, which provides a spectral region from 20 to 1000 microns, is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar component being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with

which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13698 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W., (Room 735) Washington, D.C.

Docket Number 80-00011. Applicant: University of California, Department of Chemistry, Davis, California 95616. Article: ER 200D EPR/ENDOR Spectrometer and Accessories. Manufacturer: Bruker-Physik AG, West Germany. Intended use of article: The article is intended to be used to investigate paramagnetic materials including transition metal complexes, organic free radicals, excited (triplet) states of molecules, and metalloenzymes. Information will be obtained of a detailed nature on the Zeeman splittings of the magnetic sublevels of these systems and the anisotropies in these splittings.

Other important interactions of the electron spin—the electron-nuclear hyperfine interactions—are an important aspect of the research and will be studied with the ENDOR accessory which is an intricate part of the spectrometer. The objective of the research is the utilization of EPR and ENDOR spectroscopy to study the detailed magnetic properties of molecules and materials in order to obtain structural information, as well as information regarding the dynamics of spin systems.

The article will be used by selected graduate students in their graduate research course, Chemistry 299 in such cases where EPR/ENDOR spectoscopy will be of assistance in the development of the student's degree-related research. The article will also be used by selected upper-division chemistry majors in the physical chemistry laboratory sequence, Chem 111A, 111B as an instructional tool in enhancing the student's awareness and understanding of modern spectrospcopic methods.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (November 6, 1978).

Reasons: The foreign article provides low power electron nuclei double resonance (ENDOR) analysis. The National Bureau of Standards advises in its memorandum dated March 31, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13699 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

University of Pennsylvania; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 80-00017. Applicant: University of Pennsylvania, Physics Department, 209 South 33rd Street, Philadelphia, Pennsylvania 19104. Article: Rohaglas 1922 and Rohaglas 2003 Scintillators. Manufacturer: Roehm GmbH Chemische Fabrik, West Germany. Intended use of Article: The article is intended to be used as part of a scientific instrument and apparatus known as a Total Absorption Calorimetric Detector for High Energy Physics research specifically the study of the structure of high P_T hadronic interactions. The experiments to be conducted will involve: the study of do/dt', the study of quark-gluon separation, structure function information, multi-jet event, P_T dependence of jets, jet production in heavy nuclei, and study of the internal structure of jets.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reason: The foreign article provides the combination of an attenuation length equal to 1.7 meters for light of a wave length equal to or better than 435 nanometers and a high light output of 19 percent (%) relative to anthrazene at 100%. The National Bureau of Standards advises in its memorandum dated March 10, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or aparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13700 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

University of Rochester; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, NW. (Room 735) Washington, D.C.

Docket No. 80-00010. Applicant: University of Rochester, Department of Chemistry, Rochester, New York 14627.

Article: EPR/ENDOR Spectrometer, ER 200 and Accessories. Manufacturer: Bruker Instruments, West Germany. Intended use of article: The article is intended to be used for studies of organic free radicals and transition complexes to determine isotropic and dipolar couplings between the odd electron spin and nuclear spins in these molecules. Analysis of the spectra data will allow a determination of the structure of transition metal complexes and the mechanism of spin delocalization from the paramagnetic center to the nuclear spins. Analysis of the spectra will also allow a determination of motional correlation times for rotation of molecules in solution.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 27, 1979).

Reasons: The foreign article provides low power electron nuclie double resonance (ENDOR) analysis. The National Bureau of Standards advises in its memorandum dated March 30, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13701 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Certain Industrial Electric Motors From Japan; Postponement of Preliminary Determination

AGENCY: U.S. Department of Commerce.

ACTION: Postponement of Preliminary Antidumping Determination.

SUMMARY: This notice is to inform the public that the Commerce Department has concluded that a preliminary determination as to whether sales at less than fair value of certain polyphase, AC industrial electric motors from Japan have occurred cannot reasonably be made by May 19, 1980. This case has been determined to be an "extraordinarily complicated case" and the preliminary determination is postponed until not later than June 16, 1980.

EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, International Trade Administration, Office of Investigations, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, Telephone: (202) 377-1777.

SUPPLEMENTARY INFORMATION: On October 3, 1979, a notice of "Initiation of Antidumping Investigation" was published in the **Federal Register** (44 FR 57001). The notice stated that an investigation under the Antidumping Act of 1921, as amended (19 U.S.C. 160 *et seq.*) was being initiated for the purpose of determining whether imports of certain polyphase, AC industrial electric motors from Japan are being, or are likely to be, sold at less than fair value. On January 1, 1980, Title VII of the Tariff Act of 1930, as amended (93 Stat. 151, 19 U.S.C. 1671 *et seq.*) ("the Act") became effective. Under the terms of section 102(b) of the Trade Agreements Act of 1979 (93 Stat. 189, 19 U.S.C. 1671 note), investigations in progress under the Antidumping Act of 1921, for which no preliminary determination has been made by January 1, 1980, were terminated and treated as if they had been initiated under section 732 of the Act on January 1, 1980. Accordingly, the preliminary determination in the antidumping investigation of certain polyphase, AC industrial electric motors from Japan thus became due on May 19, 1980.

Pursuant to section 733(c)(1) of the Act (93 Stat. 164, 19 U.S.C. 1673b(c)(1)), the Commerce Department, concluding that the parties concerned are cooperating, determining that the case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated and by reason of the novelty of issues presented in the investigation, and determining that additional time is necessary to make the preliminary determination, postpones its preliminary determination until not later than June 16, 1980.

This extension is based primarily on the complications created by the difficulty, due to the small quantity of motors sold in Japan, of utilizing home market sales as a basis for calculating the fair value of any but the motors under 150 horsepower. It has been determined that for motors of 150 horsepower and over which are sold in sufficient quantities in Canada, the price in the Canadian market will be used to compute fair value. Constructed value will be used for calculating the fair value of the remaining motors 150 horsepower and over. The novelty of the use of three different methods for computing fair value in one investigation together with the complexity of investigating data involving three methods of computing fair value necessitate a postponement of the preliminary determination.

This notice is published pursuant to section 733(c)(2) of the Act (93 Stat. 164, 19 U.S.C. 1673b(c)(2)).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

April 29, 1980.

[FR Doc. 80-13637 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-22-M

Melamine in Crystal Form From the Netherlands; Antidumping: Amendment of Final Determination

AGENCY: U.S. Department of Commerce.

ACTION: Amendment of Final Determination—Final Determination of Sales at Not Less than Fair Value.

SUMMARY: Following reconsideration of the final determination in this case, this Department has determined that melamine in crystal form from the Netherlands has not been sold to the United States at less than fair value within the meaning of section 735 of the Tariff Act of 1930, as amended.

EFFECTIVE DATE: April 28, 1980.

FOR FURTHER INFORMATION CONTACT: Stuart S. Keitz, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1769).

SUPPLEMENTARY INFORMATION: On March 20, 1980, this Department issued a notice of a final determination of sales at less than fair value of melamine in crystal form from the Netherlands (45 FR 20152). Margins had been found on 93.5 percent of sales to the United States during the period investigated. The margins ranged from 1.97 percent to 4.64 percent, with a weighted average margin for all sales of 2.18 percent.

Respondent sought reconsideration of the determination of March 20 on the ground that it did not correctly apply § 353.56(b) of the Commerce Department Regulations (19 CFR 353.56(b), 45 FR 8206), which deals with the effect of exchange rate fluctuations on fair value determinations. Correct application of the regulation results in a finding of no

margins. Accordingly, I amend the final determination and find that melamine in crystal form from the Netherlands is not being, and is not likely to be, sold at less than fair value.

The Issue of Reconsideration. Generally, of course, final determinations in antidumping cases are not amended. In some instances, though, amendment of a final determination is appropriate in order to remedy mistakes in the original determination. The present case, which grows out of the unique circumstances created by the Trade Agreement, Act of 1979 (Pub. L. 96–39) and the reorganization of Executive Branch trade responsibilities, is one such instance.

The March 20 determination in this case was one of many issued in mid-March under the new time limits imposed by Title I of the Trade Agreement Act (the "Act"). Section 102 of the Act required that all antidumping and countervailing duty cases in which there had been preliminary determinations under the Antidumping Act of 1921 be decided within seventy-five days after the new Act took effect on January 1, 1980. This requirement meant that many determinations were due simultaneously and, as it happens, during the period that administration of the law was being transferred to this agency.

This case involved consideration of sales during a period of rapidly fluctuating exchange rates which, though not unique, was of a sort rarely present in antidumping investigations.

As a result of the above conditions, 19 CFR 353.56(b) was not correctly applied in the March 20 determination. In these circumstances, a reconsideration of this discrete issue is appropriate.

Procedural Issues. Counsel for respondents submitted several letters to this Department after the final determination. Counsel requested reconsideration of the determination based on the exchange rate issue. Included in one of these letters was reference to applicable precedent for applying 19 CFR 353.56(b). Considering this issue more fully, the staff issued an amended determination.

However, copies of the letters in question had not been received by counsel for petitioners. In light of § 353.46(a) of the Department of Commerce Regulations, as well as basic notions of procedural fairness, I instructed that the amended determination not be published in the Federal Register.

We arranged for a conference at which both sides would be represented. This conference allowed counsel for petitioner and respondent to address the issue of exchange rate fluctuations. We have also accepted a number of written submission from counsel for petitioners and respondents, including submissions after the conference. The issue of exchange rate fluctuations is one that has been known to both sides since the prehearing briefs were filed in early March. In these circumstances, we believe that each party has had adequate opportunity for comment on the matter.

Exchange Rate Fluctuations. § 353.56(b) of the Department of Commerce Regulations governs situations where rapidly fluctuating exchange rates distort price comparisons between national markets: For purposes of fair value investigations, manufacturers, exporters, and importers concerned will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. Where prices under consideration are affected by temporary exchange rate fluctuations, no differences between the prices being compared resulting solely from such exchange rate fluctuations will be taken into account in fair value investigations.

The purpose of this regulation is clear. Antidumping imvestigations are meant to determine whether prices of merchandise sold in the United States are at less than "fair value." When exchange rates are fluctuating substantially, a given dollar price of a product in the United States could change technically from fair to "unfair" literally from day to day, even if the foreign price of the product, denominated in the foreign currency, also remained constant. This result is not called for by the language or purpose of the Act. It would be unrealistic to expect business to change prices instantaneously to take account of fluctuating exchange rates. So too, weekly price changes could create substantial confusion and inconvenience for the customers of that business.

The regulation, then, allows a reasonable period in which the business may take *sustained* exchange rate fluctuations into account. The regulation further instructs that *temporary* fluctuations should not be the sole basis for determinations of less than fair value sales. Businesses are to be given time to assess whether one currency has truly appreciated against another before changing their pricing practices.

The period covered by this investigation was certainly one of volatile changes in the exchange rate between the dollar and the West German mark (the currency of the third country sales compared with the U.S. sales in this investigation). The dollar dropped steadily during the month of October 1978, rebounded sharply after President Carter's announcement in late October of special measures to strengthen the dollar, and then declined again in December.

The comparison in the March 20 determination was based upon the certified quarterly exchange rate of the Federal Reserve Board. Comparison of prices for sales during a given quarter were based on the exchange rate for that quarter. The results were the margins noted earlier. When the comparison is made on the basis of the exchange rate in the *preceding* quarter, however, there are no margins. There seems little doubt that this situation is exactly the type contemplated in § 353.56(b). The appropriate approach will vary from case to case, depending on the particular facts of the case.

The conclusion that there had been no sales at less than fair value should have been reached simply by applying the regulation, because the margins were the sole result of exchange rate fluctuation. The precedents cited by respondent, particularly *Motorcycles from Japan* (43 FR 48754), reinforce this result. In that case the Treasury Department specifically applied a "one quarter lag" in determining whether there were less than fair value sales during a period in which the value of the Japanese yen changed significantly. Counsel for petitioner has argued that this case is not relevant because it involved an offer of price assurances by the respondent. The fact that an offer of price assurances was involved does not alter the proper method for making a fair value comparison, however.

For the reasons stated above, I conclude that melamine in crystal form from the Netherlands is not being nor is likely to be sold at less than fair value, and the final determination is amended to reflect this determination.

The International Trade Commission was informed of the possibility of an amended determination on April 15. The Commission put off its final consideration of the three melamine cases to await further notice from the Department of Commerce. We have informed the Commission of this modification.

Robert E. Herzstein,

Under Secretary for International Trade.

April 28, 1980.

[FR Doc. 80-13636 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of NMR Magnets

The following is a consolidated decision on applications for duty-free entry of superconducting NMR magnets pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street NW., (Room 735), Washington, D.C.

Docket Number: 79–00423. Applicant: University of California, UCD Nuclear Magnetic Resonance Facility, Davis, California 95616. Article: 8.5 Tesla Superconducting NMR Magnet and Accessories. Manufacturer: Oxford Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used to conduct high resolution nuclear magnetic resonance (NMR) studies, with the emphasis to be on proton NMR of molecules of biological importance. Studies to be pursued include molecule identification, molecular structure and conformation investigations, studies of molecular motion, and investigations of tertiary structure of peptides and proteins. Advice submitted by the Department of Health, Education and Welfare: January 11, 1980. Article ordered: June 6, 1979.

Docket Number: 79–00380. Applicant: The University of Chicago, Department of Chemistry, 5735 South Ellis Avenue, Chicago, Illinois 60637. Article: Supercon NMR System. Manufacturer: Oxford Instruments Inc., United Kingdom. Intended use of article: The article is intended to be used in research to be conducted as an integral part of the graduate educational program. The purpose of the program is to train and educate Ph.Ds in various Chemistry courses. The various research includes but is not limited to the following:

1. Investigation of reactive intermediates and reaction mechanisms by magnetic resonance chemically induced nuclear polarization.
2. Matrix isolation techniques used to study trapped reaction intermediates.
3. Magnetic resonance studies on photosynthetic pigments.
4. Flash-photolysis-NMR.
5. The study of short-chain biradicals by CIDNP at very high magnetic fields.
6. Studies in synthesis of natural and unnatural compounds, and
7. Organometallic synthesis and reaction chemistry. Advice submitted by the Department of Health, Education and Welfare: January 11, 1980. Article ordered: September 26, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reason: Each foreign article provides a magnetic field strength for high resolution nuclear magnetic resonance experiments equal to or better than 8.5 Tesla. The Department of Health, Education and Welfare advises in the respectively cited memoranda, that the features described above are pertinent to the purposes for which each of the foreign articles to which these applications relate is intended to be used. HEW also advises that it knows of no domestic manufacturer which provided the pertinent features of each article at the time each of the foreign articles was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80–13702 Filed 5–2–80; 8:45 am]

BILLING CODE 3510–25–M

Consolidated Decision on Applications for Duty-Free Entry of Spectropolarimeters

The following is a consolidated decision on applications for duty-free entry of spectropolarimeters pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 80–00026. Applicant: University of Southern California, University Park, Los Angeles, CA 90007. Article: J–500C Automatic Recording Spectropolarimeter. Manufacturer: Japan Spectroscopic Co. Ltd., Japan. Intended use of article: The article is intended to be used for investigations of the circular dichroism and magnetic circular dichroism spectra of various chemical and biochemical solutions at various temperatures. Experiments will be conducted to (1) develop quantitative methods of assessing the structure of molecules under study, (2) study subtle changes of the structure with temperature, and (3) compare predicted and experimental structures. Advice submitted by the Department of Health, Education and Welfare: March 10, 1980. Article ordered: October 9, 1979.

Docket No. 80–00027. Applicant: University of Oregon, Institute of Molecular Biology, Eugene, Oregon 97403. Article: J–500C Automatic Recording Spectropolarimeter. Manufacturer: Japan Spectroscopic Co. Ltd., Japan. Intended use of article: The article is intended to be used to monitor the circular dichroism of protein nucleic acids and other biochemical systems. Circular dichroism is outstandingly sensitive to conformational changes in micromolecular systems and the article will be mainly used to determine conformation and detect changes. Principal investigations will include the following:

(1) Study of mutant T4 phage lysozymes and the flexibility of DNA and the nature of condensed state of DNA.

(2) Analysis of protein-nucleic acid interactions, studying extend of binding, kinetics and associated conformation changes in both the protein and the nucleic acid.

(3) Raman spectroscopic studies on proteins and nucleic acids.

(4) Study lipid-protein interactions and to characterize the excited states of polyenes.

Postdoctoral fellows and graduate students in the above porjects will also be trained in use of this equipment. Advice submitted by the Department of Health, Education, and Welfare: March 10, 1980. Article ordered: October 12, 1979.

Comments: No comments have been received in regard to either of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article described above provides circular dichroism spectra and rapid switching between right and left

polarized light (50,000 times/second). The Department of Health, Education, and Welfare advises in its respectively cited memoranda that the features of each article are pertinent to the purposes for which that article is intended to be used. HEW also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to any of the articles to which the foregoing applications relate for such purposes as these articles are intended to be used which is being manufactured in the United States.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to either of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13703 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Etalons and a Capacitive Reference

The following is a consolidated decision on applications for duty-free entry of etalons and a capacitive reference pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e)).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666—11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00381. Article: Capacitive Etalon and Accessories.

Docket No. 79-00383. Article: Optically Contacted Reference Capacitor.

Docket No. 79-00384. Article: Optically Contacted Pieze-Capacitor Etalon and Accessories.

Docket No. 79-00385. Article: Optically Contacted Pieze-Capacitor Etalon.

Applicant: Washington University, Earth and Planetary Sciences, St. Louis, MO. 63130.

Manufacturer: I. C. Optical Systems Ltd., United Kingdom.

Intended use of article: The articles are intended to be used in a specially constructed astronomical observatory instrument. Observations are made of solar system and galactic objects including the major planets, stellar objects, interstellar gas clouds, comets, planetary nebulae, and late type stars.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to any of the foregin articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Surface figures of the etalons in the central region range from lambda 100 to 200. They are coated for reflectivity at the center between 97 and 98 percent over wavelengths of from 3600 to 10,400 angstroms. The reference capacitor is precisely matched to the specifications of the etalons with which it will be used. The National Bureau of Standards advises in its memoranda on these applications that (1) the capabilities of the foreign articles described above are pertinent to the applicant's intended purposes and (2) it knows of no domestic instruments or apparatus of equivalent scientific value to the foreign articles for the applicant's intended use.

The Department of Commerce knows of no other instruments or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which are being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13709 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Carcinotron Tubes

The following is a consolidated decision on applications for duty-free entry of carcinotron tubes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No.: 80-00004. Applicant: UCLA, School of Engineering, Electrical Sciences & Engineering Department, 7731 Boelter Hall, Los Angeles, California 90024. Article: Carcinotron—385 Radiation Source, Model CO—08. Manufacturer: Thomson—CSF Electron Tubes, France. Intended use of article: The article is intended to be used as a radiation source during plasmas related magnetic fusion research, i.e. plasmas with densities $>10^{13}cm^{-3}$. Measurements of the turbulent fluctuation spectra existing in fusion plasmas will be taken to determine the ion temperature in such plasmas. The article will be used in Ph.D. thesis research by graduate students in pursuit of their Ph.D. degrees. Advice Submitted By the National Bureau of Standards: March 17, 1980. Article ordered: September 28, 1979.

Docket No.: 80-00024. Applicant: Princeton University, Plasma Physics Laboratory, P.O. Box CN17, Princeton, New Jersey 08544. Article: Two (2) Carcinotron Tubes, Model CO 10.1. Manufacturer: Thomson-CSF, France. Intended use of article: The article is intended to be used as a swept local oscillator for a 290 GHz to 300 GHz interferrometer used in the electron density diagnostics of high temperature hydrogen plasmas associated with the development of nuclear fusion power generators. The article will also be used as the millimeter microwave source for a microwave scattering system used to measure other plasma conditions. Advice submitted by the National Bureau of Standards: March 17, 1980. Article ordered: January 26, 1979.

Comments: No comments have been received in regard to either of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article described above provides a frequency range equal to or better than 200 to 300 gigahertz. The National Bureau of Standards advises in its respectively cited memoranda that the feature of each article is pertinent to the purposes for which that article is intended to be used. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to any of the articles to which the foregoing applications relate for such

purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to either of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-13705 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due and timely form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products. The original application was filed with the National Marine Fisheries Service on July 21, 1977, but subsequent processing of the application was delayed until certain policy matters were complied with by the applicant. These matters have recently been settled, and the applicant has requested that processing of his application be resumed.

Applicant

1. A. Douglas Jacob, 413 Main Street, Greenport, New York 11944.

Period of Exemption

The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial Activities Exempted

(i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or Products Exempted

Finished scrimshaw products to be made from approximately 15 pounds of scrap whale teeth ivory and 10 pounds of whale teeth (7 pieces).

Written comments on this application may be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Attn: Chief, Enforcement Division, Washington, D.C. 20235 on or before June 4, 1980.

Signed this 29th day of April 1980, at Washington, D.C.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-13675 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-12-M

Office of the Secretary

Delegations of Authority; General Counsel of the Department, the Acting Under Secretary for International Trade

In section 401(q) of Department Organization Order 10-3 of January 2, 1980, I delegated to the Under Secretary for International Trade the authority I received as Secretary under subparagraph 5(a)(1)(G) of Reorganization Plan No. 3 of 1979. Under that provision of the Reorganization Plan, as implemented by Executive Order 12188 of January 2, 1980, there were transferred to the Secretary of Commerce all functions of the Secretary of the Treasury and of the General Counsel of the Department of the Treasury under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), with respect to the functions transferred to the Secretary of Commerce by subparagraph 5(a)(1)(c) of the Reorganization Plan.

Under this transfer of authority, I am authorized as Secretary of Commerce to compromise certain claims arising under the customs law, as provided to the Secretary of Treasury in 19 U.S.C. 1617. There has also thereby been vested in me as Secretary the authority of the General Counsel of the Department of the Treasury to recommend such actions.

In accord with existing law, the United States assessed certain duties pursuant to T.D. 71-76 for the importation of television receivers from Japan for a period of time extending through March 1979 and has claims for additional similar duties under T.D. 71-76. This matter was pending in the Department of the Treasury, and has been transferred to the Department of Commerce pursuant to Reorganization Plan No. 3 of 1979 and Executive Order 12188.

With my concurrence, discussions about compromising those claims are being conducted with the interested parties. In order to be able to proceed further in this matter, I am taking these actions under existing law:

1. Robert E. Herzstein, the person nominated by the President to be Under Secretary for International Trade, is now being considered for confirmation by the Senate. Mr. Herzstein has disqualified himself from participating in this matter, and will continue to do so when and if confirmed by the Senate and appointed into office. In part for this reason, I shall as Secretary of Commerce retain and exercise all authority under law to decide any compromises of claims existing under T.D. 71-76.

2. I hereby delegate to the General Counsel of the Department of Commerce the authority to recommend any compromises of claims arising under the customs law, as provided in 19 U.S.C. 1617 and transferred to the Secretary under the aforesaid Reorganization Plan and Executive Order. This authority shall apply in the matter of claims under T.D. 71-76, and any subsequent matters arising under 19 U.S.C. 1617.

3. I further authorize the General Counsel of the Department of Commerce to take any actions necessary to implement any decision by me on the compromise of claims under T.D. 71-76, including the signing and execution of any settlement documents and making any corrections or changes that may be necessary therein.

Dated: April 28, 1980.

Philip W. Klutznick,

Secretary of Commerce.

[FR Doc. 80-13639 Filed 5-2-80; 8:45 am]

BILLING CODE 3510-BW-M

DEPARTMENT OF DEFENSE

Organization of the Joint Chiefs of Staff: National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School; Meeting

The President of the National Defense University has scheduled a meeting of the National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School on Monday, June 2, 1980, from 0830-1145 and 1330-1600. The meeting will be held in the Hill

Conference Center, Theodore Roosevelt Hall, Building 61, Fort Lesley J. McNair, Washington, DC. The discussions will include progress and plans for the National Defense University and the curricula, faculty, and students of the Industrial College of the Armed Forces and the National War College. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write or phone (693–1075), the Assistant to the President, National Defense University, Fort Lesley J. McNair, Washington, DC 20319.

April 29, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 80-13680 Filed 5-2-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Advisory Committee will be held as follows: Monday, 23 June 1980, Pomponio Plaza, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on tactical weapons research and development.

April 29, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 80-13679 Filed 5-2-80; 8:45 am]

BILLING CODE 3810-70-M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 91. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 91 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325–9330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective 1 June 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin No. 91

To the heads off executive departments and establishments.

Subject: Table of maximum per diem rates in lieu of subsistence for United States Government civilian officers and employees for official travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and possessions of the United States.

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, SUBJECT: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702 (a) (2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 90 except in the cases identified by an asterisk which rates are effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak[1]	$9.65
*Anchorage	72.00
*Barrow	111.00
*Bethel	93.00
*Cold Bay	74.00
*College	67.00
*Cordova	84.00
*Deadhorse	94.00
Dillingham	83.00
Dutch Harbor	82.00
*Eielson AFB	67.00
*Elmendorf AFB	72.00
*Fairbanks	67.00
*Fort Richardson	72.00
*Fort Wainwright	67.00
*Kodiak	84.00
Kotzebue	91.00
*Murphy Dome	67.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Shemya AFB[1]	11.00
Shungnak	91.00
*Spruce Cape	84.00
Tanana	90.00
Valdex	70.00
Wainwright	79.00
Other	62.00
American Samoa	54.00
*Guam M. I.	60.00
Hawaii:	
Hawaii	59.00
Kauai	55.00
Maui	54.00
Molokai	54.00
Oahu	70.00
Other	54.00
Johnston Atoll	15.00
Midway Islands[1]	9.65
Puerto Rico:	
Aguadilla (Incl. CG Air Station Borinquen)	63.00
Bayamon:	
12-16—5-15	102.00
5-16—12-15	75.00
Carolina:	
12-16—5-15	102.00
5-16—12-15	75.00
Dorado	54.00
Fajardo:	
12-16—5-15	102.00
5-16—12-15	75.00
Fort Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	102.00
5-16—12-15	75.00
Mayaguez	63.00
Ponce (Incl. Ft. Allen NCS)	58.00
Roosevelt Roads:	
12-16—5-15	102.00
5-16—12-15	75.00
Sabana Seca:	
12-16—5-15	102.00
5-16—12-15	75.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	102.00
5-16—12-15	75.00
Other	63.00
Virgin Islands of U.S.:	
12-1—4-30	89.00
5-1—11-30	65.00
Wake Island[2]	17.00
Other Localities	15.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meal, and incidental expenses.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
April 30, 1980.
[FR Doc. 80-13681 Filed 5-2-80; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Environmental Advisory Committee, Demand Subcommittee; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Demand Subcommittee of the Environmental Advisory Committee.

Date, time, and place: Friday, May 23, 1980—9:00 a.m.-4:00 p.m., Department of Energy, Forrestal Building—Room 4A104, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: Rhoda Shechtel, Department of Energy, Forrestal Building—Room 4G052, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202-252-4616.

Purpose of parent committee: To advise the Department of Energy on the overall activities which pertain to the goals of restoring, protecting and enhancing environmental quality and assuring public health and safety.

Tentative agenda: The Demand Subcommittee will discuss the developing DOE plan for reducing oil imports.

Public participation: The meeting is open to the public. The Chairwoman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at 202-252-5187. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Members of the public who have not previously requested an opportunity to make an oral presentation, but who wish to speak, will be permitted to do so at a time determined by the Chairwoman.

Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on April 30, 1980.

Georgia Hildreth,
Director, Advisory Committee Management.
[FR Doc. 80-13727 Filed 5-2-80; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

Roy M. Huffington, Inc., Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: April 17, 1980.
COMMENTS BY: On or before June 4, 1980.
ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.
FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235—(214) 767-7745.
SUPPLEMENTARY INFORMATION: On April 17, 1980, the Office of Enforcement of the ERA executed a Consent Order with Roy M. Huffington, Inc. of Houston, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Roy M. Huffington, Inc., with its office located in Houston, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Roy M. Huffington, Inc, entered into a Consent Order, the significant terms of which are as follows:

1. The initial audit period was from September 1, 1973 through December 31, 1977. This period was extended through December 31, 1979 in order to resolve any additional overcharges that might have occurred subsequent to the original audit period. The purchaser of Huffington's crude is Exxon.

2. Huffington allegedly misapplied the provisions of Ruling 1975-12 in computing the overage daily production (ADP) for the La Terre Company, Inc. property. Huffington, in certifying the La Terre Company, Inc. property as a stripper well lease, treated wells which had been shut-in as producing wells in the computation of the ADP. Ruling 1975-12 prohibits this treatment which resulted in the sale of "old" or "lower tier" crude oil being sold as "stripper exempt" crude oil. This treatment violates 10 CFR 212.73(b).

3. Huffington allegedly misapplied the provisions of 10 CFR 212.72 as well as Rulings 1975-15 and 1977-1 and accordingly treated the Midway Facility (a field facility) as a separate property. A field facility cannot become a separate property as there is no lease or fee interest involved in the right to produce at the facility. As a result of Huffington's treating the Midway Facility as a separate property the firm sold volumes of "new" and "released" and "upper tier" crude oil in excess of allowed volumes. This treatment violates 10 CFR 212.73(b).

II. Dispostion of Refunded Overcharges

In this Consent Order, Huffington agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specfied in I.1. above, the sum of $180,000.00 within sixty (60) days after the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check make payable to the United States Department of Energy and will be delievered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those Ruling 1975-12 prohibits this treatment which resulted in the sale of "old" or "lower tier" crude oil being sold as "stripper exempt" crude oil. This treatment violates 10 CFR 212.73(b).

3. Huffington failed to properly apply the provisions of 10 CFR 212.72 as well as Rulings 1975-15 and 1977-1 and accordingly treated the Midway Facility (a field facility) as a separate property.

A field facility cannot become a separate property as there is no lease or fee interest involved in the right to produce at the facility. As a result of Huffington treating the Midway Facility as a separate property the firm sold volumes of "new" and "released" and "upper tier" crude oil in excess of "allowed" volumes. This treatment violates 10 CFR 212.73(b).

II. Disposition of Refunded Overcharges

In this Consent Order, Huffington agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $180,000.00 within 60 days after the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Roy M. Huffington, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on June 4, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 25th day of April 1980.

Wayne I. Tucker,

District Manager for Enforcement, Southwest District, Economic Regulatory Administration.

[FR Doc. 80-13682 Filed 5-2-80; 8:45 am]

BILLING CODE 6450-01-M

James B. Kite Operating Co., Ltd. and Mohegan Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: April 1, 1980.

COMMENTS BY: On or before June 4, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [phone] 214–767–7745.

SUPPLEMENTARY INFORMATION: On April 1, 1980, the Office of Enforcement of the ERA executed a Consent Order with James B. Kite Operating Co., Ltd. and the Mohegan Co. of Oklahoma City, Oklahoma. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and James B. Kite Operating Co., Ltd. and the Mohegan Co. wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with James B. Kite Operating Co., Ltd. and the Mohegan Co. effective as of the date of its execution by the DOE and James B. Kite Operating Co., Ltd. and the Mohegan Co.

I. The Consent Order

James B. Kite Operating Co., Ltd. and the Mohegan Co. are firms engaged in the production of crude oil and are subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of James B. Kite Operating Co., Ltd. and the Mohegan Co., the Office of Enforcement, ERA and James B. Kite Operating Co., Ltd. and the Mohegan Co. entered into a Consent Order, the significant terms of which are as follows:

1. During the period September 1, 1973 through February 28, 1977, James B. Kite Operating Co., Ltd. and the Mohegan Co. allegedly sold crude oil above the allowable prices specified at 10 CFR Part 212, Subpart D.

2. James B. Kite Operating Co., Ltd. and the Mohegan Co. agree to refund to the DOE $34,000. The refund shall be made within 30 days of the effective date of this Consent Order.

3. This Consent Order constitutes neither an admission by James B. Kite Operating Co., Ltd. and the Mohegan Co. that ERA regulations have been violated nor a finding by the ERA that James B. Kite Operating Co., Ltd. and the Mohegan Co. have violated ERA regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, James B. Kite Operating Co., Ltd. and the Mohegan Co. agree to refund, in full settlement of any

civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $34,000 in the manner specified in I.2.

The refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. The funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive approprate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. Potential Claimants. Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other Comments. The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on the James B. Kite Operating Co., Ltd. and Mohegan Co. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on June 4, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 25th day of April, 1980.

Wayne I. Tucker,

District Manager, Southwest District, Enforcement, Economic Regulatory Administration.

[FR Doc. 80-13683 Filed 5-2-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders, April 7 Through April 11, 1980

Notice is hereby given that during the period April 7 through April 11, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.s.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

April 29, 1980.

Proposed Decisions and Orders

Cray Energy, Bellows Falls, Vermont; BEE–0616, gasohol

Cray Energy filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. On April 10, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Pennzoil Producing Company, Houston, Texas; BXE–0887, crude oil

Pennzoil Producing Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil produced from the Perry Sand Waterflood Unit, North Segment located in Yazoo County, Mississippi, at upper tier ceiling prices. On April 11, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that exception relief should be denied.

R. L. Jordan Oil Company, Inc., of South Carolina, Spartanburg, South Carolina; DEE–8133, gasohol

R. L. Jordan Oil Company, Inc. of South Carolina filed an Application for Exception from the provisions of 10 CFR, Part 211. The exception request, if granted, would permit the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. On April 10, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Raymer Oil Co., Statesville, North Carolina; BEE–0404, gasohol

Raymer Oil Company filed an Application for Exception from the provisions of 10 CFR 211. The exception request, if granted, would permit Raymer Oil Company to receive an increased allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. On April 10, 1980, the Department of Energy issued a Proposed Decision and Order in which it tentatively

determined that the exception request should be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

Company Name, Case No., and Location

West Point Exxon; DEE–6669; West Point, CA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Cities Service Co.; DEE–7788; Tulsa, OK
Eagle Oil Co.; DEE–3393; Westminster, MD
Mid Coast Oil Sales; DEE–7778; Austin, TX
New Interama Service Center; DEE–5869; N. Miami Beach, FL
Norman Seitz; DEE–4098; Washington, DC

[FR Doc. 80–13726 Filed 5–2–80; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 80–CERT–015]

Calcasieu Refining Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Calcasieu Refining Company (Calcasieu), filed an application for certification of an eligible use of natural gas to displace fuel oil at its refinery facility in Lake Charles, Louisiana, with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on March 11, 1980. Notice of that application was published in the **Federal Register** (45 FR 24221, April 9, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Calcasieu's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Calcasieu's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., April 24, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

April 25, 1980.

Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426

Re: ERA Certification of Eligible Use, ERA Docket No. 80–CERT–015, Calcasieu Refining Company

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 653–3859. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80–CERT–015.

Sincerely,

Doris J. Dewton

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Calcasieu Refining Co.; ERA Docket No. 80–CERT–015

Application for Certification

Pursuant to 10 CFR Part 595, Calcasieu Refining Company (Calcasieu), filed an application for certification of an eligible use of up to 10,000,000 cubic feet of natural gas per day for its refinery facility located in Lake Charles, Louisiana, with the Administrator of the Economic Regulatory Administration (ERA) on March 11, 1980. The application states that the eligible seller of the gas is Esperanza Transmission Company (Esperanza) and the gas will be transported by the United Gas Pipeline Company and the Texas Eastern Transmission Company. The application indicates that the use of this natural gas is estimated to displace approximately 1,818 barrels of No. 5 fuel oil (0.3 percent sulfur) per day. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the Application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of approximately 10,000,000 cubic feet of natural gas per day at Calcasieu's lake Charles Refinery purchased from Esperanza is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible seller.

Issued in Washington, D.C., on April 24, 1980.

Doris J. Dewton

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–13592 Filed 5–1–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 80–CERT–013]

Consolidated Edison Co. of New York, Inc.; Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

Consolidated Edison Company of New York, Inc. (Con Ed), 4 Irving Place, New York, New York 10003, filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Astoria, East River, Narrows, Ravenswood, Waterside, and 60th Street steam and electric generating facilities in New York City, with the Administrator of the Economic Regulation Administration (ERA) pursuant to 10 CFR Part 595 on March 10, 1980. Notice of the application was published in the **Federal Register** (45 FR 27468, April 23, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. To date, no comments have been received.

Con Ed received the original certification (ERA Docket No. 79–CERT–002) of an eligible use of natural gas purchased from Consolidated Gas Supply Corporation and Natural Fuel Gas Distribution Corporation for use at these facilities on April 27, 1979. Con Ed has requested that, if necessary, it be issued the recertification prior to the close of the 10-day comment period to prevent disruption of this gas being supplied and transported under the original certification and certificates of

public convenience and necessity by the Federal Energy Regulatory Commission (FERC) in FERC Docket Nos. CP 79–228 and CP 79–214 *et al.* The original ERA certificate expires April 27, 1980, and the FERC certificates expire June 1, 1980.

The ERA has carefully reviewed Con Ed's application and request in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Con Ed's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual recertification are appended to this notice.

This recertification is being issued prior to the expiration of the 10-day public comment period and being made effective on April 27, 1980 to provide continuity with the original certificate's April 27 expiration date. The recertification involves the displacement of large volumes of imported fuel oil and it is in the public interest to maximize the displacement of imported fuel. ERA also recognizes that the FERC certificates of public convenience and necessity which authorize the transportation of this gas do not expire until June 1, 1980. It is therefore not in the public interest to disrupt unnecessarily the displacement of this imported fuel oil for the few days needed to complete the 10-day comment period, expecially since this same purchase and use of gas at these facilities has qualified as an "eligible use" for the past year and continually displaced significant volumes of imported fuel oil. Public comments will still be accepted by ERA for the remainder of the original 10-day comment period in view of the ability of the Administrator to terminate a certification for good cause (10 CFR 595.08).

Issued in Washington, D.C., on April 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

April 25, 1980.

Mr. Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Re: ERA Recertification of Eligible Use, ERA Docket No. 80–CERT–013 (Recertification of ERA Docket No. 79–CERT–002), Consolidated Edison Company of New York, Inc.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed recertification of an eligible use of natural gas to displace fuel oil. This recertification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. This gas is presently being transported pursuant to ERA's certification of eligible use in Docket No. 79–CERT–002 which expires April 27, 1980, and the Commission's certificates of public convenience and necessity in FERC Docket Nos. CP 79–228 and CP 79–214, *et al.* which expire June 1, 1980.

As noted in the recertification, it is effective for one year from April 27, 1980, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 653–3859. All correspondence and inquiries regarding this certification should reference ERA Docket No. 80–CERT–013.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Recertification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Consolidated Edison Co. of New York, Inc.; ERA Docket No. 80–CERT–013

Application for Recertification

Pursuant to 10 CFR Part 595, Consolidated Edison Company of New York, Inc. (Con Ed), filed an application for recertification of an eligible use of approximately 175,000 dekatherms of natural gas per day for its Astoria, East River, Narrows, Ravenswood, Waterside, and 60th Street steam and electric generating facilities in New York City, with the Administrator of the Economic Regulatory Administration (ERA) on March 10, 1980. The application states that the eligible sellers of the gas are the Consolidated Gas Supply Corporation (Consolidated) and the National Fuel Gas Distribution Corporation (National Fuel) and the transporters are the Transcontinental Gas Pipeline Corporation, the Texas Eastern Transmission Corporation, the National Fuel Gas Supply Corporation, and the Tennessee Gas Pipeline Company. The application indicates that the use of the natural gas is estimated to displace approximately 7,508,000 barrels of residual fuel oil (0.3 percent sulfur), approximately 286,000 barrels of kerosene (0.05 percent sulfur), and approximately 23,000 barrels of No. 2 fuel oil (0.2 percent sulfur) between April 27, 1980 and April 26, 1981. The application also indicates that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Recertification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby recertifies, pursuant to 10 CFR Part 595, that the use of approximately 175,000 dekatherms of natural gas per day at Con Ed's six steam and electric generating facilities purchased from Consolidated and National Fuel is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This recertification is effective April 27, 1980, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible sellers.

Issued in Washington, D.C., on April 25, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–13591 Filed 5–1–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Case No. 65006–9095–21–22; Docket No. ERA–FC–79–003a]

Modesto Irrigation District Decision and Order Granting Exemption

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues this Decision and Order granting a permanent peakload exemption from the prohibition against the use of petroleum by a new powerplant contained in section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

Background

On June 19, 1979, Modesto Irrigation Distict (Modesto) filed its petition for an exemption to use petroleum as a primary energy source in a planned 49,900 KW combustion turbine powerplant at its McClure Station (McClure 1) in Modesto, California. ERA accepted the petition on October 3, 1979, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemption, in the **Federal Register** on October 11, 1979 (44 FR 58776). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. Interested parties were also afforded an opportunity to request a public hearing. The comment period ended November

26, 1979. No comments were submitted. No hearing was requested.

ERA's staff reviewed the information contained in the record of the proceeding. A Tentative Staff Determination was prepared which recommended that ERA issue an order which would grant Modesto a permanent peakload powerplant exemption to use petroleum in McClure 1 subject to certain terms and conditions. A notice of availability of the Tentative Staff Determination was published in the **Federal Register** on January 25, 1980 (45 FR 6155). The publication of the Notice of Availability opened a 14-day public comment period which ended February 8, 1980.

Modesto submitted comments objecting to several of the recommended terms and conditions contained in the Tentative Staff Determination. Subsequent to the close of the public comment period, ERA also received a comment on behalf of the Edison Electric Institute and certain of its member companies objecting to elements of the Tentative Staff Determination as it may be viewed as precedent with respect to future actions on exemptions under the Act. No other comments were received.

On the basis of a review of the entire record of this proceeding, including the public comments, ERA has determined to grant the exemption. This order grants Modesto a permanent peakload powerplant exemption to use petroleum in McClure 1 subject to the terms and conditions contained in this order.

DOE's Office of Environment has determined that granting this permanent exemption is not a major federal action significantly affecting the quality of the human environment, within the meaning of the National Environment Policy Act, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement or environmental assessment was required prior to issuance of this order.

Dates: This order will not take effect prior to the 60th calendar day after it is published in the **Federal Register** or until ERA has approved the compliance plan required by the terms and conditions contained in this order, whichever occurs later.

Addresses: For further information contact:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B–110, Washington, DC 20461, Phone (202) 653–4055.

Louis T. Krezanosky, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3128, Washington, DC 20461, Phone (202) 653–3659.

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

Supplementary information: Modesto irrigation District (Modesto) plans to install a 49,900 KW combustion turbine unit to be known as McClure Station Unit 1 (McClure 1) at a generating station located in Modesto, California. The new unit is expected to consume approximately 97,714 barrels of No. 2 fuel oil per year (268 bbls/day). Commercial operation is scheduled for May, 1980.

Modesto submitted a sworn statement dated August 6, 1979, as required by 10 CFR Part 503.41(b)(1) that McClure 1 will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant. Modesto also certified that the maximum design capacity of McClure 1 is 49,900 KW and that the maximum generation that will be allowed during any 12-month period is the design capacity multiplied by 1,500 hours or 74,850,000 KWH. Modesto also furnished the information required by 10 CFR Parts 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

Modesto objected to the recommendation in the Tentative Staff Determination that any order granting an exemption to McClure 1 include a condition that the unit be constructed with the capability to burn natural gas, alcohol, and synthetic distillate oil. Objection was also made to the recommendation that any such order contain a condition that if ERA determines such fuels or other alternate fuels or fuel mixtures are available for use in McClure 1 in the future that the exemption shall be subject to termination. Modesto also objected to the condition requiring it to submit to ERA a description of system-wide energy conservation measures. The Edison Electric Institute (EEI) also objected to the recommended condition contained in ERA's Tentative Staff Determination relating to the requirement that Modesto certify that McClure 1 would be operated solely for peakload purposes. Additionally, EEI objected to the requirement that the unit be constructed with the capability of burning natural gas, alcohol, and synthetic distillate oil and the provision that the exemption would be subject to termination. EEI also objected to the requirement for a system-wide conservation plan.

ERA has determined not to include a requirement in this order that McClure 1 be constructed with the capability to use natural gas, alcohol and synthetic distillate oil as its primary energy source. This determination recognizes that Modesto has asserted in its petition that McClure 1 was designed to be capable of burning oil or natural gas. ERA believes, however, that units designed to use petroleum or natural gas, may also, under certain circumstances, be fully capable of burning certain alternate fuels. The fact that these alternate fuels may not have been available, or that their use was not foreseen at the time that the purchaser's design specifications were prepared, does not alter the fact that the unit may be able to use selected alternate fuels as they become commercially available.

ERA believes that under § 214(a) of the Act, it has authority in granting an exemption to impose any reasonable terms and conditions it deems appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of the Act.

Therefore, ERA has determined to include a condition in all final orders granting permanent exemptions that the use of oil or natural gas, in units which are able to use selected alternate fuels, will not be permitted whenever an alternate fuel is commercially available. ERA will notify the person to whom such exemptions have been granted, and all other interested persons who have participated in the administrative proceeding on the petition for exemption, when a determination has been made by ERA that an alternate fuel, which can be used in the unit for which the exemption was granted, has become commercially available.

The condition requiring that Modesto provide ERA with a complete description of system-wide energy conservation measures is especially appropriate in the case of a peakload powerplant. To the extent that adequate energy conservation measures are instituted by Modesto on a system-wide basis, peakload powerplant demand is reduced, thereby limiting the need to operate the McClure 1 facility. Such measures will conserve the use of petroleum thereby reducing the need to import such fuel.

The condition requiring that Modesto certify that McClure 1 will be operated solely as a peakload powerplant to meet peakload demand is consistent with the condition required by the Act that the facility be operated solely as a peakload powerplant. While the definition provided in § 103(a)(18)(A) of FUA

defines the maximum number of kilowatt hours which a peakload powerplant may be operated, § 212(g) of FUA requires a certification that such powerplant is to be operated solely as a peakload powerplant. Further, the Conference Report accompanying FUA states that "* * * the petitioner must certify that the proposed powerplant will operate solely for peakload purposes." ERA does not agree with the EEI comment that the language in the Conference Report does not become applicable until the maximum number of hours of operation set forth in § 103(a)(18)(A) are exceeded. ERA believes the language in the Conference Report clearly defines the type of use for which a peakload powerplant exemption is available.

ERA has determined to include in this order a condition that Modesto shall provide annual estimates of the anticipated periods (hours during specific months) of operation of McClure 1 for peakload purposes (e.g. 8:00–10:00 am and 3:00–6:00 pm during the June–September period, etc.). Modesto shall report, on an annual basis, actual peakload operation of McClure 1 during the previous year and whenever such operation occurs in nonspecified periods, shall state the reason(s) for such operation.

Modesto requested that the language used in the condition recommended in the Tentative Staff Determination relating to installation of a regenerative combustion turbine and/or heat exchange equipment be modified so as to use the phrase "technically and economically feasible" in lieu of the term "practicable" in order that the condition would be internally consistent. ERA has made the change as requested.

EEI suggested that any terms and conditions ERA chose to use in any orders granting an exemption to McClure 1 may set an informal precedent for future actions on petitions. ERA does not agree. Appropriate terms and conditions with respect to each order granting exemptions will be developed as the facts and circumstances relevant to each exemption petition warrant.

ERA, by this order, grants Modesto a permanent exemption from the prohibitions of FUA with respect to the use of petroleum for McClure 1, provided the powerplant is operated solely as a peakload powerplant subject to the terms and conditions stated below:

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to include in any order granting an exemption appropriate terms and conditions. Based upon information submitted by Modesto and upon the results of ERA's analysis, this order is granted on the following terms and conditions:

A. Modesto shall not produce more than 74,850,000 Kwh during any 12-month period with McClure 1. Modesto shall provide annual estimates of the expected periods (hours during specific months) of operation of McClure 1 for peakload purposes (e.g., 8:00–10:00 am and 3:00–6:00 pm during the June–September period, etc.). Estimates of the hours in which Modesto expects to operate McClure 1 during the first 12-month period shall be furnished to ERA within thirty days from the date of this order.

B. Modesto shall investigate and report to ERA within thirty days from the date of this order, the technical and economic feasibility of installing a regenerative combustion turbine and/or heat exchange equipment designed to increase the heat rate efficiency of McClure 1. If ERA determines that the installation of such equipment is technically and economically feasible, Modesto shall be required to install such equipment.

C. Modesto shall comply with the reporting requirements set forth in 10 CFR Part 503.41(e). In addition, Modesto shall report, on an annual basis, actual peakload operation of McClure 1 during the previous year and whenever such operation occurs in non-specified periods (hours), other than the periods of operation estimated pursuant to Item A above, Modesto shall report the reason(s) for such operation.

D. If ERA subsequently determines that McClure 1 is capable of burning an alternate fuel, which fuel ERA has determined is commercially available, and ERA notifies Modesto of such determinations, Modesto shall investigate and report to ERA within 60 days from such notification a schedule for substituting the use of such alternate fuel for petroleum as a primary energy source by McClure 1, or the reasons why such substitution is not feasible.

E. Modesto shall submit an acceptable compliance plan, which plan shall include a complete description of those energy conservation measures or practices (including a recommended schedule for their implementation). Modesto deems to be cost effective on a system-wide basis. The compliance plan shall be submitted within thirty days from the date of this order. This order shall not take effect until ERA has approved, in writing, the compliance plan submitted by Modesto, or earlier than the 60th calendar day after publication of this order in the **Federal Register**, whichever occurs later.

Issued in Washington, D.C. on April 25, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-13593 Filed 5-1-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1484-1; 80P-33A & 74A]

Filing of Pesticide Petitions; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: This document corrects two notices that appeared on *N,N*-diethyl-2-(1-naphthalenyloxy)propionamide (80P–33) and 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole (80P–74) at page 16556 in the **Federal Register** of March 14, 1980 (FR Docs. 80–7961 and 80–7964, respectively).

EFFECTIVE DATE: May 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Gross, Chemical Information Divison (TS–793), Federal Register Section, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/426–2432.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–7961* appearing at page 16556 in the issue of Friday, March 14, 1980, the raw agricultural commodity "artichokes" was inadvertently omitted from the summary paragraph. The summary is hereby corrected by adding the word "artichokes" at the end of the fourth line.

In FR Doc. 80–7964 appearing at page 16556 in the issue of Friday, March 14, 1980, in the sixth line up from the bottom of the Supplementary Information paragraph, "0.01 ppm" is corrected to read "0.1 ppm."

Dated: April 28, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-13686 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

*This doc. no. was not published at the time and is added now.

[FRL 1483-6; PP 7G1923/T240]

Pendimethalin; Renewal of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary tolerance has been renewed for the residues of the herbicide pendimethalin *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine on peas at 0.1 part per million (ppm).

ADDRESS COMMENTS TO:
Robert J. Taylor, PM-25, Office of Pesticide Programs, Registration Division (TS-767), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202-755-7013).

SUPPLEMENTARY INFORMATION: On April 13, 1978, the EPA announced (43 FR 15487) the establishment of a temporary tolerance for combined residues of the herbicide pendimenthalin *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine and its metabolite 4-[(1-ethylpropyl) aminol]-2-methyl-3,5-dinitrobenzyl alcohol in or on peas at 0.1 ppm. This temporary tolerance expired February 1, 1979.

American Cyanamid Co. has requested a one-year renewal of the temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the experimental use permit 241-EUP-85, that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires April 4, 1981. Residues not in excess of 0.1 ppm from *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine in or on peas after the expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experience with this pesticide indicate such revocation is necessary to protect the public health.

Dated: April 28, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-13688 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1483-8; OPP-30183]

Receipt of Application To Conditionally Register a Pesticide Product Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice publishes an application submitted by Conrel, 110 A St., Needham Heights, MA 02194, to conditionally register the pesticide product Nomate Shootgard, with new active ingredients not contained in any previously registered pesticide product.

DATE: Written comments by June 4, 1980.

ADDRESS: Written comments and inquiries to:
Mr. Franklin Gee, Product Manager (PM) 17, Rm. E-341, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426-9417.

SUPPLEMENTARY INFORMATION: Conrel, 110 A St., Needham Heights, MA 02194 has submitted to EPA an application to conditionally register the pesticide product Nomate Shootgard (EPA File Symbol 36638-E) containing the active ingredients E-9-dodecen-1-ol-acetate (2.2%) and Z-9-dodecen-1-ol-acetate (9.1%), which are not contained in any previously registered pesticide product.

Notice of approval or denial of the application to register the pesticide product will be announced in the **Federal Register.** Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819, 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be available after approval under the provision of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of the application does not indicate a decision by the Agency on the application.

Interested persons are invited to submit written comments on the application. Comments may be submitted, and inquiries directed, to the Product Manager. The comments must be received on or before June 4, 1980 and should bear a notation indicating the document control number "[OPP-20183]" and the file symbol "36638-E". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The labels furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the Product Manager's office from 8:30 to 4 p.m., Monday through Friday, excluding holidays.

(40 CFR 162.5 and 162.6)

Dated: April 28, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

[FR Doc. 80-13687 Filed 5-2-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1484-2; OPP-31036]

Receipt of Application To Register a Pesticide Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice publishes an application submitted by Mobay Chemical Corp. to register the pesticide product MESUROL 75% WETTABLE POWDER entailing a changed use pattern.

DATE: Written comments by June 4, 1980.

ADDRESS: Written comments to: Mr. William Miller, Product Manager (PM) 16, Rm. E-343, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-9458.

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, has submitted to EPA an application to amend registration of the pesticide product Mesurol 75% Wettable Powder (EPA Reg. No. 3125-

288) containing 75% of the active ingredient 3,5-dimethyl-4-(methylthio) phenol methylcarbamate. The application proposes that the use pattern of this product be changed from ground application to ground and aerial applications. The product is proposed for general use classification.

Notice of approval or denial of this application to register the pesticide product will be announced in the **Federal Register**. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of this application does not indicate a decision by the Agency on the application.

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to the product manager. The comments must be received on or before June 4, 1980 and should bear a notation indicating the document control number "[OPP–31036]" and the registration number "3125–288". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The labels furnished by the applicant, as well as all written comments filed in pursuant to this notice, will be available for public inspection in the product manager's office from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

(40 CFR 162.5 and 162.6)

Dated: April 28, 1980.

Douglas D. Compt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–13685 Filed 5–2–80; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 27, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–2439–3.

Filing party: Richard A. Lidinsky, Jr., Director of Tariffs and National, Ports Affairs, Maryland Port Administration, The World Trade Center Baltimore, Baltimore, Maryland 21202.

Summary: Agreement No. T–2439–3, between United Brands Company (United) and the Maryland Port Administration (MPA), modifies the basic agreement which provides for the ten-year lease to United of the "Fruit Pier" located at the Locust Point Marine Terminal at Baltimore Harbor. The purpose of the modification is to renew the basic agreement for a term of one year, with nine one-year renewal options. The agreement further provides for the adjustment of the base rent and other rental fees.

Agreement No. T–3785–1.

Filing party: Annette Ubinas Landrau, Legal Counsel, Ports Authority, Commonwealth of Puerto Rico, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Summary: Agreement No. T–3785–1, between Puerto Rico Ports Authority (Port) and International Shipping Agency, Inc. (ISA) modifies the parties' basic agreement for exclusive use of mezzanine and office space and the preferential use of berth, platform, and open and warehouse space at Pier 11, San Juan. The purpose of the modification is to grant ISA exclusive use of an additional 975 sq. ft. of repair shop space at a monthly rate of $121.87. In addition, the parties agree to amend monthly fees for use of office space from $666.53 to $666.90. ISA further agrees to pay Port an amended penalty, in addition to the fixed rental compensation, for failure to surrender premises upon lease termination and request to vacate by Port.

Agreement No. T–3901.

Filing party: William F. Dart, Ltd., 111 West Washington Street, Chicago, Illinois 60602.

Summary: Agreement No. T–3901, between the Chicago Regional Port District (District) and International Great Lakes Shipping Company (INGLA), provides for the exclusive licensing of INGLA to perform stevedoring and other services at an assigned area at the Lakefront Site known as Iroquois Landing in the Port of Chicago. As compensation, INGLA will pay a license fee for each unit of cargo handled. The initial term of the agreement is four years, with two successive renewal options.

Agreement No. T–3902.

Filing Party: David C. Weigel, Assistant Attorney General, State of Indiana, 219 State House, Indianapolis, Indiana 46204.

Summary: Agreement No. T–3902, between the Indiana Port Commission (Port) and Behimer & Kissner, Inc. (Lessee), provides for the Port's lease to Lessee of certain property at Southwind Maritime Centre, Mt. Vernon, Indiana, for the sole purpose of the installation and operation of a storage, process and distribution facility for minerals, farm products and grain, and the transportation of the material necessary and incidental to such activity. As compensation (Lessee) shall pay (Port) a ground rent of $14,448.56 for Tract 1 and an annual sum of $3,903.55 for Tract 2, plus all applicable port tariff charges subject to a $10,000 minimum. The lease shall run from September 1, 1979, through March 31, 1993, with renewal options.

Agreement No. 7540–33.

Filing Party: Seymour H. Kligler, Brauner, Baron, Rosenzweig, Kligler, Sparber & Bauman, Attorneys at Law, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 7540–33 amends the basic agreement of the Leeward and Windward Islands and Guianas Conference by (1) changing the name to the United States Atlantic & Gulf/Southeastern Caribbean Conference and (2) reducing the geographic scope thereof by deleting the Leeward and Windward Islands and French Guianas wherever it appears in the agreement.

Agreement No. 7590–29.

Filing Party: Seymour H. Kligler, Brauner, Baron, Rosenzweig, Kligler, Sparber & Bauman, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 7590–29 modifies the basic agreement of the East Coast Colombia Conference to add new language which would authorize members to establish uniform credit rules, and authorizes the use of a default or failure to comply list, which may be circulated through the Conference Office.

Agreement No. 9615–30.

Filing Party: John R. Attanasio, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9615–30 modifies the basic agreement of the Iberian/U.S. North Atlantic Westbound Freight Conference to add a new provision which would authorize members to establish uniform credit rules upon a vote of unanimity-less-one.

By Order of the Federal Maritime Commission.

Dated: April 30, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-13720 Filed 5-2-80; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, May 15, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10388.

Filing party: John D. Straton, Jr., Director, Conference & Rates, Moore-McCormack Lines, Inc., Two Broadway, New York, New York 10004.

Summary: Agreement No. 10388, between Moore-McCormack Lines, Inc., Sea-Land Service, Inc., Empresa Lineas Maritimas Argentinas S.A., A. Bottacchi S.A. de Navegacion C.F.I.I., is a cargo revenue pooling, sailing and equal access agreement in the southbound trade from U.S. East Coast ports to Argentine ports. The agreement provides for a division of cargo revenue between the U.S.-flag carriers and the Argentine-flag carriers on a 50–50 basis. The agreement will be effective upon approval by the respective government maritime authorities and shall remain in effect through December 31, 1983. Agreement No. 10388 is intended to replace Agreement No. 10350.

By Order of the Federal Maritime Commission.

Dated: April 30, 1980

Francis C. Hurney,

Secretary.

[FR Doc. 80-13721 Filed 5-2-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than May 27, 1980.

A. *Federal Reserve Bank of Philadelphia* (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Mellon National Corporation, Pittsburgh, Pennsylvania (consumer finance and credit insurance activities; Kentucky): to engage through its subsidiary Freedom Financial Services Corporation, in general consumer finance activities including acting as insurance agent with respect to the sale of credit life insurance, credit accident and health insurance, and credit property insurance. These activities would be conducted from an office in Louisville, Kentucky, serving Jefferson County, Kentucky. Comments on this application must be received by May 23, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (financing and credit life and credit accident and health insurance activities; Georgia): to engage, through its subsidiary Security Pacific Finance Corp. (formerly American Finance System of Georgia, Inc.), in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. located at Suite 200, One Perimeter Way, N.W., Atlanta, Georgia 30339, serving the State of Georgia, and would constitute a relocation of an existing office of American Finance System of Georgia, Inc. currently located at 321 Pat Mell Road, S.W., Marietta, Georgia 20060.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 15, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13712 Filed 5-2-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1), of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can

"reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than May 12, 1980.

A. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

This notice is a republication of a previous **Federal Register** notice (FR Doc. 80–9789) published at page 21352 of the issue for Tuesday, April 1, 1980. The name of the subsidiary has been changed.

Security Pacific Corporation, Los Angeles, California (escrow activities; Washington): to engage through its subsidiary, Security Pacific Mortgage Corporation, in acting as escrow agent for the purchase and sale of real property and the execution of all documents and disbursal of funds relating to loan transactions, and all other activities engaged in by an escrow company. These activities would be conducted from an office of Security Pacific Mortgage Corporation located in Bellevue, Washington, serving the State of Washington.

B. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

Landmark Banking Corporation of Florida, Fort Lauderdale, Florida (Mortgage banking and insurance activities; Florida): to engage through its subsidiary, Landmark Mortgage Corporation, in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages, for its own account and for the account of others. Such activities will be conducted from a new main office located in Fort Lauderdale, serving the entire State of Florida. The existing main office in St. Petersburg, Florida will become a branch office. Also, to engage, through Landmark Mortgage Corporation, in selling credit life and accident and health insurance directly related to its extensions of credit. Such activities will be conducted from offices in Clearwater, Fort Lauderdale, Orlando, St. Petersburg and Sarasota. Comments on this application must be received by May 28, 1980.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–13713 Filed 5–2–80; 8:45 am]

BILLING CODE 6210–01–M

Centennial Bancorporation; Formation of Bank Holding Co.

Centennial Bancorporation, Thermopolis, Wyoming, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank at Thermopolis, Thermopolis, Wyoming. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–13714 Filed 5–2–80; 8:45 am]

BILLING CODE 6210–01–M

Crews Banking Corp.; Formation of Bank Holding Co.

Crews Banking Corporation, Wachula, Florida, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Wachula State Bank, Wachula, Florida. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 29, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80–13715 Filed 5–2–80; 8:45 am]

BILLING CODE 6210–01–M

First Oklahoma Bancorporation, Inc.; Proposed Acquisition of American Mortgage and Investment Co.

This notice is a republication of a previous **Federal Register** notice (FR Doc. 80–9791) appearing at page 21352 of the issue for Tuesday, April 1, 1980. The locations of the offices were changed so that the notice reads as follows.

First Oklahoma Bancorporation, Inc., Oklahoma City, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of American Mortgage and Investment Company, Oklahoma City, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activities of mortgage banking. These activities would be performed from offices of the subsidiary in Oklahoma City, Midwest City, Tulsa, Lawton, Enid, Yukon, and Pauls Valley, Oklahoma, and agency offices in Shawnee, Moore, and Norman, Oklahoma, and Wichita, Kansas. The geographic areas to be served are the State of Oklahoma, for counties in Kansas (Wyandotte, Johnson, Sedgwick, and Reno), and five counties in Missouri (Platt, Clay, Jackson, Layfetter, and Cass). Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies,

subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 17, 1980.

Board of Governors of the Federal Reserve System, April 25, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13716 Filed 5-2-80; 8:45 am]

BILLING CODE 6210-01-M

Heritage Bancorporation; Acquisition of Bank

Heritage Bancorporation, Cherryhill, New Jersey, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The City National Bank and Trust Company of Salem, Salem, New Jersey. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13717 Filed 5-2-80; 8:45 am]

BILLING CODE 6210-01-M

Kinban, Inc.; Proposed Continuation of General Insurance Activities

Kinban, Inc., Kinsley, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2), for permission to continue to engage in general insurance activities previously commenced through the acquisition of assets of a going concern. These activities would be performed from offices of Applicant in Kinsley, Kansas, and the geographic areas to be served are the city of Kinsley and Edwards County. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 28, 1980.

Board of Governors of the Federal Reserve System, April 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13718 Filed 5-2-80; 8:45 am]

BILLING CODE 6210-01-M

Republic of Texas Corp., Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 70 per cent or more of the voting shares of Oak Cliff Bank and Trust Company, Dallas, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than May 28, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 28, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-13719 Filed 5-2-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on April 30, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC request are invited from all interested persons, organizations, public interest groups, and affected businesses.

Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 23, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Trade Commission

The Federal Trade Commission requests clearance of a new, voluntary, single-time Denturist Study survey. The syrvey will be conducted through a consumer mail survey and will help FTC develop information to assist in making policy decisions related to dentures. Questionnaires will be sent to consumer mail panelists in the United States and Canada to obtain information on the incidence of denture wearing, as well as on the types of dentures worn, period of time present dentures owned, if dentures have been relined and provider of dentures. The FTC estimates that respondents will number approximately 1,000 in the United States and 12,073 in Canada and that time needed to fill out the questionnaire will average 8 minutes.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-13730 Filed 5-2-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

Data Concepts and Methodology of the National Committee on Vital and Health Statistics Subcommittee; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the Subcommittee on Data Concepts and Methodology of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k), Paragraph (4) of the Public Health Service Act (42 USC 242k), will convene on Tuesday, May 20, 1980, at 9:00 a.m., in Room 305A of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Principal consideration and discussion will be devoted to minimum data sets for hospices; reports of the National Center for Health Statistics Committee on periodicity; the need for developing uniform definitions and classification of data elements. Agenda items are subject to change as priorities dictate.

The meeting is opened to the public for observation and participation. Further information regarding this meeting of the subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting Samuel P. Korper, Ph.D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A–55, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: April 28, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-13636 Filed 5-2-80; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

Emergency School Aid Act; Closing Date for Transmittal of Applications From Territories for Other Special Projects Grants for Fiscal Year 1980

AGENCY: Office of Education, HEW.

ACTION: Closing date for transmittal of applications from the territories for other special projects for fiscal year 1980.

SUMMARY: Applications are invited for new projects under the Emergency School Aid for Other Special Projects grants to the territories of the United States, specifically, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. These grants are available to Local Educational Agencies, State Educational Agencies and public or private non profit organizations.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in Section 608(a) of Title VI of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (20 U.S.C. 3198(a) *et seq.*).

The purpose of a grant to the territories is to carry out activities which the Assistant Secretary for Education determines will make substantial progress toward achieving the purposes of the Act. These purposes are:

(1) To meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; and

(2) To encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by July 3, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.532, Other Special Project Grants, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An applicant that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: During fiscal year 1979 each of the territories received a grant. These awards totalled $3,067,711. The average grant award was $511,285. Proposed regulations for Other Special Projects were published in the June 29, 1979 issue of the **Federal Register**, 44 FR 38364. Applicants should review these regulations before

preparing their applications. Applicants should note that beginning with fiscal year 1980 projects must be related to the amended statutory purposes quoted above.

Available Funds: Approximately 3.2 million dollars is available for Other Special Projects grants to the territories in fiscal year 1980. This amount is an estimate and does not bind the Office of Education. Application forms and program information packages may be obtained by writing to the Division of Program Operations, Equal Educational Opportunity Programs, Office of Education, Room 2007A, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to Other Special Projects grants include the following:

(1) Regulations governing Other Special Projects grants under the Emergency School Aid Act (45 CFR Part 185).

These regulations were published in proposed form on June 29, 1979 44 FR 38364. Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under these programs.

(2) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

These final regulations were published in the **Federal Register** on April 3, 1980 (45 FR 22494). When they become effective they will supersede the Office of Education general provisions regulations (45 CFR Parts 100a through 100d) and govern awards under this program.

If changes that relate to the preparation of applications for fiscal year 1980 are made in final regulations governing this program, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further Information: For further information contact, Ms. L. Ann Benjamin, Division of Program Development, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Room 2011A, Washington, D.C. 20202, Telephone: (202) 245-8230.

(20 U.S.C. 3198)

Dated: April 28, 1980.

(Catalog of Federal Domestic Assistance Number: 13.532)

William L. Smith,

Commissioner of Education.

FR Doc. 80-13647 Filed 5-2-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on the Education of Disadvantaged Children; Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, Section 10(a)(2), notice is hereby given of the meeting of the National Advisory Council on the Education of Disadvantaged Children on Wednesday and Thursday, May 28 and 29, 1980. The meeting on May 28 will be held at the NACEDC office located at 425-13th Street, NW., Suite 1012, Washington, D.C., from 2:30-4:15 p.m. The Council will meet on May 29 at the Hubert H. Humphrey Building, Rooms 507 and 503A, 200 Independence Avenue, SW., Washington, D.C., 9:00 a.m. until 4:30 p.m.

The meeting shall be open to the public on Thursday, May 29. However, under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), and under the exemptions contained in the Government in the Sunshine Act (Pub. L. 92-409), Section 552(b)(2) and (6), Title 5, U.S. Code, the meeting on Wednesday, May 28 will be closed to the public for a review and discussion of personal documents of applicants being considered for staff positions with the Council. The discussion will involve issues of a personal nature, which, if discussed in open session, would be a clearly unwarranted invasion of personal privacy.

The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Education Act (29 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the full Council meeting on Thrusday, May 29 will be to discuss Council reorganization and the Council budget for the remainder of FY 1980. In addition, the Council will discuss its program plan for the remainder of FY 1980.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children located at 425-13th Street, NW., Suite 1012, Washington, D.C., 20004, area code 202/724-0114. A summary of activities of the closed meeting will be available to the public within 14 days of the closed meeting consistent with 5 USC 552b.

Signed at Washington, D.C., on April 21, 1980.

Alice S. Baum,

Executive Director.

FR Doc. 80-13665 Filed 5-2-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Extension and Continuing Education; Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: May 21, 22, and 23, 1980.

ADDRESS: Old Executive Office Building, Treaty Signing Room, Washington, D.C.

FOR FURTHER INFORMATION: Dr. William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street Northwest—Suite 529, Washington, D.C. 20004, Telephone: (202) 376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under Section 105, and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title.

Meetings of the Council are open to the public. However, because of limited space, those interested in attending any meeting are asked to write or call the Council's office beforehand. Available seats will be assigned on a first-come basis.

The agenda for the Council meeting is summarized as follows:

Welcome to new Federal members

Chairperson's Report
Report of Executive Director
Report of Executive Committee
Legislative Update
Report on new Education Department Plans for Annual Report
Report of Title I (HEA) office
Plans for future meetings and activities
Closed session: Evaluation of Executive Director
New business

On Thursday, May 22, 1980 from 5:00 to 6:00 p.m. the meeting of the Council will be closed to the public in order that a select committee, appointed by the Executive Committee of the Council, may review the Council's evaluation of the Executive Director. Opening the meeting to the public will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. This portion of the meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and under the exemptions contained in the Government in the Sunshine Act, Section 552b. (c) (2) and (6) of Title 5, U.S.C. (Pub. L. 94–409).

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5, U.S.C. 552b. (c) will be available to the public within fourteen days of the closed session.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, NW., Washington, D.C.

Dated: April 25, 1980.

William G. Shannon,

Executive Director.

FR Doc. 80–13280 Filed 5–2–80; 8:45 am]

BILLING CODE 4110–02–M

Health Care Financing Administration

Maximum Allowable Cost Program; Intent To Set MAC Limits

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice.

SUMMARY: The Pharmaceutical Reimbursement Board is considering setting maximum allowable cost (MAC) limits for the drug products specified in this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1–C–5 East Low Rise, 6401 Security Boulevard, Baltimore, MD 21235.

SUPPLEMENTARY INFORMATION: In accordance with 45 CFR 19.4, the Pharmaceutical Reimbursement Board has identified the following multiple-source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices:

Cyclandelate, 200 and 400 mg oral capsules
Dicyclomine HC1, 20 mg oral capsules, 20 mg oral tablets, and 10 mg/5 ml oral syrup
Dihydroergocornine Methanesulfonate; Dihydroergocristine Methanesulfonate; Dihydroergocryptine Methanesulfonate, 167 umg; 167 umg and 333 umg; 333 umg; 333 umg sublingual tablets
Diphenhydramine HC1, 25 and 50 mg oral capsules
Estrogens, Conjugated, 0.625 mg, 1.25 mg and 2.5 mg oral tablets
Glutethimide, 250 mg and 500 mg oral tablets and 500 mg oral capsules
Hydrochlorothiazide w/Spironolactone, 25 mg; 25 mg oral tablets
Meclizine HC1, 12.5 mg and 25 mg oral tablets
Nylidrin HC1, 6 mg and 12 mg oral tablets
Phenteramine HC1, 30 mg oral capsule
Procainamide HC1, 250 mg, 375 mg and 500 mg oral capsules
Propantheline Bromide, 15 mg oral tablets
Spironolactone, 25 mg oral tablets
Terbutaline Sulfate, 2.5 mg and 5 mg oral tablets
Triprolidine HC1 w/Pseudoephedrine, 2.5 mg; 60 mg oral tablets

The Board has submitted these drugs to FDA for review.

The Board may also reconsider the MAC limits which have already been set for:

Acetaminophen w/Codeine, 300 mg; 30 mg oral tablets and 300 mg; 60 mg oral tablets
Ampicillin, 250 mg oral capsules and 125 mg/5 ml oral suspension
Methocarbamol, 500 mg and 750 mg oral tablets
Penicillin VK, 125 mg/5 ml and 250 mg/5 ml oral suspension and 250 mg and 500 mg oral tablets
Tetracycline HC1, 500 mg oral capsules

We are publishing this Notice in order that all interested parties will be advised of the Board's action at the same time and will have ample opportunity to make their views known to the Board. Proposed MAC limits and the dates of any public hearing will be published at a later date.

Dated: April 9, 1980.

Charles S. Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 80–13646 Filed 5–2–80; 8:45 am]

BILLING CODE 4110–35–M

National Institute for Occupational Safety and Health

Cooperative Agreement Demonstration To Conduct a State Occupational Health Surveillance System

The National Institute for Occupational Safety and Health (NIOSH) announces that competitive applications for cooperative agreements are being invited for the purpose of demonstrating the feasibility of utilizing existing State-level health data systems in the development of State occupational health surveillance systems.

Up to $60,000 will be awarded for each cooperative agreement to conduct this demonstration. Four cooperative agreements of two-years duration will be awarded. Applications for Cooperative Agreement will be subject to a competitive review procedure. Recipients will be required to cost share a minimum of five percent. OMB Circular A–95 requirements will not apply.

Authority

The Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224) authorizes the use of a cooperative agreement when the principle purpose of the relationship is the transfer of money, services or anything of value to a recipient to accomplish a public purpose of support authorized by Federal statute and substantial involvement is anticipated between the Goverment and the recipient during the performance of the contemplated activity.

The Cooperative Agreements will be awarded and administered by NIOSH under the research and demonstration grant authority of section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1). Program regulations applicable to these grants are contained in Part 87 of Title 42, Code of Federal Regulations, "Research and Demonstration Grants Pertaining to Occupational Safety and Health" except as otherwise indicated, the basic grant administration policies of the Public Health Service are applicable to this program.

Eligible Applicants

Eligible applicants may be States with the written approval of the appropriate State health authority, any public or private non-profit organization, institution, university or college.

Purpose and Objectives

This pilot program seeks to develop four different occupational health surveillance systems by adapting or

expanding four existing State health data systems. Ultimately, this program could be expanded to include all fifty States. A suitable system should include information that is adequate in quantity and quality to provide a basis for systematic health analysis and evaluation. By using State health data bases it is expected that the following major goals, as well as a larger part of CDC (NIOSH) information needs, will be met:

(A) Strengthen the States' capabilities in occupational health surveillance;

(B) Increase the likelihood of continued State involvement through the demonstrated effectiveness of these systems; and

(C) Enhance the flow of information between NIOSH and State Health Departments and other State agencies.

Scope

In this program, it is necessary that there be substantial CDC (NIOSH) and State level involvement and collaboration in the development of State level occupational health surveillance activities, and development and implementation of a particular surveillance strategy as follows:

A. The recipient will be expected to:

1. Review and assess, in collaboration with NIOSH, the suitability of the State's data base for occupational health surveillance purposes. The following factors will be considered:

a. Coverage of the potential target population.

b. Years, types, and quantity of information maintained by the health data base.

c. Description of coding schemes employed in processing the data base.

d. The degree and extent of data maintained in computer files (magnetic tape or cards).

e. The quality control maintained for the data collection and processing.

f. Compatibility with other data bases, both within and outside the reporting area or State.

g. A flow diagram showing the time and events from data collection to data processing.

2. Develop a protocol that describes a specific and well-defined occupational health surveillance technique applicable to the applicant's health data base. Examples would include proportionate mortality or morbidity ratio analyses or a system of case reviews of the health data file for selected sentinel health event rubrics. The protocol outlining the proposed surveillance activity should describe the demographic and employment characteristics of the general population surveyed, the proposed strategy and techniques as applicable to their health data base, and the general methodologic problems attendant to application of the selected surveillance technique.

3. Develop a timetable for the development and implementation of the proposed occupational health surveillance protocol.

4. Submit the proposed protocol and timetable to NIOSH for approval. Upon approval by NIOSH, the recipient will implement the proposed surveillance strategy.

5. Collaborate with NIOSH staff in developing program descriptions, guidelines, and documentation of data processing procedures and systems that would be used to introduce others to State-based occupational health surveillance techniques.

5. Collaborate with NIOSH in the interim and final evaluation of the test program.

B. The federal involvement (NIOSH) will be as follows:

1. *Program Organization and Development.* a. Collaborate in assessing the completeness and specificity of information on occupation, industry and health outcomes that is available on State records (e.g. death certificates, workers' compensation claims); recommend changes, and determine the feasibility of implementing the changes. The same type of assessment and recommendations would also be made for the coding schemes used to summarize these data items.

b. Collaborate in assessing the adequacy and extent of data maintenance for the State data systems to ensure that all data items necessary for occupational health analyses are accessible to computer analysis. In general, NIOSH and the recipients will jointly review the data management system in terms of the surveillance activities expected to be supported in order to determine areas in need of modification.

c. Assist in adaptation of the recipient's statistical procedures and methods for the purpose of conducting proportionate mortality/morbidity studies or monitoring sentinel health events (e.g. selected ICD rubrics and occupational diseases). Both NIOSH and the recipients would work together in exploring and developing new epidemiologic and statistical methods and determining their feasibility.

2. *Implementation of the Proposed Surveillance Technique.* Joint analysis of the occupational health surveillance data will allow NIOSH to familiarize the recipients with health data systems at the national level, and their utility for comparative analyses and standardization purposes. NIOSH will provide technical assistance throughout this phase and assist in the quality control maintained for the data collection and processing.

3. *Program Evaluation.* Collaborate in the evaluation of all activities undertaken pursuant to the development and implementation of the proposed surveillance program. In addition, NIOSH will assist in the evaluation of other health data bases at the State or local level. This evaluation will focus on the application of these data bases for occupational health surveillance purposes and the feasibility of expanding the scope of activities to utilize such component health data bases.

4. *Interchange of Information.* NIOSH collaboration with all recipients will be undertaken with the intent of assuring the development of the pilot occupational health surveillance system. Consistent with this intent, NIOSH will coordinate and facilitate the interchange of technical information between the recipients which would include the development of program descriptions, guidelines, and the documentation of data processing procedures. This is consistent with the national need for a network of States with compatible resources and surveillance capabilities for meeting the States' needs and for providing data to the Government as needed.

Methods and Criteria for Review

Applications will be received by the Division of Research Grants (DRG) NIH and evaluated according to the review criteria below.

Scientific and Technical Merit Review Criteria

The review for scientific and technical merit will evaluate the applications according to criteria based on the standard NIH criteria used for research grant applications, these criteria are:

1. Relevance of the proposal to the scope and objective provided in the RFA;

2. Technical merit and orginality of the proposed approach to the problem;

3. Training, experience and competence of the proposed Project Director and staff. The Project Director must be a recognized scientist and technical expert and must assure a major time commitment to this program.

4. Adequacy of the methodology and approach;

5. Suitability of the facilities; and

6. Appropriateness of the requested budget relative to the work proposed.

Programmatic (Secondary) Review Criteria

The following programmatic review criteria will be used by NIOSH in the secondary review of applications.

1. Capability of the applicant to carry out the tasks involved in the Surveillance program.

2. Soundness and innovation of the proposed approach to the range of activities presented in the description of the Surveillance program contained in the announcement.

3. Capability of the applicants' administrative structure to foster the development of an ongoing occupational surveillance system using State data bases.

4. Availability and commitment of qualified personnel to the project.

5. Suitability, accessibility and adaptability of a State's health statistics system proposed to be used by the applicant in meeting national surveillance needs.

Application and Award

Letter of Intent—Each prospective applicant shall submit a letter of intent containing a brief description of the proposed project and budget. The letter of intent should be submitted to: Grants Management Officer, NIOSH, Parklawn Building, Room 8–29, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for the letter of intent is June 2, 1980.

Application Form—Applications shall be submitted on Form PHS–398 (or PHS 5161–1 for State and local governments). The applications should be available from university business offices or State governments or from: Office of Grants Inquiries, Division of Research Grants, National Institutes of Health, Westwood Building, Room 448, Bethesda, Maryland 20205, Telephone: (301) 496–7441.

The conventional presentations for grant applications should be utilized and with the points under the Criteria for Review being fulfilled.

Application Procedure—The standard procedures for submitting grant applications to the Division of Research Grants (DRG) at NIH should be followed except as noted otherwise. The words "NIOSH Occupational Health Surveillance Cooperative Agreement" and the RFA number (CDC–NIOSH–OECSP–80–4) should be typed in block letters in the upper right hand corner of the face page of the application. A brief cover letter should accompany the application indicating that it is in response to the RFA Announcement. "State Occupational Health Surveillance Agreement".

Applications must be received on or before June 16, 1980. An original and six copies (original and two copies for State government applicants) of the application should be sent or delivered to: Division of Research Grants, NIH, Westwood Bldg.—Room 240, Bethesda, Maryland 20205.

In addition, thirty copies of the application and one copy of the cover letter should be sent to: Grants Administration and Review Branch, NIOSH 5600 Fishers Lane, Room 8–63, Rockville, Maryland 20857.

NIOSH will provide, insofar as possible, consultation to all who desire it concerning the preparation of an application or any other matter relevant to this program. The inability to provide such consultation cannot, however, justify extension of the deadline for receipt of applications or any other special consideration.

Schedule for Receipt and Review of Applications

Receipt of letter of intent	Receipt of application	Initial review group	Earliest award date
June 2, 1980...	June 16, 1980.	July 1980.....	Sept. 1980

Applications received after the deadline will not be accepted for this pilot program and will be returned to the applicant.

Awards will be based on priority score ranking by the Study Section and the evaluation by NIOSH according to the Programmatic Review Criteria.

For further information contact:

Technical: John P. Sestito, Surveillance Branch, NIOSH, 4676 Columbia Pkwy, Cincinnati, Ohio 45226, Phone: 513–684–2176.

Business: Joseph West, Grants Management Officer, NIOSH, Parklawn Building, Room 8–29, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: 301–443–3122.

(Catalog of Federal Domestic Assistance Program No. 13.262, Occupational Safety and Health Research Grants)

Dated: April 25, 1980.

Anthony Robbins,

National Institute for Occupational Safety and Health.

[FR Doc. 80–13640 Filed 5–2–80; 8:45 am]

BILLING CODE 4110–87–M

Office of the Secretary

Model State Adoption Act

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of report for public comment, correction.

SUMMARY: This document corrects Section 308 of the Model State Adoption Act published at 45 FR 10672, February 15, 1980 and extends the closing date for receipt of public comment on the Model State Adoption Act from May 16, 1980 to June 15, 1980.

FOR FURTHER INFORMATION CONTACT: Diane D. Broadhurst, Executive Secretary, Model Adoption Legislation and Procedures Advisory Panel, Children's Bureau, P.O. Box 1182, Washington, D.C. 20013, (202) 426–2822.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–4705, appearing on Friday, Feburary 15, 1980, on page 10622, make the following correction:

On Page 10672, Section 308(c) add the following:

(c) * * *

Section 308. Putative Fathers.

* * * * *

(5) that a plan is being made by the mother or the agency to place the child for adoption;

(6) that, within thirty days of the receipt of the Notice, or within five days of the birth of the child, whichever is later, the putative father shall:

(A) file an Intent to Take Custody of child with the [———] court; or

(B) execute a Disclaimer of Paternity with respect to the child; or

(C) execute a relinquishment of the child; or

(D) file a petition in the [———] court for the voluntary termination of his parental rights with respect to the child;

(7) that failure to act in accordance with the provisions of subsection (6) hereof shall constitute grounds for the involuntary termination of parental rights with respect to the child, and that the [———] court will proceed to terminate the parental rights of the putative father without further notice to him.

In addition to this correction, the closing date for receipt of public comment is extended from May 16, 1980 to June 15, 1980 to allow those who wish to comment on the Model State Adoption Act adequate time in which to respond.

Dated: April 28, 1980.

Patricia Roberts Harris

Secretary.

[FR Doc. 80–13586 Filed 5–2–80; 8:45 am]

BILLING CODE 4110–92–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions, and Delegations of Authority

This notice announces the redesignation of the Department of Health, Education, and Welfare as the Department of Health and Human Services (HHS) in accordance with the Department of Education Organization Act (Pub. L. 96–88), effective May 4, 1980. In addition, changes are made to the Department's Statement of Organization, Functions, and Delegations of Authority reflecting the redesignation and the transfer of the Department of Health, Education, and Welfare's education functions to the Department of Education.

The Department of Health and Human Services is the federal government's principal agency for furthering the good health of Americans and providing them with essential human services. HHS is responsible for more than 300 programs. These programs are conducted by 150,000 employees at work in every state and territory and in many countries of the world. With special emphasis on those least able to help themselves, HHS provides services that protect and advance the quality of life for all Americans.

1. Notice is hereby given of the redesignation of the Department of Health and Human Services in accordance with Department of Education Organization Act of 1979 (Pub. L. 96–88), effective May 4, 1980.

A. The Department of Health and Human Services headquarters will be located at 200 Independence Avenue, SW., Washington, D.C. 20201, Phone 202–245–7000.

B. HHS will have the following regional offices (areas included within each region are the standard Federal Regions shown in Appendix D, U.S. Government Manual):

Boston, Region I, Department of Health and Human Services, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203, 617–223–6830.

New York, Region II, Department of Health and Human Services, Federal Building, 26 Federal Plaza, New York, New York 10007, 212–264–4600.

Philadelphia, Region III, Department of Health and Human Services, 3535 Market Street, Philadelphia, Pennsylvania 19101, 215–596–6492.

Atlanta, Region IV, Department of Health and Human Services, 101 Marietta Tower, Atlanta, Georgia 30323, 404–221–2442.

Chicago, Region V, Department of Health and Human Services, 300 South Wacker Drive, Chicago, Illinois 60606, 312–353–5160.

Dallas, Region VI, Department of Health and Human Services, 1200 Main Tower, Dallas, Texas 75202, 214–767–3301.

Kansas City, Region VII, Department of Health and Human Services, 601 East 12th Street, Kansas City, Missouri 64106, 816–374–2821.

Denver, Region VIII, Department of Health and Human Services, 19th and Stout Streets, Denver, Colorado 80294, 303–873–3373.

San Francisco, Region IX, Department of Health and Human Services, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102, 415–556–6746.

Seattle, Region X, Department of Health and Human Services, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101, 206–442–0420.

2. Effective May 4, 1980, the Department of Health and Human Services (HHS) adopts and ratifies, until modified or canceled, the Department of Health, Education, and Welfare's internal operating instructions and procedures. These operating instructions and procedures include the HEW Directives System, consisting of 22 staff manuals, including the General Administration Manual, the Organization Manual, the Grants Administration Manual, the Procurement Manual and all other published internal operating instructions which govern and guide daily business transactions.

3. All grants and contracts in force and previously administered by the Department of Health, Education, and Welfare, except those specifically transferred to the Department of Education will, effective May 4, 1980, be administered by the Department of Health and Human Services.

4. Effective May 4, 1980, the Department of Health and Human Services (HHS) adopts and ratifies, until modified or canceled, the Department of Health, Education, and Welfare's Delegations of Authorities except for those programs specifically transferred to the Department of Education.

5. Amend the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare by making the following changes:

A. Change the title of the Department of Health, Education, and Welfare (HEW) to the Department of Health and Human Services (HHS), and change all references to HEW to read HHS.

B. Delete Part E, Education Division, including Chapters EA, EE, EM, and EN, in its entirety.

C. Delete Part A, Chapter AE, Section AE.20C., Office of Planning and Evaluation/Education, in its entirety.

D. Delete Part A, Chapter DH, Rehabilitation Services Administration, in its entirety.

E. Add to Part A, Chapter DA, Section DA.10 Bureau of Developmental Disabilities Program Operations (DAH).

F. Add to Part A, Chapter DA, Section DA.20 new subsection 5 to read as follows:

5. Bureau of Developmental Disabilities Program Operations (DAH) responsible for the conduct of activities required by the Developmental Disabilities Assistance and Bill of Rights Act, and other activities relating to the needs of disabled or handicapped individuals, as directed by the Assistant Secretary for Human Development Services.

G. Delete Part A, Chapter DX, National Institute of Handicapped Reserach, in its entirety.

H. Delete Part A, Chapter AG, Section AG.22A., Office of the General Counsel, Education Division, in its entirety.

I. Delete Part A, Chapter AL, Section AL.20., Office of the Deputy Assistant Secretary for Legislation (Education) (ALE), in its entirety.

J. Delete Part A, Chapter AML.2., Division of Education Budget Analysis, in its entirety.

6. Delete the following references to Education:

A. Chapter ABC, Section ABC.29.9. Delete the word "education."

B. Chapter ABG, Section ABG.20.B.4. Delete the words "Education Agencies."

C. Chapter AF, Section AF.20.D.2.(vii). Delete the words "and Title IX of the Education Amendments of 1972."

D. Chapter AJ, Section AJ, Section AJ.20.3. Delete the word "education."

E. Chapter AM, Section AM.20.B. Delete the word "education."

F. Chapter AMF, Section AMF.20.3.e. Delete the word "educational."

G. Chapter AMF, Section AMF.20.C.2.d. Delete the words "the Educational Division and."

H. Chapter AMG, Section AMG.00.(7). Delete the words "or education agency."

I. Chapter AMG, Section AMB.20.F.3. Delete the words "the educational community."

J. Chapter AMM, Section AMM.20.B. Delete "(4) Administers the Family Educational Rights and Privacy Act of 1974."

K. Chapter AMS, Section AMS.20.D. Delete the words "the Office of Education, the National Institute for

Education, and the National Center for Educational Statistics."

7. For further information contact the Office of the Acting Deputy Assistant Secretary for Management Analysis and Systems, Office of the Assistant Secretary for Management and Budget, Department of Health and Human Services, 200 Independence Avenue, Washington, D.C. 20201.

Dated: April 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-13599 Filed 5-2-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams, approved on the dates indicated, are available for information in the Alaska Outer Continental Shelf Office, Bureau of Land Management, Anchorage, Alaska. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic area represented.

Outer Continental Shelf Protraction Diagrams

	Description	Approval date
NM 1-2	Adak	Apr. 18, 1979.
NM 59-6	Kresta Point	Apr. 18, 1979.
NR 7-1	Mackenzie Canyon	Oct. 26, 1979.
NR 7-2		Oct. 26, 1979.
NM 59-4		Apr. 18, 1979.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 620 East 10th Avenue, Anchorage, Alaska. Checks or Money Orders should be made payable to the Bureau of Land Management.

Esther C. Wunnicke,

Manager, Alaska Outer Continental Shelf Office.

[FR Doc. 80-13631 Filed 5-2-80; 8:45 am]

BILLING CODE 4310-84-M

Utah; Wilderness Inventory Decision, Instant Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Utah State Director's final decision on the wilderness characteristics determination of four Instant Study Areas (ISAs)—Devil's Garden, Joshua Tree, Bookcliff, and Link Flat. The Utah BLM has conducted an intensive wilderness inventory including the appropriate public comment period to determine if wilderness characteristics are present in these ISAs. Based on the inventory findings and comments received during the comment period, the four ISAs will be recommended to the Secretary of the Interior as nonsuitable for wilderness designation as they lack the appropriate wilderness characteristics described in the Wilderness Act of 1964.

These areas were identified by Congress in Sec. 603(a) of the Federal Land Policy and Management Act of 1976 which provides "that the Secretary of the Interior shall report to the President by July 1, 1980, his recommendations (as to the suitability or nonsuitability for preservation as wilderness) of those areas which the Secretary had prior to November 1, 1975, formally identified as natural or primitive areas." As part of the report on the suitability or nonsuitability for preservation as wilderness of these areas, the wilderness characteristics as described in the Wilderness Act of 1964 must be determined to be absent or present, thus the intensive wilderness inventory was conducted.

The decision is that none of the ISAs possess the wilderness characteristics as described in the 1964 Wilderness Act. A summary of each area follows: *Devil's Garden*—This ISA is located in Garfield County, Utah, and contains 640 acres. Man-made impacts within the area include two roads; a "way"; and a developed picnic area including two toilets, three picnic units and parking facilities. An old access road had been scarified and seeded but it is substantially noticeable. These impacts are highly visible from most of the inventory area due to the lack of topographic and vegetative screening. The location of the impacts and their cumulative impact have resulted in the loss of naturalness characteristics. The area's topographic and low growing vegetation preclude opportunities for solitude and make it difficult to avoid the sights, sounds and evidence of other people in the area. The Devil's Garden ISA does not satisfy the naturalness criteria nor does it contain outstanding opportunities for solitude.

Comments received during the comment period substantiated the inventory information and agreed that naturalness and outstanding opportunities do not exist within the ISA.

Joshua Tree—This ISA is located in the extreme southwestern portion of Utah and is 1,040 acres in size. The only evidence of man identified in this inventory area is a small area of mineral exploration located in the southern part of the area. The impact consists of two mine shafts, a spoil pile, and an adit. This is not substantially noticeable and does not detract from the naturalness of the area. It would be difficult to avoid the sights and sounds of other people in most of the inventory unit because of the small size, the openness of the desert shrub vegatable cover, and the general lack of topographic relief. Opportunities for solitude were not considered to be outstanding within the area. There was a limited number of opportunities for primitive and unconfined recreation acitivities, but they were not outstanding.

The Joshua Tree ISA possesses wilderness characteristics of naturalness but lacks the outstanding opportunities for solitude or primitive and unconfined recreation and does not contain minimum size required by the Wilderness Act of 1964.

Comments received during the comment period generally agreed with the findings of the inventory and proposed decision. Some disagreement was expressed but no specific information was given that would cause a change in the proposal. Therefore, this ISA is determined to lack wilderness characteristics.

Bookcliff—This ISA is located in eastern Utah, approximately 75 miles south of Vernal. The area is 400 acres in size. The naturalness of the area has been impaired by the imprints of man. These imprints are noticeable within the area and include a "way," a bladed fence line and a barbed-wire fence which divides the area north and south. The "way" runs through the western half of the area and ends at the fence. Vegetative manipulation has occurred along the western edge of the area and is visually evident. Opportunities for solitude are not outstanding because of the small size of the area and the minimal topographic relief. The area offers few primitive and unconfined recreation opportunities due to its small size, which also limits the types of activities. The gently rolling topography presents no special challenge or interest.

The Bookcliff ISA does not satisfy the naturalness criteria nor does it contain outstanding opportunities for solitude or primitive and unconfined recreation.

Comments received on this ISA supported the findings of the inventory and the proposed decision.

Link Flat—This ISA is approximately 75 miles west of Moab, Utah, in Emergy County and contains 912 acres of public land in three separate parcels. The naturalness of the area has been impaired by the imprints of man. These imprints are noticeable and include three and three-quarter miles of road, approximately one mile of "way," a stock reservoir, and evidence of mining claim assessment work. The small size of the three parcels, the configuration, and the general lack of vegetative and topographic screening make it difficult to avoid the sights, sounds and evidence of other people in most of the unit, thus the opportunities for solitude would not be outstanding. The area also lacks outstanding opportunities for primitive and unconfined recreation because of many of the same factors.

The Link Flat ISA does not possess wilderness characteristics of naturalness or outstanding opportunities for solitude or primitive and unconfined recreation.

Comments received on this ISA generally supported the proposed decision and findings of the inventory. Some disagreement was expressed but no specific information was given relative to wilderness characteristics either existing in the quantity or quality to be considered outstanding.

FOR FURTHER INFORMATION CONTACT:
Kent Biddulph, Utah State Office, BLM (801) 524–5326.

Dated: April 25, 1980.

Gary J. Wicks,

State Director.

[FR Doc. 80–13632 Filed 5–2–80; 8:45 am]

BILLING CODE 4310–84–M

[U–45897]

Utah; Proposed Withdrawal and Reservation of Lands

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of proposed withdrawal and reservation of lands.

SUMMARY: This action responds to a request by the Director, Bureau of Land Management (BLM), that 25,989.73 acres of public land in the Deep Creek Mountains area of Juab County, Utah, be withdrawn from settlement, sale, location, or entry, under the general public land laws, including the mining laws, but not the mineral leasing laws, to protect several unique resource values. This action does not withdraw the lands, but does segregate them from settlement, sale, location, or entry, under the general public land laws for a maximum period of two years from the date of publication of this notice. This action is being taken to secure the protection of various natural and cultural values pending the preparation and implementation of a management program pursuant to all available statutes and mandates. Such a program will be formulated and applied in full consultation with affected interests, State and local governments, and other involved Federal agencies.

A report, detailing full protective management for the Deep Creek Mountains area, will be available for public inspection not later than October 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Keith Corrigall, Branch of Realty (322), Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–8693; or

James Moorhouse, Chief, Division of Resources, Utah State Office, Bureau of Land Management, 136 East South Temple, University Club Building, Salt Lake City, Utah 84111, (801) 524–5326.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204(b) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701, 1714 (hereinafter referred to as the Act), the following described land, which comprises a portion of Deep Creek Mountains, are temporarily segregated from settlement, sale, location, or entry, under the general public land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights:

Salt Lake Meridian

T. 11 S., R. 17 W.,
Sec. 18, lots 3 and 4, N ½ NE ¼, NE ¼ SW ¼;
Sec. 19, S 1/2 lot 3, S½ NE ¼, SE ¼ NW ¼, NE ¼ SW ¼;
Sec. 31, W ½ lot 1, W ½ lot 2, W ½ lot 3.
T. 11 S., R. 18 W.,
Sec. 17, N ½, E ½ SW ¼, SE ¼;
Sec. 18, E ½ NE ¼;
Secs. 19 and 20;
Sec. 21, N ½, SW ¼, N ½ SE ¼, SE ¼ SE ¼;
Sec. 22, E ½ SE ¼, S ½ SW ¼;
Sec. 23, NE ¼, S ½;
Sec. 24, All Except losts 3 and 4;
Sec. 25, NE ¼ NW ¼, W ½ NW ¼, W ½ SW ¼ SE ¼ SW ¼;
Sec. 26;
Sec. 27, S ½, S ½ NE ¼, NE ¼ NE ¼, NW ¼;
Secs. 28 through 31, 33 through 35.
T. 12 S., R. 18 W.,
Sec. 1, lots 3 through 6, 9 through 16, S ½;
Secs. 3 through 8;
Sec. 9, lots 1 through 6, SW ¼;
Sec. 10;
Sec. 11, N ½ N ½;
Sec. 12, N ½ N ½;
Secs. 17 through 20;
Sec. 29, lots 1 and 2, W ½ E ½, W ½;
Secs. 30 and 31. T. 13 S., R. 18 W.,
Sec. Sec. 6.
T. 12 S., R. 19 W.,
Sec. 1;
Secs. 12 and 13;
Sec. 24, E ½;
Sec. 25, E ½, SW ¼ SW ¼;
Sec. 35, S ½ SE ¼.
T. 13 S., R. 19 W.,
Sec. 1.

The areas described aggregate approximately 25,989.73 acres in Juab County.

The area proposed for withdrawl is presently under an emergency withdrawal which will expire at midnight May 2, 1980. Notice of that emergency withdrawal was published in the **Federal Register** of May 3, 1977. Upon analysis of the rationale for this request and on the basis of comments received from interested parties in connection with expiration of the emergency withdrawal, it has been determined that a temporary segregation of the afore-described lands is required to protect and perpetuate various natural and cultural resource components of the Deep Creek Mountains ecosystem, pending the refinement of a management program for the affected area, as well as other portions of the Deep Creek Mountains, under authority of the Federal Land Policy and Management Act and other available statutes. Significant among these values and components are the following:

a. Eight perennial streams of high water quality and aquatic life;

b. Archaeological sites of the Archaic, Sevier, and Paiute-Shoshone Indian cultures dating back 9,000 years, which are the keys to scientific research of the Great Basin area;

c. Populations of the Snake Valley strain of the Bonneville cutthroat trout (Salmo clarkii spp) (currently under Federal Endangered Species Act status review by the U.S. Fish and Wildlife Service);

d. Locations of the grape fern (Batrychium lauceolatum) (an uncommon plant in Utah);

e. Bristlecone pine areas (Pinus logaeva) (one of the oldest living plants on earth);

f. Locations of the giant stonefly (Pteronarcys princeps) (a very rare insect in Utah; believed found nowhere else in the State); and

g. Habitat required for reintroduction of the bighorn sheep.

An opportunity for a public hearing will be afforded, if appropriate. Such a hearing would consider any subsequent

withdrawal recommendations developed from the management program, as well as any new information that the public may contribute.

The Utah State Director, BLM (Authorized Officer), is being directed to develop a full management program where maximum reliance is to be placed on all available authorities for the protection of the resource values in the Deep Creek Mountains. The Authorized Officer will undertake a review of existing and potential demands for the lands and their resources and conduct such studies as are necessary to ensure that any area sought for withdrawal is the minimum essential to meet adequate resource protection while providing for the maximum concurrent utilization of lands for other purposes.

A report will be prepared, as appropriate, for consideration by the Secretary of the Interior who will determine which lands, if any, will be withdrawn and reserved as may be proposed by the Authorized Officer through the Director, BLM. This report would be made following completion of the management program which considers all available measures, statutes and mandates, and could result in minimizing or even obviating the need for withdrawal. It is anticipated that this report would be filed with the Secretary following the October 1, 1980, completion date for the management program as part of its implementation. The Secretary's determination on the withdrawal application would be published in the **Federal Register** and would be subject to the provisions of Section 204(c) of the Act.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws.

Current administrative jurisdication over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate two years from the date of this notice, unless sooner terminated by action of the Secretary of the Interior.

Guy R. Martin,

Assistant Secretary.

May 1, 1980.

[FR Doc. 80-13780 Filed 5-2-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare an Enviornmental Impact Statement on the Proposed Preservation of Fish and Wildlife Habitat (Bottomland Hardwood Wetlands) Within the Cache River Basin in Jackson, Monroe, Prairie, and Woodruff Counties in Northeast Arkansas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the U.S. Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) relative to the preservation of fish and wildlife habitat (primarily bottomland hardwood wetlands) within the Cache River Basin located in Jackson, Monroe, Prairie and Woodruff Counties in northeast Arkansas. (Attachment I). The area under consideration is the ten-year floodplain from the confluence of the Cache and White Rivers upstream to Grubbs, Arkansas, and from the confluence of the Cache River and Bayou DeView upstream to Morton, Arkansas (Attachment II). This area consists of several sites identified by the FWS suitable for preservation pursuant to the Lower Mississippi River Delta (Habitat Category 7) Concept Plan of April, 1978. This combination of areas includes some of the most important bottomland hardwood areas remaining in Arkansas. The total acreage encompassed by the ten-year floodplain is approximately 133,000 acres of which approximately 90,000 acres are forested wetlands. The remaining 40,000 acres consist primarily of marginal and sub-marginal agricultural lands. This Notice is being furnished as required by the National Environmental Policy Act (NEPA) regulation (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. A public meeting regarding this proposal and the preparation of the EIS will be conducted. Following the public meeting, a series of three informal workshops will be held. All interested and/or affected individuals and State, Federal and local agencies are invited to attend all sessions. The FWS solicits comments and participation of any interested parties in this scoping process.

DATES: Written comments should be recieved on or before June 4, 1980. A public meeting will be held at 7:00 P.M. on June 12, 1980, at the National Guard Armory located in Brinkley, Arkansas.

Three informal workshops will be held at the following locations and times:

—June 18, 1980, at 1:00 P.M., Room 517–B, Library Building, U.A.L.R., 33 University Avenue, Little Rock, Arkansas.

—June 23, 1980, at 1:00 P.M., Jackson County Courthouse, Newport, Arkansas.

—June 27, 1980, at 1:00 P.M., Room 936, Clifford Davis Federal Building, Memphis, Tennessee.

ADDRESS: Written comments should be addressed to: Area Manager, U.S. Fish and Wildlife Service, Providence Capital Building, Suite 300, 200 E. Pascagoula Street, Jackson, Mississippi 39201.

FOR FURTHER INFORMATION CONTACT: Kenneth Quackenbush, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, 409 Merchants National Bank Building, 820 South Street, Vicksburg, Mississippi 39180 Telephone: (601) 638–1891 FTS–542–5995.

SUPPLEMENTAL INFORMATION: Kenneth Quackenbush will be the primary author of the EIS. The Fish and Wildlife Service (FWS), Department of the Interior, proposes to protect and preserve diminishing bottomland hardwood fish and wildlife habitat within the ten-year floodplain of the lower and middle reaches of the Cache River and Bayou DeView. This proposed action could provide for federal acquisition and management of certain areas of the Cache River-Bayou DeView ten-year floodplains as units of the National Wildlife Refuge System (NWRS). Specific management objectives would be dependent on the selected course of action(s) and would be addressed in a separate planning document.

The Fish and Wildlife Service has selected the Cache River Basin because of its significant fish and wildlife resource values. However, past and present land use changes have and are still occurring throughout the Basin. These activities have substantially reduced the quality and quantity of fish and wildlife habitat of the Cache River Basin and the continuation of these actions could adversely affect the present value of the area especially to migratory and resident waterfowl.

The reduction in acreage of bottomland hardwood wetlands in the Basin can be put into proper perspective by comparing the 1959 Corps of Engineers' acreage estimate and their 1974 estimate. During this 15-year span, the wetland acreage in the Basin has decreased from 305,000 acres in 1959, to 116,251 acres in 1974.

Recently, the FWS estimated that in 1979, only 90,000 acres of bottomland hardwoods remained in the Basin exclusive of the acreage currently owned by the Arkansas Game and Fish Commission. The remaining acreage within the ten-year floodplain is predominately marginal and sub-marginal agricultural lands. Based on known land use changes which have occurred, it appears that this trend toward further habitat alteration will continue in the Cache River Basin, and that this trend will further reduce fish and wildlife populations.

Although no construction has taken place for the last two years, there is an authorized Corps of Engineers flood control project for the Cache River Basin. Completion of this project as presently authorized would induce the conversion of bottomland hardwoods to agricultural lands and result in direct habitat losses due to construction and rights-of-way requirements. In addition, marginal and sub-marginal agricultural lands within the ten-year floodplain which currently provide a food source for migratory waterfowl would be protected from overflow and lose their value as temporary feeding areas.

Arkansas is the most important state for wintering mallards in the United States. Furthermore, northeast Arkansas winters the largest concentrations of mallards in the nation (see Attachment III). In the early part of the century the swamps and seasonally-flooded wetlands of this area provided mallards with their preferred foods, acorns and aquatic invertebrates. With the clearing and drainage of these wetland areas, mallards and other waterfowl have been forced to seek additional food sources including waste grain found in flooded agricultural fields. However, this food source is declining annually as harvest efficiency is increased and better grain varieties are developed. Waterfowl using these food sources may eventually be forced to rely almost entirely on natural food sources. Therefore, present and future habitat needs of the mallards and other waterfowl of the Mississippi Flyway are dependent upon the preservation of the wetlands of the Cache River Basin, Bellrose (1977).[1]

As public comments and specific resource information from local, State, and Federal agencies are received regarding the scope of issues and impacts to be addressed in the EIS, detailed alternatives shall be formulated concerning potential courses of action(s) to be taken by the FWS. This information and other feasible alternatives identified during the public meeting and informal workshops shall be incorporated into a Draft Environmental Impact Statement (DEIS). A thorough discussion of each alternative and potential impacts shall be made. Alternatives for preserving the fish and wildlife values of the Cache River Basin that are presently being considered include:

(1) A no action alternative, (2) fee title acquisition by the FWS of all or a portion of the 10-year floodplain, (3) protection by environmental easement acquisition only, (4) combined fee title acquisition and environmental easements, (5) acquisition by State agencies and/or other Federal agencies, (6) other alternatives including reliance on existing zoning, legislation and other regulations.

The DEIS will be prepared after comments have been received from this Notice and the initial public meeting and informal workshops have been held. At least one additional public meeting shall be held on the DEIS prior to the peparation of the Final Environmental Impact Statement. The availability of the DEIS, date(s) and address(es) of additional public meeting(s) shall be announced in the **Federal Register.**

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), other appropriate Federal regulations and FWS Procedures for compliance with those regulations. We estimate the DEIS will be made available to the public by mid-January 1981.

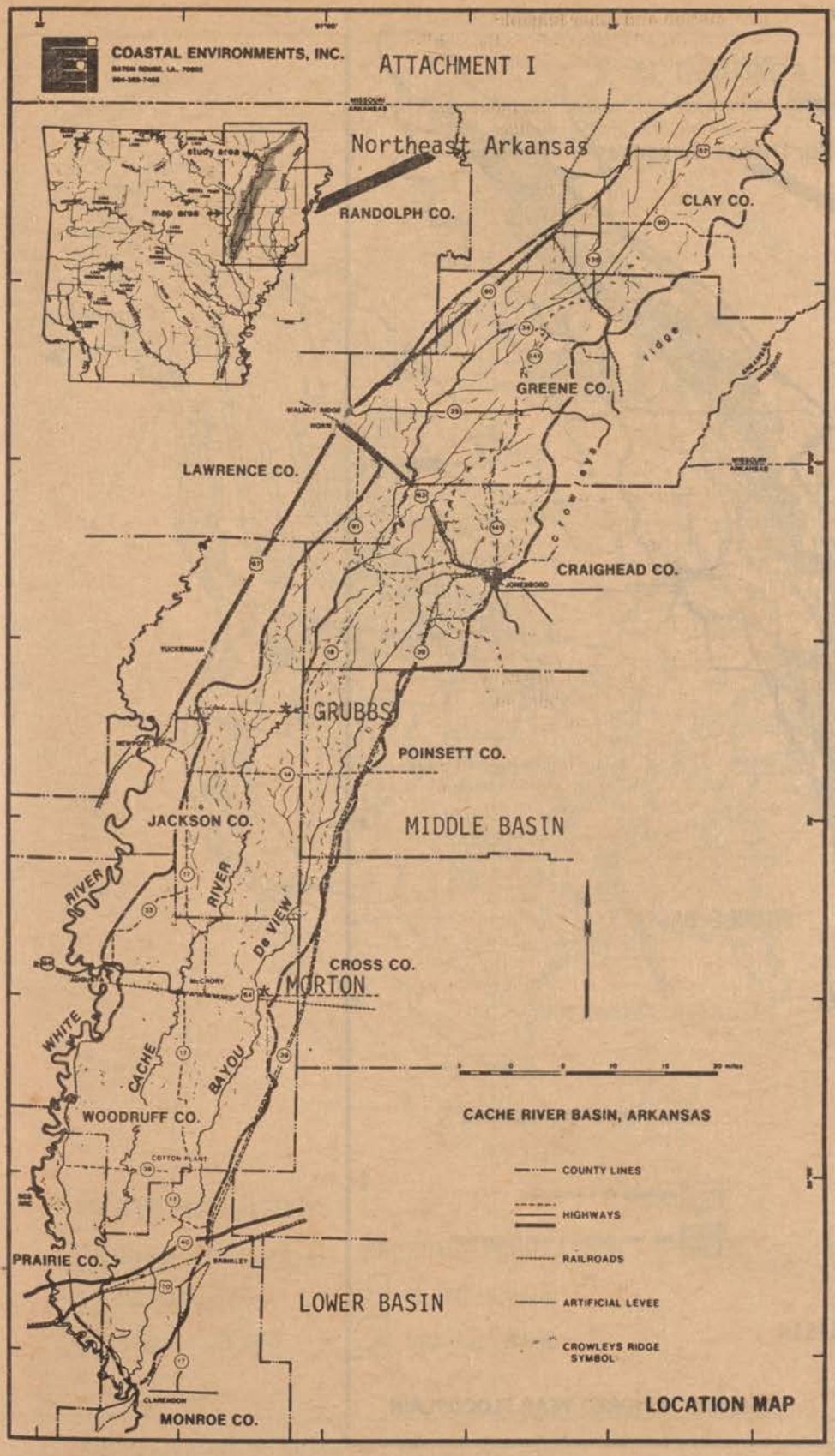
Kenneth E. Black,

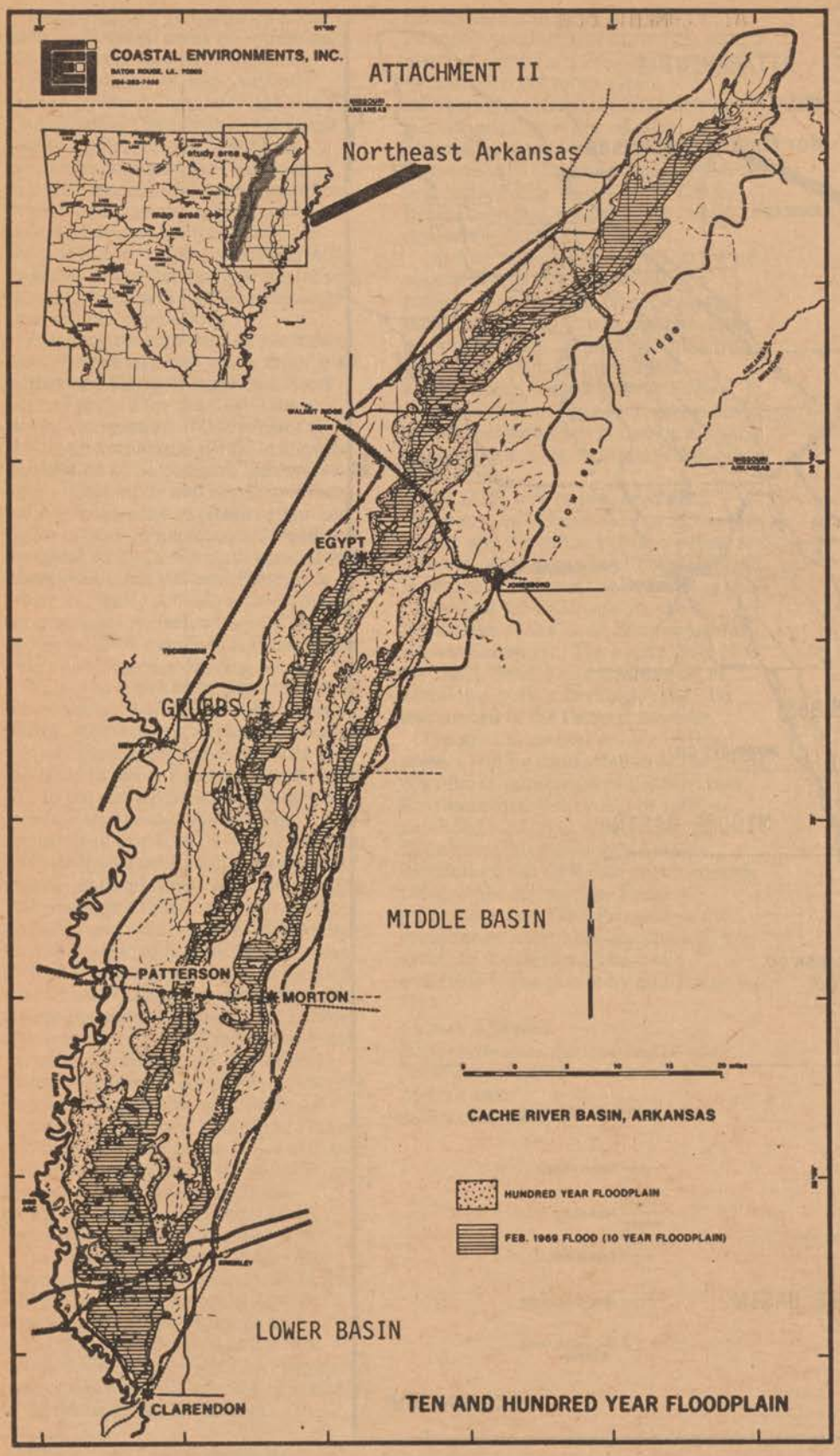
Regional Director, U.S. Fish and Wildlife Service.

April 24, 1980.

BILLING CODE 4310-55-M

[1] Bellrose, Frank C. Public Meeting Statement. Cache River-Bayou DeView Project. Jonesboro, Arkansas. March 28, 1977.


COASTAL ENVIRONMENTS, INC.
ATTACHMENT I
Northeast Arkansas
study area
RANDOLPH CO.
CLAY CO.
GREENE CO.
LAWRENCE CO.
CRAIGHEAD CO.
GRUBBS
POINSETT CO.
JACKSON CO.
MIDDLE BASIN
CROSS CO.
MORTON
WOODRUFF CO.
PRAIRIE CO.
LOWER BASIN
MONROE CO.
CACHE RIVER BASIN, ARKANSAS
COUNTY LINES
HIGHWAYS
RAILROADS
ARTIFICIAL LEVEE
CROWLEYS RIDGE SYMBOL
LOCATION MAP


COASTAL ENVIRONMENTS, INC.
ATTACHMENT II
Northeast Arkansas
EGYPT
GRUBBS
MIDDLE BASIN
PATTERSON
MORTON
CACHE RIVER BASIN, ARKANSAS
HUNDRED YEAR FLOODPLAIN
FEB. 1969 FLOOD (10 YEAR FLOODPLAIN)
LOWER BASIN
CLARENDON
TEN AND HUNDRED YEAR FLOODPLAIN

ATTACHMENT III



Ducks, Geese & Swans of North America
by Frank C. Bellrose, 1976, p. 233

[FR Doc. 80-13684 Filed 5-2-80; 8:45 am]
BILLING CODE 4310-55-C

LEGAL SERVICES CORPORATION

Grants and Contracts

April 30, 1980.

The Legal Services Corporation was established pursuant to the The Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996/, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project. * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Bureau for Kalamazoo and Van Buren Counties, Inc., in Kalamazoo, Michigan, to serve Cass County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: The Legal Services Corporation, Northern Virginia Regional Office, 1730 N. Lynn Street, Arlington, Va. 22209.

Dan J. Bradley,

President.

[FR Doc. 80–13736 Filed 5–2–80; 8:45 am]

BILLING CODE 6820–35–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Reactor Operations; Meeting

The ACRS Subcommitteee on Reactor Operations will hold a meeting on Tuesday, May 20, 1980 in room 1046, 1717 H St. NW, Washington, DC 20555 to review NRC research programs in the area of operational safety, including fire protection, noise diagnostics, and man-machine interfaces for the ACRS annual reports to NRC and Congress. Notice of this meeting was published April 25, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommitee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: *Tuesday, May 20, 1980, 8:30 a.m. until the conclusion of business.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff and such discussions would not be possible if held in public sessions. In addition, it may be necessary for the Subcommitee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities and to protect proprietary information. See 5 U.S.C. 552b(c)(9)(B) and 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5 p.m., EDT.

Dated: April 29, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–13482 Filed 5–2–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

April 30, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB pulbishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill out the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working

days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, plese send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New Forms

Animal and Plant Health Inspection Service
Domestic Quarantine Notices—7 CFR 301
PPQ 519
Other (see SF–83)
Nurseries and pulp wood sales 3,675 responses; 305 hours
Charles A. Ellett, 395–7340

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697–1195

New Forms

Department and other
Civilian physician survey
Single time
Civilian physicians, 6,105 responses; 3,053 hours
Kenneth B. Allen, 395–3785

Extensions

Departmental and other
Police record check
DD 369
On occasion
Police departments, 350,000 responses; 35,000 hours
Kenneth B. Allen, 395–3785

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strand—245–7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Special study: Models of patient advocacy
Single time
Clients and service providers of advocacy programs, 262 responses; 110 hours
Richard Eisinger, 395–6880

Alcohol, Drug Abuse and Mental Health Administration
Community mental health centers panel survey
Single time
CMHC staff, 16 responses; 160 hours
Richard Eisinger, 395–6880

Center for Disease Control
Attitudes and practices of private physicians related to influenza and pneumococcal immunziation, 1980
Single time
General and family practitioners, pediatricians, internists 1,000 responses; 500 hours
Richard Eisinger, 395–6880

Food and Drug Administration
Small manufacturers conferences on medical devices
Single time
Small manufacturers of medical devices attendes at conferences, 400 responses; 67 hours
Richard Eisinger, 395–6880

Food and Drug Administration
Investigational device exemption application
On occasion
Manufacturers of medical devices and researchers, 300 responses; 4,200 hours
Richard Eisinger, 395–6880

Revisions

Alcohol, Drug Abuse and Mental Health Administration
Abbreviated version of inventory of mental health facilities
ADM 25–1, 2, 3, 4
Other (see SF–83)
State mental hospitals, 140 responses; 140 hours
Office of Federal Statistical Policy and Standards, 673–7974

Alcohol, Drug Abuse and Mental Health Administration
Treatment outcome prospective study
(TOPS) follow-up phase
Other (see SF–83)
Clients discharged from drug abuse treatment programs, 6,766 responses; 6,089 hours
Richard Eisinger, 395–6880

Center for Disease Control
National nosocomial infections study
CDC 4.275, 4.276
Other (see SF–83)
Participating hospitals, 12,792 responses; 4,428 hours
Richard Eisinger, 395–6880

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. LaRue—633–3526

New Forms

Federal Bureau of Investigation
Analysis of law enforcement employees feloniously killed
4–776
On occasion
Any law enforcement agency with slain officer 100 responses; 50 hours
Office of Federal Statistical Policy and Standard, 673–7974

Offices, Boards, Division
Civil Litigation research project: Government lawyer questionnaire
Single time
Government lawyers in 5 Federal judicial districts 380 responses, 380 hours
Andrew R. Uscher, 395–4814

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523–6341

Revisions

Employment and Training Administration
Employment opportunity pilot project evaluation—LST
Periodic survey
MT–300D
Single time
EOP program participants and EOPP eligibles 34,000 responses; 25,500 hours
Arnold Strasser, 395–6880

Employment and Training Administration
Part C. handbook on adjustment assistance for workers
Under Trade Act of 1974
ETA 8–55 ETA 8–62
On occasion
TRA claimants 683,980 responses; 258,600 hours
Arnold Strasser, 395–6880

Employment and Training Administration
Extended benefit data
ETA 5–39
Weekly
SESA's 2,756 responses; 2,067 hours

Arnold Strasser, 395–6880

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Robert Roeder—395–5132

New Forms

President's Commission on Pension Policy
Information form for public employee retirement system
Single time
Pension plan administrators in small State 250 responses; 45 hours
Arnold Strasser, 395–6880

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Anderson—653–6890

New Forms

Small Business Energy Use Surveys
Single time
Small business in 5 sectors 6,000 responses; 3,000 hours
Edward C. Springer, 395–4814

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Mynatt—854–2596

Revisions

Energy Conservation Audits
TVA 6253 through TVA 6253G
On occasion
Commercial and industrial establishments in TVA valley 5,000 responses; 22,500 hours
Charles A. Ellett, 395–7340

C. Louis Kincannon,

Acting Deputy Assistant Director for Reports Management.

FR Doc. 80–13751 Filed 5–2–80; 8:45 am]

BILLING CODE 3110–01–M

POSTAL RATE COMMISSION

Visit to Mailing Services, Inc., Hillside, N.J.

April 29, 1980.

Notice is hereby given that the Officer of the Commission and members of his staff will visit Mailing Services, Inc., Hillside, New Jersey, on May 15, 1980, for the purpose of acquiring general knowledge of first-class and third-class mail operations. A report will be on file in the Commission docket room.

David F. Harris,

Secretary.

[FR Doc. 80–13664 Filed 5–2–80; 8:45 am]

BILLING CODE 7715–01–M

PRESIDENT'S COMMISSION ON PENSION POLICY

Report of Staff Contacts

The President's Commission on Pension Policy has directed its staff to maintain and publish for the public record a listing of contacts of a substantive nature made with individuals, organizations, and groups interested in the activities of the Commission.

The following is the staff report of such contacts for the month of March.

Peter Wilson, Zero Population Growth
Leonard Lee, Public Technology
Maureen McCarthy, National Council for Alternative Work Patterns
Shiro Asano, Health & Welfare Attachee, Japanese Embassy
Thea Marshall, ELI, Inc.
Tom Chase, AT&T
Joyce Mitchell, Communications Consultant
Miriam Chrisler, United Methodist Council
Bob Kalman, William M. Mercer, Inc.
Marilyn Y. Brown, Financial Analysts Federation
Denil Weil, German Marshall Fund
Dallas Salisbury, Employee Benefit Research Institute
Donald Kirk, Financial Standards Accounting Board
W. Smith, Milliman & Robertson
William Morrill, Mathematica Policy Research
A. Pellichio, University of Rochester
Larry Kotlikoff, UCLA
S. Bolding, Wharton School
Jim Barth, George Washington University
Municipal Finance Officers' Association
Variable Annuity Study Team
Enrolled Actuaries Group
The Urban Institute
Arkansas Governor's Staff
Diedre Reemer, National Governors' Association
Brendan O'Farrell, American Society of Pension Actuaries
National Association of Counties
National League of Cities
Jim McCarthy and Bill Leber, congressional staff
John Edie and Neil Culter, House Select Committee on Aging
H. Sanders, Congressional Budget Office
Edith Fierst, White House Task Force on Women
Ellen Goldstein, White House Domestic Policy Staff
Sylvester Scheiber, Universal Coverage Study Group
Dan Halperin, Doug Sorenson, Aldena DiPietro, Nelson McClung, M. Melton and Gabe Rudney, Treasury Department
Barbara Selfridge, Doug Norwood, Bob Kilpatrick, Mary Barth, and Jonathan Sunshine, Office of Management and Budget
Ian Lanoff, Peter Henley, Arnold Packer, Tom Gustafson and Ed Fu, Department of Labor
Mike Schneider, E. Roistacher and J. Ross, Department of Housing and Urban Development
Robert Nagle, Pension Benefit Guaranty Corporation
Jane Sherburne, Department of Health and Human Services.

Signed at Washington, D.C., this 25th day of April 1980.

Thomas C. Woodruff,

Executive Director.

[FR Doc. 80–13627 Filed 5–2–80; 8:45 am]

BILLING CODE 6820–99–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0142]

Claremont/LaSalle Corp.; Issuance of a Small Business Investment Company License

On August 21, 1979, a notice was published in the **Federal Register** (44 F.R. 49034) stating that an application had been filed by Claremont/LaSalle Corporation, 20 South LaSalle Street, Suite 430, Chicago, Illinois 60603, with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1979)) for a license as a small business investment company.

Interested parties were giving until close of business September 5, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0142 on April 18, 1980, to Claremont/LaSalle Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 28, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–13649 Filed 5–1–80; 8:45 am]

BILLING CODE 8025–01–M

[License No. 03/03–5144]

Continental Investors, Inc.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as an SBIC under the provisions of Section 301(d) of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et seq.) has been filed by Continental Investors, Inc., 2020 "K" Street, N.W., Suite 350, Washington, D.C. 20006 with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations (13 CFR 107.102 (1980)).

The officers and directors of the Applicant are as follows:

Lac Thantrong, chairman of the board, president and director, 6030 Crimson Court, McLean, VA 22101

Thuy Lien Thantrong, vice president, treasurer and director, 6030 Crimson Court, McLean, VA 22101; 80 percent

Phuong Thantrong, vice president and director, 6030 Crimson Court, McLean, VA 22101; 20 percent

Eric L. Cummings, director and assistant secretary, 3017 Cambridge Court, Washington, DC 20007

The Applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and long-term loans for qualified small business concerns.

The Applicant will conduct its operations principally in Washington, D.C., and the States of Maryland and Virginia.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, which are to provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns to persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and regulations.

Notice is hereby given that any person may not later than May 20, 1980, submit written comments on the proposed company to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Washington, D.C.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 28, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-13648 Filed 5-2-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5190]

Ideal Capital Corp.; Application for License To Operate as a Small Business Investment Company (SBIC)

An application for a license to operate as an SBIC under the provisions of Section 301(d) of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et seq.) has been filed by Ideal Capital Corporation, 10621 No. Kendall Drive, Miami, Florida 33173 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations (13 CFR 107.102 (1980)).

The officers and directors of the Applicant are as follows:

Francisco J. Hernandez, president and director, 9600 S. W. 93rd Ave., Miami, FL 33173; 100 percent

Antonio R. Zamora, secretary and director, 7500 S. W. 82 Ct., Miami, FL 33173

Jose Ramon Gutierrez, director, 1701 S. W. 98th Ave., Miami, FL 33173

The Applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and long-term loans for qualified small business concerns.

The Applicant will conduct its operations principally in the State of Florida.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, which are to provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns to persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may not later than May 20, 1980, submit written comments on the proposed company to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Miami, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 28, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-13651 Filed 5-5-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0188]

J&D Capital Co.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the Regulations (13 CFR 107.102 (1979)), under the name of J&D Capital Company, 12747 Biscayne Boulevard, North Miami, Florida 33181 for a license to operate in the State of Florida as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act), as amended, (15 U.S.C. 661 et seq.).

The proposed officers and directors and major stockholders are as follows:

Name, Title, and Percent

Jack Carmel, 2253 Keystone Blvd., North Miami, FL 33181; President, General Manager and Director; 100.

Diana Carmel, 2253 Keystone Blvd., North Miami, FL 33181; Secretary, Treasurer and Director; 0.

I. Stanley Levine, 3501 Biscayne Blvd., Miami, FL 33137; Director; 0.

The Applicant will begin operations with a capitalization of $500,000, which will be a source of equity capital and long-term loans for qualified small business concerns.

The Applicant will conduct its operations principally in the State of Florida and in other areas wherever the need may arise.

Matters involved in SBA's consideration of the application include the general reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may not later than May 20, 1980, submit written comments on the proposed company to the Deputy Associate Administrator for Finance and Investment, Small Business Administration 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Miami, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 28, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-13650 Filed 5-2-80; 8:45 am]

BILLING CODE 8025-01-M

National Advisory Council; Public Meeting

The Small Business Administration National Advisory Council will hold a public meeting from 3:00 p.m., Wednesday, May 21, 1980, to 12:00 noon, Saturday, May 24, 1980, at the Hilton Palacio del Rio, 200 South Alamo Street, San Antonio, Texas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Michael B. Kraft, Deputy Advocate for Advisory Councils, U.S. Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653-6748.

Dated: April 29, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-13737 Filed 5-2-80; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council Executive Board; Public Meeting

The Small Business Administration Region II Advisory Council Executive Board will hold a public meeting at 1:30 p.m., Thursday, June 12, 1980, in Room 29-118, U.S. Federal Building, 26 Federal Plaza, New York, New York, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Ivan E. Irizarry, Regional Administrator, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10007, (212) 264-1450.

Dated: April 30, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-13738 Filed 5-2-80; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Executive Board; Public Meeting

The Small Business Administration Region IV Advisory Council Executive Board will hold a public meeting from 9:00 a.m. to 4:00 p.m. on Wednesday, June 18, 1980, in the Regional Office Conference Room, Room 502, 1375 Peachtree Street, N.E., Atlanta, Georgia, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Wiley S. Messick, Regional Administrator, U.S. Small Business Administration, 1375 Peachtree Street, N.E., 5th Floor, Atlanta, Georgia 30309, (404) 881-4999.

Dated: April 30, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-13739 Filed 5-2-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee and its Technical Groups; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of the final meeting of the SAFER Advisory Committee, the SAFER Technical Group on Compartment Interior Materials, and the SAFER Technical Group on Post-Crash Fire Hazard Reduction to be held in the new Technical and Administrative building conference room at the National Aviation Facilities Experimental Center (NAFEC), Atlantic City, New Jersey, on June 19 and the morning of June 20, 1980. In the event that the new Technical and Administrative building is not completed at that time, the meeting will be held in the Building 11 conference room at NAFEC.

The purpose of the meeting will be to edit the SAFER Committee Report and to inspect the NAFEC facilities where the research and development portions of the SAFER Committee recommendations will be carried out. The schedule for this meeting will be as follows:

Thursday, June 19, 1980

- 9:00 to 5:30—Review and edit SAFER Committee Report.

Friday, June 20, 1980

- 9:00 to 12:00—Inspect NAFEC facilities pertinent to SAFER recommended research and development.

Attendance is open to the interested public but is limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present an oral statement should notify, not later than one day before the meeting, Ed Wood, ASF-300, Special Programs Division, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: 202-426-8198. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on April 28, 1980.

John R. Harrison,

Director of Aviation Safety.

[FR Doc. 80-13863 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP79-9; Notice 2]

Gillig Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Gillig Corporation of Hayward, California ("Gillig" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on August 27, 1979, and an opportunity afforded for comment (44 FR 50127).

Standard No. 108 incorporates by reference SAE Standard J592e, *Clearance, Side Marker, and Identification Lamps,* July 1972. One of the requirements for a front side marker lamp is that, at 45 degrees to the right or left (i.e., to the rear of the vehicle) it shall emit not less than 0.62 candela. Until October 1978 Gillig school buses were equipped with combination front clearance side marker lamps whose light output at the test point in question was .05/.06. Gillig argues that the noncompliance is inconsequential because "a number of other lamps are closely visible in the 45 degrees area which is apparently deficient", and that it is not aware of any complaints or accidents attributable to the noncompliant lamp. The other lighting devices that are visible are the front amber reflector, the intermediate and rear side marker lamps and reflectors, and all rear lighting devices. It manufacturers between 150 and 200 buses a year and "all recent" production has been equipped with the lamps in question.

No comments were received on the petition.

Although the failure of the front side marker lamps is not marginal, the presence of a complying intermediate side marker lamp less than 16 feet away may be viewed as a supplement to it, visible at essentially the same angles, and rendering the noncompliance less critical than it would have been on a bus without intermediate side marker lamps.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein discussed is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 25, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-13491 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-59-M

Final Contract Briefing; Public Meeting

The National Highway Traffic Safety Administration will hold a public meeting on May 21, 1980, to present the results of a recently completed, contracted research study entitled "Validation of the Rear Lighting and Signalling System Field Test." The objective of the study was to determine if the 54 percent reduction in rear end accidents associated with the use of a single high-mounted brake light added to the rear of Washington, D.C., taxicabs found in an earlier study could be generalized to non-taxicab vehicles operating in various locations throughout the country.

The meeting will be held in Room 2230 at the Nassif Building, 400 Seventh Street Southwest, beginning at 1:30 p.m. The briefing, to be presented by the contractor (Allen Corporation), will consist of a brief overview of the study findings, a detailed discussion of the results, and an opportunity for audience questions.

Additional information may be obtained from Dr. Robert Henderson, Office of Driver and Pedestrian Research, Room 6240, 400 Seventh Street, Southwest, Washington, D.C. 20590, telephone: 202–755–8753. Issued in Washington, D.C., on: May 5, 1980.

R. Rhoads Stephenson,

Associate Administrator for Research and Development.

[FR Doc. 80-13677 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

List of Excepted Thermal Protection Systems for Tank Cars

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Announcement of current list of excepted thermal protection systems for DOT Specification 112 and 114 tank cars.

SUMMARY: This notice announces the current list of thermal protection systems which may be used without further test verification on DOT Specification 112 and 114 tank cars to satisfy thermal protection retrofit requirements published under docket HM–144. The current list includes the 10 systems previously announced and adds system 11.

ADDRESS: The current list of excepted systems and the test results upon which the list is based are available for public review during the hours 8:30 a.m.-5:00 p.m., Monday through Friday in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–3148).

FOR FURTHER INFORMATION CONTACT: William F. Black, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202–426–2748.

SUPPLEMENTARY INFORMATION: The thermal protection systems listed herein do not require further test verification under § 179.105–4 (d) and (e), Title 49, Code of Federal Regulations (49 CFR), because they have been shown to meet those requirements by tests conducted at the Federal Railroad Administration's Transportation Test Center in Pueblo, Colorado. Systems 1 through 4 were listed in the preamble to the final rule to Docket HM–144, Admt. No. 179–9 which imposed certain retrofit requirements on the use of DOT Specification 112 and 114 tank cars (42 FR 46306, September 15, 1977). Editorial changes correcting the manufacturer's name in system 1 and correcting the name of a component material in system 3 were published on January 16, 1978 (43 FR 2180). Systems 5 through 7 were listed in a notice published on November 2, 1978 (43 FR 51112). Systems 8 through 10 were listed in a notice published on July 2, 1979 (44 FR 38693). System 11 is new and has not been previously published.

This list of thermal protection systems remains open for additional entries. Systems that may be submitted to the Federal Railroad Administration in the future and which are shown to meet the test specifications in 49 CFR 179.105–4 will also be excepted from the test verification requirements and added to this list. The current list follows:

List of Excepted Thermal Protection Systems for DOT Specification 112 and 114 Tank Cars

1. One inch minimum thickness Deltaboard (12 pounds per cubic foot, 15 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Deltaboard), Rock Wool Manufacturing Company, Leeds, Alabama.

2. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. Two mils (dry) of Thermolag primer-351 are applied to the clean surface. One hundred sixty-five mils (dry) of Thermolag 330–1 subliming compound is next applied to the primed surface. Five mils (dry) of Thermolag topcoat 350 is applied to the subliming coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

3. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, oil, grease and loose materials. Three mils (dry) of primer (Military Standard MIL–P–52192B) are applied to the clean surface. Chicken wire (1" hexagonal, 22-gauge) is next attached to the primed surface. One hundred eighty mils (dry) of Chartek 59 thermal coating is then applied. Three mils (dry) of a topcoat (AMERCOAT 383) is then applied. Topcoat manufacturer, Ameron, Brea, California. Manufacturer (Chartek 59), Avco, Lowell, Massachusetts.

4. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. Seven-tenths mil (dry) of primer (a 2:1 ratio by volume of 513–003 base component and 9110 x 350 activator component) is applied to the clean surface. Two hundred thirty-five mils (dry) of thermal shield coating (a nominal 5:2 ratio by volume of 821 x 359 base component and 9110 x 407 activator component) is next applied to the primed surface. Two mils (dry) of topcoat (a 2:1 ratio by volume of 821 x 317 base component and 9110 x 376 activator component) is applied to the thermal shield material. Manufacturer, De Soto, Inc., Des Plaines, Illinois.

5. One inch minimum thickness of Kaowool Blanket B (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock & Wilcox, Augusta, Georgia.

6. Sixty-five one hundredths inch minimum thickness Fiberfrax tank car insulation (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer

(Fiberfrax), Carborundum Company, Niagara Falls, New York.

7. One inch minimum thickness of HILBLOK 1212 (minimum density of 12.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (HILBLOK 1212), Holmes Insulations Limited, Toronto, Ontario, Canada.

8. One and one-half inches minimum thickness of Tank Wrap Insulation (minimum density of 6 pounds per cubic foot) compressed to a one inch thickness and encased in an 11-gauge steel jacket. Manufacturer (Tank Wrap Insulation), Forty-Eight Insulations, Inc., Aurora, Illinois.

9. Six tenths inch minimum thickness of Cerawool Blanket (minimum density of 4 pounds per cubic foot) and 0.4 inches minimum thickness of air encased in an 11-gauge steel jacket. Manufacturer (Cerawool Blanket), Johns-Manville, Denver, Colorado.

10. Fifty-two one hundredths inch minimum thickness of Kaowool Blanket B (minimum density of 4.8 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock and Wilcox Refractories Division.

11. One inch minimum thickness of "Thermafiber Tank Car Fireproofing" (minimum density of 7 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer, United States Gypsum Company, Chicago, Illinois.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1, and paragraph (a)(4) of App. A., Part 106.)

Issued in Washington, D.C., on April 25, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-13873 Filed 5-2-80; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 88
Monday, May 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-278, Amdt. 3; Apr. 30, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the May 1, 1980, meeting.

TIME AND DATE: 9:30 a.m., May 1, 1980.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 13a. Docket 37868 Order granting Boston-London exemption to World (Memo 9536-A, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: This item is being added to the May 1st meeting because the Board instructed the staff that it wanted to consider the exemption order at that time. The exemption carrier proposes to begin service on June 1, and prompt issuance of this order is necessary to allow for a reasonable start-up period. Because of the short time frame within which the staff had to prepare this order, it could not have been handled in a more timely fashion. Accordingly, the following Members have voted that agency business requires that this item be added to the May 1st meeting and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, George A. Dalley

[S-888-80 Filed 5-1-80; 3:33 pm]

BILLING CODE 6320-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, April 24, 1980.

PLACE: Room 856, 1919 M Street N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Deletion of an item.

Agenda, Item No., and Subject

Renewal—1—Title: Mutually exclusive applications filed by: United Broadcasting Company, Inc. for renewal of license for station WOOK(FM), Washington, D.C.; District Broadcasting Company for a construction permit on WOOK's frequency; and Hispanic Broadcasting Company for a construction permit on WOOK's frequency; and petitions to deny United's renewal application filed by Hispanic Broadcasting Company and by the Metropolitan Washington Coalition for Latino Radio. Summary: Petitioners contend that United is not qualified as an applicant for the station by virtue of the misconduct which has resulted in the loss of some of its other broadcast licenses. They also allege that the procedures utilized by United in its format switch are further evidence of its disqualifying lack of character, and that the format switch, which ultimately resulted in the elimination of the market's only Spanish-language station, should not have been permitted by the Commission. Various issues are raised as to the acceptability of the other applications, and whether the Commission should consider at this stage of the proceedings Hispanic's claim for a preference based on its Spanish-language programming proposal, and what that resolution should be.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: April 25, 1980.

[S-882-80 Filed 5-1-80; 11:26 am]

BILLING CODE 6712-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (45 FR 28033, April 25, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 30, 1980, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

ER-11—EL80-22, General Public Utilities Corp.
M-2—RM80-9, Filing Requirements Regarding Interlocking Positions Under Section 211 of the Public Utility Regulatory Policies Act of 1978.
CP-4—CP79-234, Algonquin Gas Transmission Co. CP79-338, Texas Eastern Transmission Corp. CP79-339, Texas Eastern Transmission Corp. CP79-368, Transcontinental Gas Pipe Line Corp. CP79-369, Transcontinental Gas Pipeline Corp. CP78-256, Algonquin LNG, Inc. and Algonquin Gas Transmission Co.

Kenneth F. Plumb,

Secretary.

[S-883-80 Filed 5-1-80; 11:28 am]

BILLING CODE 6450-85-M

4

NATIONAL CREDIT UNION ADMINISTRATION.

NOTICE OF MEETING TO BE HELD WITH LESS THAN SEVEN DAYS ADVANCE NOTICE.I10TIME AND DATE: 9;30 a.m., Wednesday, April 30, 1980.

PLACE: 1776 G Street N.W., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request from federally insured credit union for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemption (8) and (9)(A)(ii).
2. Mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).

The Board unanimously voted that agency business requires a meeting to be held with less than seven days advance notice.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-884-80 Filed 5-1-80; 12:06 pm]

BILLING CODE 7535-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Thursday, May 8, 1980.

PLACE: 1776 G Street N.W., Washington, D.C., 7th Floor Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.

2. Modification of authority of Central Liquidity Facility officials to make disbursements of CLF Funds.
3. NCUA Automatic Data Processing Policies and Procedures Manual.
4. Federal Credit Union loan interest rate ceiling.
5. Statement of Interpretation and Policy—Correspondent Credit Unioning Programs.
6. Statement of Interpretation and Policy—Shared and Proprietary Remote Service Units.
7. Interpretive Ruling—Federal Credit Unions Acting as Depositories and Financial Agents of the Government.
8. Report on actions taken under delegations of authority.
9. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:30 a.m.

TIME AND DATE: 10:45 a.m., Thursday, May 8, 1980.

PLACE: 1776 G Street N.W., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9) (A) (ii).
2. Mergers. Closed pursuant to exemptions (8) and (9) (A) (ii).
3. Final order in administrative hearing. Closed pursuant to exemptions (5), (8), and (10).
4. Office of Consumer Affairs' Travel and Transportation Budget for Fiscal Year 1980. Closed pursuant to exemptions (9) (B).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–885–80 Filed 5–1–80; 12:06 pm]

BILLING CODE 7535–01–M

6

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Monday, May 12, 1980. [NM–80–19]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence avenue, S.W., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the fifth item will be closed to the public under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report.*—Downeast Airlines, Inc., deHavilland DHC–6–200, N68DE, Rockland, Maine, May 30, 1979.
2. *Railroad Accident Report.*—Rear-end Collision of ConRail Commuter Trains, Philadelphia, Pennsylvania, October 16, 1979, and *Recommendation* to the Federal Railroad Administration.
3. *Marine Accident Report.*—Collision of INCA TUPAC YUPANQUI with Butane Barge PANAMA CITY Near New Orleans, Louisiana, August 30, 1979, and *Recommendation* to the U.S. Coast Guard.
4. *Special Study.*—Commuter Airline Safety Study and *Recommendation* to the Federal Aviation Administration.
5. *Order.*—Petition of McHenry, Dkt. SM–2316; disposition of petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

May 1, 1980.

[S–886–80 Filed 5–1–80; 3:37 pm]

BILLING CODE 4910–58–M

7

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining Offices at Washington, D.C. Headquarters).

TIME AND DATE: Wednesday, May 4, 1980, at 9:30 a.m.

PLACE: Room 826A, 320 First Street N.W., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Analyst: (202) 724–3094.

[S–889–80 Filed 5–1–80; 3:55 pm]

BILLING CODE 4410–01–M

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 5, 6 and 7, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Monday, May 5, 3 p.m.

1. Discussion and Vote on Revised Philippines Opinion (Approximately 1 hour, rescheduled from April 30—public meeting).
2. Possible Discussion of Testimony to be Given During the Week of May 5 (Approximately 1 hour, closed-exemption 9, rescheduled from 3 p.m.).

Tuesday, May 6, 2 p.m.

1. Affirmation Session (Approximately 5 minutes, public meeting, items are tentative):
   a. Post CP Design and Other Changes
   b. Board on TMI–2 Modifications
   c. Request for Hearing on Point beach
   d. UCS Petition on Fire Protection and Electrical Connectors
   e. Review of Director's Decision on UCS Indian Point Petition
2. Time Reserved for Discussion and Vote on Affirmation Items (If Required, approximately 15 minutes, public meeting).
3. Briefing on Systematic Evaluation Program (approximately 1 hour, public meeting).
4. Briefing on General Position on Protection of Routing Information (approximately 1 hour, public meeting).

Wednesday, May 7, 10 a.m.

1. Briefing on Resumption of Construction of Marble Hill (approximately 2 hours, public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Automatic telephone answering service for daily update: (202) 634–1498, those planning to attend a meeting should reverify the status on the day of the meeting.

April 29, 1980.

Roger M. Tweed,

Office of the Secretary.

[S–887–80 Filed 5–1–80; 3:33 pm]

BILLING CODE 7590–01–M

federal register

Monday
May 5, 1980

Part II

Federal Reserve System

Truth in Lending; Revision of Regulation Z

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0288]

Truth in Lending; Revision of Regulation Z

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board seeks public comment on a completely revised version of Regulation Z. The proposed revision of the regulation is necessitated by the adoption of the Truth in Lending Simplification and Reform Act, which is Title VI of the Depository Institutions Deregulation and Monetary Control Act (Public Law 96-221). The act was signed into law on March 31, 1980, and will become fully effective on April 1, 1982, with an implementing regulation required to be in place by April 1, 1981.

DATE: Comments must be received on or before July 31, 1980.

ADDRESS: Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. The comments should refer to docket number number R-0288.

FOR FURTHER INFORMATION CONTACT: In general, Robert C. Plows, Assistant Director (202/452-3667); for Subpart B, Maureen P. English, Section Chief (202/452-3867); for Subparts A, C, and E, Margaret A. Stewart (202/452-2412) or Ellen Maland (202/452-3867), Senior Attorneys; and for Subpart D, Lynne B. Barr, Senior Attorney (202/452-2412), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Introduction

On March 31, 1980, the President signed into law the Truth in Lending Simplification and Reform Act (Title VI of Public Law 96-221, the Depository Institutions Deregulation and Monetary Control Act). The simplication act significantly amends the Truth in Lending and Fair Credit Billing Acts (title 15, sections 1601 through 1666 of the United States Code) and will become fully effective on April 1, 1982. The act mandates that an implementing regulation be in place by April 1, 1981, and provides that a creditor may comply with the new law as soon as the regulation is adopted in final form.

The accompanying proposal represents the first step in implementing that mandate. It is also the product of the first stage of the comprehensive review of Regulation Z undertaken pursuant to the Board's Regulatory Improvement Project. The purpose of that review is to determine how the regulation and related interpretations can be modified within the revised statutory framework to implement more effectively the comparative and descriptive disclosure functions intended by the Congress, while also providing creditors and lessors with clearer, more understandable, and less burdensome rules.

Although the simplification act does not change any of the provisions of the Consumer Leasing Act (Title 15, section 1667 of the United States Code), which is also implemented by Regulation Z, the accompanying proposal includes revised rules (Subpart D) on consumer leasing to parallel as much as possible the proposed changes in the other portions of the draft regulation. If the Congress makes any amendments to the Consumer Leasing Act, the proposed regulation will be altered to reflect those amendments.

Although the proposal would simplify current requirements, the law remains relatively complex for two reasons. First, consumer credit and personal property leases are offered in a wide diversity of forms. For example, credit may be available on a revolving or closed-end basis; payable on demand or in equal or graduated installments; with a precomputed finance charge, on a simple interest basis, or both; secured or unsecured; and with or without credit and property insurance, which may be voluntary or required. It may be requested in person, by mail, or by telephone and may be refinanced, assumed, or deferred. Nearly the same variety occurs with leases. A regulatory scheme that tries to accommodate such diverse arrangements must itself be diverse and, hence, to an extent, complicated.

Second, the revised statute continues to provide for significant civil penalties for violations (between $100 and $1,000 for each violation, up to $500,000 in a class action, plus attorney's fees and court costs). Since there have been thousands of court suits involving alleged violations over the past 11 years, creditors and lessors have demanded specificity in the disclosure rules. That has been the principal impetus for the 65 Board interpretations and approximately 1500 published staff letters that have been issued since 1969. The new statute reduces the number of disclosures that are subject to statutory penalties; on the other hand, it makes understatements of the annual percentage rate and finance charge subject to administratively ordered restitution. Thus, the need for specificity spawned by the concern over damages remains.

Major Changes

The proposal makes at least eleven major changes in the regulation.

- It restructures the regulation's format to group together related provisions in separate subparts. Although that results in some duplication and therefore lengthening of the regulation, it means that the substantive rules for closed-end (for example, installment and mortgage) credit, open-end (for example, revolving) credit, and personal property leases are presented separately, eliminating the need to search through the regulation for the applicable provisions.
- It incorporates into the regulation the substance of many Board and staff interpretations and clarifies several troublesome questions raised by court decisions.
- It includes model disclosure forms and language to enhance understanding and compliance and to provide a safe harbor from civil liability.
- It exempts agricultural credit from disclosure requirements.
- It encourages early disclosure through the use of streamlined closed-end credit disclosures reflecting representative transactions. In the Board's view, that is the most innovative change in the regulation and is designed to provide consumers with a realistic opportunity for credit shopping. If implemented, it has the potential to become the single most effective mechanism for achieving the statutory goal of fostering the informed use of credit.
- It eliminates 12 of the 24 closed-end credit disclosures currently required for certain transactions, while permitting consumers to request an explanation of how the credit proceeds were disbursed if they desire.
- It requires for the first time that closed-end credit disclosures be placed together and segregated from other contract provisions and any other federal or state disclosures.
- Although, like the new statute, it does not materially change the open-end credit disclosures, it clarifies a number of points about those disclosures and eases several requirements regarding billing statements and error notices.
- It eliminates many of the current format requirements for open-end credit

disclosures, thereby giving creditors more flexibility in designing their forms to convey necessary information more effectively.

• It conforms the open-end credit disclosures to the requirements of Regulation E (Electronic Fund Transfers) wherever necessary and possible.

• It exempts from the right of rescission advances made under an open-end credit account that is secured by the consumer's home.

Regulatory Options

The proposal incorporates several requirements that are not expressly mandated by statute. The Board specifically invites comments on the merits of including those requirements and on how they might be modified to further the purposes of the amended Truth in Lending Act. Examples of such provisions are:

• The proposal defines certain refinancings and assumptions of existing closed-end credit obligations as new transactions requiring new disclosures. It also requires advance notice of changes affecting open-end credit plans. In both instances, it generally follows the current regulation.

• The proposal requires an explanation of any variable rate feature in a consumer credit obligation.

• For an obligation payable on demand, the proposal requires disclosure of the demand feature and further requires that other relevant disclosures be based on a one-year assumed maturity, unless the creditor and consumer agree upon a repayment schedule.

• It mandates that a deposit or investment required by a creditor as a condition for granting credit be taken into account in calculating the annual percentage rate for the transaction, unless the deposit or investment will earn interest or dividends during the period that credit is outstanding.

• It defines consummation of a transaction, in part, as the payment by a consumer of any nonrefundable fee, other than a good-faith application fee.

• It defines a creditor's business days to include Saturdays.

• It defines a billing cycle to be no longer than a quarter of a year.

• It defines a consumer to include a guarantor or similar party.

In addition to those and other requirements not expressly mandated by the statute, the proposal also offers several options not expressly permitted by the act. The Board specifically invites comment on the appropriateness of these options.

• The most significant option for creditors contained in the proposal is the so-called alternate shopping disclosures—advertisements—like disclosures that generally may be made in lieu of the regular, transactional disclosures. The Board is particularly eager to receive comment on that idea.

• It permits a number of payment irregularities to be disregarded in making disclosures.

• It requires the disclosure of only the initial insurance premium as the relevant cost disclosure to exclude credit life, accident, health, and property insurance from the finance charge.

• It permits fewer disclosures to be made for interim student loans.

There are, of course, other provisions in the proposal that are not derived directly from the statute, and the Board invites comment on those points as well. The Board seeks comment on the organizational structure of the proposal and whether the division into subparts is helpful. It also would appreciate comments on whether additional model forms and clauses should be provided and, if so, suggestions about what would be useful. Eventually the Board intends to provide an official commentary to accompany the revised regulation. In considering how to present the commentary, the Board would like to know whether official comments should follow each regulatory section in the style of the Uniform Commercial Code or whether the comments should be presented together in a separate document.

The various supplements to Regulation Z are not included in this proposal since the Board has not made any revisions to them at this time. If revisions do become necessary, the Board expects to publish them for comment later.

Discussion of Proposal

Subpart A—General

Section 226.1—Authority, Purpose, Scope, Organization, Circumvention or Evasion

Paragraphs (a) and (b), on authority and purpose of the regulation restate what is contained in present § 226.1(a). The proposed scope paragraph has been drafted to explain clearly the coverage of the regulation.

The draft regulation has been significantly reorganized by dividing it into five subparts—grouping together provisions relating to general matters (coverage, definitions, exemptions, finance charge), open-end credit, closed-end credit, consumer leasing, and miscellaneous rules (record retention, Spanish language disclosures, effect on state laws, state exemptions, staff interpretations). To explain that new structure, paragraph (d) on organization has been added.

The final paragraph, prohibiting circumvention or evasion of the proposed regulation, is also new. It is designed to prevent a creditor from avoiding disclosure responsibilities by taking an otherwise permissible action for the purpose of circumventing or evading the regulation's requirements. For example, a required deposit balance is defined in proposed § 226.2(z) as a balance or investment that does not earn interest or dividends during the term of the obligation. If a creditor paid a nominal dividend or interest payment on a balance or investment in order to avoid having to take account of what would be, absent the nominal interest or dividend, a required deposit balance, that would constitute circumvention or evasion of the regulation and would violate this proposed paragraph.

The provisions on administrative enforcement and civil liability currently in the regulation (present § 226.1(b) and (c) have been deleted as unnecessary, since the entire statute, including the provisions addressing these matters, will be reprinted in an appendix to the regulation. The provision on the issuance of staff interpretations (current § 226.1(d)) appears in proposed § 226.21 in Subpart E.

Section 226.2—Definitions and Rules of Construction

Section 226.2 incorporates virtually all of the defined terms used in Regulation Z. For ease of reference, they have been assembled into one section, even though several definitions, such as those pertaining to leases, may be relevant to only one or two substantive sections. Several terms are defined only in the substantive sections to which they relate, primarily because they relate to only one particular provision or because they have different definitions depending on the section to which they apply. A number of the terms come directly from statutory definitions, while others have been added to clarify regulatory provisions or to reduce the need for repetition.

Section 226.2(a) describes advertisements that may be subject to §§ 226.10, 226.14 or 226.16. The definition, which has no statutory counterpart, is based on § 226.2(d) of the current regulation. The definition includes commercial messages in any visual, oral, or print medium such as television, radio, or newspaper. It is not intended to encompass direct personal contact such as telephone conversations or door-to-door sales, but it does include commercial messages in pamphlets, brochures, and other printed material.

The second sentence of the definition specifically excludes the alternate shopping disclosures described in § 226.11(h). These shopping disclosures may well contain commercial messages, but creditors utilizing this alternative would not thereby trigger the advertising requirements.

The definition of "arrange for a lease" in § 226.2(b) is drawn from the present § 226.2(h).

The definition of an "arranger of credit" under § 226.2(c) is based primarily on amended § 103(f) of the act, which includes in the definition of "creditor" persons in the business of arranging credit under certain circumstances. It replaces the existing definition in § 226.2(h) and is intended to include only professional arrangers acting on behalf of primary lenders who are not themselves "creditors." The credit extended must also be subject to a finance charge or be payable by agreement in more than four installments. The proposal does not attempt to describe what constitutes the degree of involvement in the transaction necessary to bring the person's activities under the regulation. Under the current definition, an arranger is one who either receives compensation for the service or prepares the contract documents with knowledge of their terms. The statute does not use such a standard and the Board believes that its inclusion in the regulation may be unnecessary, in view of the fact that the person's activities must be conducted on a regular professional basis in order to come within the definition. The Board solicits comment, however, on whether further guidance may be needed with regard to this determination.

The definition of "billing cycle" corresponds to present § 226.2(i). The proposal retains the present provision allowing intervals to be considered equal for purposes of computing the annual percentage rate unless the day or date varies by more than four days from the regular one. The definition has been modified to reflect that the creditor may establish regular days, as well as regular dates, on which to send periodic statements, without having to rely on the four-day variance in order to ignore the difference in the number of days within the cycle. For example, a creditor could use the third Thursday of every month as a regular billing day. The Board solicits comment on whether this four-day variance should be retained in its present form.

The definition also has been amended to make clear that the provisions concerning periodic statements apply regardless of whether the creditor "bills" in the traditional sense or merely sends a statement of the account, as many credit unions do.

"Board" is defined here in order to avoid needless repetition elsewhere in the regulation.

"Business day" which was previously defined only in a footnote to present § 226.9(a), has been included in the definitional section. The definition relates not only to the rescission requirements, but also to certain open-end credit provisions such as prompt notification of returns and crediting of refunds under proposed § 226.8(e).

The definition of "cardholder" in § 226.2(g) is essentially unchanged from § 226.2(m) of the present regulation. The first clause has been modified to emphasize that a cardholder includes any person to whom a credit card is issued, even for a business or commercial purpose. This is in direct contrast to the general applicability of Regulation Z, since business or commercial credit is normally exempted from coverage.

The definition of "card issuer" in proposed § 226.2(h) is substantially similar to current § 226.2(1).

"Cash price" is defined in § 226.2(i). While no longer a required disclosure unless the consumer requests itemization of the amount financed, the amount of the cash price is still useful as a starting point in computing the amount financed under § 226.11. The proposed definition is similar to current § 226.2(n), but has been amended to emphasize that charges imposed equally in both cash and credit transactions may be included in this amount. For example, license and registration fees, to the extent they are equally imposed on cash and credit customers, may be incorporated in this amount. As before, however, any charge which constitutes a finance charge under § 226.4 must be excluded from this amount.

Section 226.2(j), "closed-end credit," defines the term which has long been used unofficially to describe the type of credit referred to in the act as "other than open end." Closed-end credit continues to be defined by exclusion; that is to say, if credit does not fit the definition of open-end credit, it must be considered closed-end. Subpart C sets forth the substantive rules applying to these transactions.

The definition of "consumer" in § 226.2(k) is based partly on the statutory definition in § 103(h) and partly on the definition of "customer" in present § 226.2(u). The definition includes a cardholder as well as a natural person, emphasizing the fact that several of the credit card provisions protect cardholders who are organizations as well as individuals. The list of secondary parties, such as sureties, has been amended to indicate that the list is not exclusive. Other persons in a similar position may also constitute consumers, even if they cannot technically be categorized as one of the parties listed.

"Consumer credit" in § 226.2(1) clarifies that there must be both a consumer and a creditor, as those terms are defined in the proposal. The definition also eliminates agricultural purpose credit from the types of credit which are subject to the regulation. This reflects its recent deletion from the coverage of the Truth in Lending Act under amended § 104(1).

The "consumer lease" definition in § 226.2(m) is similar to that in the current regulation, although the language has been simplified by the deletion of material believed unnecessary. The proposal makes clear that the original term of the lease must be more than four months to make the lease subject to the regulation. There has been litigation on the issue of whether a month-to-month lease (with no penalty for cancelling before five months and with an obligation only to pay the rental and any accrued and unpaid charges) constitutes a "consumer lease" or a "credit sale," as defined in the regulation. The Board generally does not think that such leases are subject to either the credit or the leasing provisions of Regulation Z. The Board solicits comment on whether additional clarification is needed, either in the definition or in the commentary to the regulation.

The definition of "consummation" in § 226.2(n) is important because in most closed-end credit transactions and leases it determines the time by which disclosures must be given. Additionally, the occurrence of consummation is one condition for starting the running of the rescission period in certain transactions. The proposed definition would change the approach reflected in present § 226.2(kk). Currently, consummation is defined in terms of the creation of a contractual relationship, a matter normally determined by reference to state law. The new definition, which has no statutory counter-part, would place the time of consummation at the point when the consumer becomes bound to the transaction legally or financially. As in the current regulation this may occur when a contractual relationship is created. Under the proposed definition, however, the prospect of economic loss, such as forfeiture of a nonrefundable fee, would also constitute

consummation, since the consumer at this point could no longer reject the terms of the transaction without incurring cost. It should be emphasized that the payment of an application fee, even though nonrefundable, would not constitute consummation.

"Credit" as defined in § 226.2(o) is similar to § 103(e) of the act and § 226.2(q) of the current regulation. However, the language relating to the purchase of property or services in the current regulation has been eliminated as unnecessary. The Board believes that the statutory language regarding the incurring of debt applies equally to purchase and loan transactions. Comment is requested on whether the regulation should specifically address whether "credit" includes such situations as home construction contracts with payments made as the work progresses, layaway plans, insurance policy loans, and obligations arising from court judgments.

Section 226.2(p), defining "credit card," implements § 103(k) of the act and is not substantially changed from current § 226.2(r). The credit card must be usable "from time to time"; this standard contemplates repeated use of a single device and therefore the definition excludes checks and similar instruments usable only once to obtain a single credit extension.

The definition of "creditor" in § 226.2(q) determines which persons bear responsibility for most Truth in Lending requirements. The definition is substantially changed from present § 226.2(s), primarily to reflect amended § 103(f) of the act and to simplify the current provision.

The definition describes four types of persons, each of whom independently constitutes a creditor. Section 226.2(q)(1) reflects the basic definition in the act, and it has two parts. Paragraph (q)(1)(i) incorporates the current regulatory standard, under which a person must regularly extend credit payable by agreement in more than four installments or that may be subject to a finance charge. Paragraph (q)(1)(ii) is a department from the present regulation and is mandated by amended § 103(f)(2) of the act. Under the new statutory provision, the debt must also be payable to a person in order for that person to be a creditor. This new definition should eliminate many questions raised under the current definition about whether assignees of contracts are "creditors" for purposes of Truth in Lending. (Note, however, that assignees may still be subject to civil liability for disclosure violations; see new § 131 of the act.)

Paragraphs (q)(2), (q)(3), and (q)(4) of this section define other persons who are considered creditors, even though they may not meet the conditions set forth in the first subparagraph. These provisions incorporate other aspects of the creditor definition in § 103(f).

One who is an arranger of credit within the meaning of § 226.2(c) is a creditor under paragraph (q)(2). This provision encompasses professional arrangers such as loan brokers, but only where the credit extender is not itself a creditor under the regulation. If the latter is a creditor—and thus responsible for Truth in Lending disclosures—Congress apparently considered it unnecessary to require the arranger to duplicate those responsibilities by bringing it within the definition.

Card issuers as defined by § 226.2(h) are creditors by virtue of paragraph (q)(3). This aspect of the definition imposes creditor responsibilities even on those card issuers whose plans involve no finance charge and no agreement to repay in more than four installments.

Under paragraph (q)(4), a person who honors a credit card and does not otherwise come within the definition would be a creditor for certain limited purposes. This provision, like its counterpart in the current regulation, would apply primarily to merchants accepting third-party credit cards. Even though they are not otherwise creditors, they must comply with the regulatory requirements regarding discounts for cash, finance charges imposed at the time of a transaction, and prompt notification to card issuers when merchandise is returned.

The definition of "credit sale" in § 226.2(r) implements § 103(g) of the act and is similar to current § 226.2(t). The distinction between sale and non-sale credit is less significant in this proposal than in the current regulation, where the disclosure requirements for credit sales are more extensive. However, the distinction must still be made, since several disclosures, such as "total sale price" under proposed § 226.11(f)(9), continue to apply only to this type of credit. Note that if the seller of the goods or services involved is not a creditor as to that sale, even though it may have arranged for financing, the transaction does not constitute a credit sale. The definition includes bailments or leases meeting the conditions in paragraphs (r)(1) and (r)(2), unless the consumer may cancel the agreement at any time without incurring a penalty, such as forfeiture of a deposit.

Section 226.2(s), which defines "dwelling," implements § 103(v) of the act, as amended. In contrast to present § 226.2(v), it includes mobile homes and cooperatives, as well as other residential units. A residence need not be classified as realty under state law, as is generally required under the present definition, in order to be considered a dwelling. This expanded definition is particularly important with regard to the right of rescission (since the proposal speaks in terms of "dwelling" rather than "residence") and with regard to the special rules for residential mortgage transactions.

The definition of "lessor" in § 226.2(t) is essentially the same as present § 226.2(oo), except that it eliminates the language about "ordinary course of business." That language is unnecessary since the definition already requires that the actions be performed "regularly."

"Open-end credit," as defined in § 226.2(u), corresponds to § 226.2(x) of the current regulation. The proposed definition attempts to clarify the difference between open-end and closed-end credit and to accommodate problems associated with particular credit plans. The present regulation applies a three-prong test to determine whether a plan is open-end credit. The proposed definition modifies one of those requirements in order to bring more plans within its scope and adds a fourth characteristic in order to clarify the distinction between open-end and closed-end credit.

Under paragraph (u)(1)(i), the creditor must reasonably contemplate repeated transactions. This element restates the current requirement that the plan be usable "from time to time." The change incorporates the amended language in § 103(i) of the act and is intended to emphasize an important characteristic of true open-end credit plans. While purchases of large-ticket items may be part of a valid open-end plan, questions could arise about the validity of structuring some major purchases, such as pianos or automobiles, as open-end credit.

The second part of the traditional test for what is open-end credit is that the consumer have the privilege of paying the balance in full at any time, as well as paying in installments. The proposal changes this test in paragraph (u)(i)(ii). The Board believes that the emphasis should be on the right of the consumer to pay the outstanding balance in full at any time without incurring any penalty or additional charge for such payment. The ability to pay in installments, while permissible in an open-end credit plan, would be not necessary under the proposal. For example, a plan in which purchases are permitted from time to time, with finance charges imposed on the outstanding unpaid balance, would qualify as open-end credit, even though

full payment would be required at the end of each month.

Under the present regulation, a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance. The proposal retains this requirement in paragraph (u)(1)(iii). A number of credit plans exist in which purchases may be added from time to time, and the balance is payable either in full or in installments, but no finance charge is ever imposed on the account. The Board solicits comment on whether it should include such plans in open-end credit by providing that the possible imposition of a finance charge is not necessary to characterize a plan as open-end credit. (Any finance charge that is imposed on the account would still have to be computed from time to time on the outstanding unpaid balance.) Of course, if no finance charge would ever be imposed under a particular plan, the consumer would have to have the privilege of paying the balance in installments (as well as in full) in order to qualify as credit extended by a creditor for purposes of the regulation.

The proposed draft adds a fourth characteristic by which open-end credit may be distinguished from closed-end credit: the concept that the total amount of credit that may be extended during the existence of the plan is unlimited. To illustrate, if a credit line is $500, a consumer may charge the full $500, repay that amount and then incur another $500 in charges any number of times during the existence of the plan. This characteristic distinguishes open-end and credit from a series of advances made under a loan commitment, which normally is not a replenishing line. An example of such a closed-end transaction is an agreement by a creditor to lend a total of $500 in a series of smaller advances; when the consumer has borrowed the $500, no more money is advanced under that agreement, even if there has been a repayment.

The definition of open-end credit in the current regulation provides that, for limited purposes, the term includes consumer credit extended on an account by use of a credit card, whether or not a finance charge may be imposed. This provision has been omitted from the open-end credit definition in the proposal; card issuers would be considered creditors without regard to the characteristics of the plan. The statutory provision extends a number of the open-end credit provisions to card issuers whether or not they allow payment in more than four installments or impose a finance charge. The Board solicits comment on the necessity of making credit extended by use of a credit card open-end credit per se, in order to assure that card issuers comply with all applicable open-end credit requirements.

The present regulation excludes from the definition of open-end credit negotiated advances under an open-end real estate mortgage and letters of credit. The Board solicits comment on whether these exclusions are necessary, and on the impact of omitting them from the regulation, as reflected in the current proposal.

"Periodic rate" in § 226.2(v) combines the present terms "period" (current § 226.2(z)) and "periodic rate" (current § 226.2(aa)). The draft has been amended to emphasize that an initial transaction charge (even if computed on the basis of a percentage of the transaction amount) is not a periodic rate for purposes of the regulation. The Board particularly solicits comment regarding one aspect of the proposed definition. Currently, a creditor may use any subdivision of a year in applying its rate and a number of creditors use 1/360 of a year as their period. Use of this subdivision may create difficulties in computing the annual percentage rate, as for example by applying a daily rate based on 360 days to a 365-day year. The Board is considering amending the definition to preclude the use of any period other than a day, week, or month as the basis for the periodic rate and solicits comment on any computational or state law problems which might arise from such a prohibition.

The definition also provides that the periodic rate may be stated either as a percentage or as its decimal equivalent. It should be noted, however, that the corresponding annual percentage rate must always be stated as a percentage.

The definition of "person" in § 226.2(w) implements § 103 (c) and (d) of the act, by combining the statutory definitions of "persons" and "organization." The list of types of organizations in the proposal is illustrative only and is not intended to be all-inclusive.

"Personal property" and "realized value," as defined in § 226.2 (x) and (y), respectively, are similar to their counterparts in the current leasing provisions of the regulation. However, the definition of "realized value" has been clarified to permit the use of either wholesale or retail fair market value, so long as the basis for this amount is consistent with the basis used for determining estimated value at consummation.

The definition of "required deposit balance" in § 226.2(z) is drawn, in substantially modified form, from the current § 226.8(e)(2). Under the proposal, this item no longer is to be disclosed. However, these amounts would continue to affect the calculation of the annual percentage rate in closed-end credit transactions, as outlined in Supplement I (present § 226.40) to the regulation.

Under the revised definition, the number of deposits which would constitute required deposit balances has been substantially reduced. The concept was originally designed to reflect the loss of use of funds by the consumer in order to obtain credit. To better effectuate this goal, the definition would now be confined primarily to nonproductive funds, by excluding from its scope any amounts which will earn interest or dividends. Thus, even where the consumer is required to make or keep a specified deposit to obtain credit, the amount would not be considered a required deposit balance so long as the funds will earn interest or dividends. While the proposal makes no attempt to specify any minimum yield necessary to exclude these amount from the definition, it should be emphasized that creditors' actions in this regard would be measured against the general prohibition in § 226.1(e) against circumvention or evasion of the regulation. An unusually low rate of return could raise questions regarding the proper classification of these deposits. The Board specifically solicits comment on any difficulties which may arise from this exception to the required deposit balance definition, together with any possible alternatives to this approach.

The second exception to the required deposit balance definition incorporates and expands the current § 226.8(e)(2)(i). Escrow accounts for taxes and insurance, whether or not earning interest, would not be considered required deposit balances. Unlike the current escrow exception, the account need not be tied to a real property transaction. For example, property insurance escrows for mobile home transactions would be excluded, even in jurisdictions where mobile homes are classified as personal property.

The definition of "residential mortgage transaction" in § 226.2(aa), which implements amended § 103(w) of the act, has no counterpart in the current regulation. It covers the purchase or construction of a dwelling which, under a mortgage or similar consensual device, serves as security for the transaction. Junior liens as well as first liens are included in this category, provided they relate to the acquisition or initial construction. The term is important to three substantive provisions in the

regulation. First, under § 226.11(f)(16), a disclosure regarding whether the obligation is assumable must be made in these transactions. Second, certain residential mortgage transactions are subject to the special rule on timing of disclosures contained in § 226.11(g). Third, these transactions as a class are exempt from the right of rescission under § 226.13(f)(1).

"Security interest" and "security," as defined in § 226.2(bb), are essentially unchanged in substance from the current § 226.2(gg). However, the list of types of charges has been taken from the text of the definition and placed in a footnote, to emphasize that the types mentioned are merely illustrative, rather than all-inclusive. Note that a right of set-off is included in the list. The new definition looks to applicable state law to determine what is a security interest. As under the current regulation, it is the responsibility of the creditor or lessor to decide whether its interest is recognized by and enforceable under that law.

"State" is defined as in the present § 226.2(h).

The "total lease obligation" definition in § 226.2(dd) of the proposal has been significantly amended from current § 226.2(rr) to incorporate the position taken by the staff in several official interpretations. Paragraph (dd)(1) clarifies that amounts that are not financed by the lessor or upon which no lease charge is assessed are not to be included in the total lease obligation.

Paragraph (dd)(2) reflects the fact that trade-ins or other advance payments are often made some time after consummation, at the time the leased property is actually ready for delivery. Under the proposal, any payments or trade-in made before delivery are included in the total lease obligation. Refundable security deposits are eliminated from the total lease obligation. Since security deposits will be identified and disclosed under proposed § 226.15(e)(4), inclusion in the total lease obligation as well appears to be unnecessary.

The rules of construction in § 226.2(ff), (gg), (hh), and (ii) are intended to assist in understanding the regulatory language and to permit abbreviated references. Footnotes are used extensively in the regulation to provide special exceptions, more detailed explanations, examples, and so forth; paragraph (ii) provides that footnotes have the same effect as the text.

Section 226.3—Exemptions

The principal change in this section is the exemption of agricultural credit from all regulatory requirements. This is in accord with the new statutory exemption for agricultural credit in § 104(1) of the amended act. The footnote makes clear that even if real property with a dwelling is acquired (for example, a farm with a house on it), the exemption will apply according to its terms.

Otherwise, the substance of proposed § 226.3 is essentially the same as the current version of that section, with the incorporation of several existing interpretations. The business credit exemption is qualified to reflect the fact that several credit card provisions do apply to business credit. The public utility credit exemption is clarified so as to apply to charges associated with services provided through radio transmission (for example, microwave telephone relays), but not to charges imposed in connection with the financing of home improvement or durable goods such as furnaces or telephones.

The securities and commodities credit exemption has been expanded to recognize the role of the Commodity Futures Trading Commission, which parallels that of the Securities and Exchange Commission.

Paragraph (e) incorporates all of the exemptions for lease transactions into a single provision. A new exemption is proposed for leases of safe deposit boxes and the Board solicits comment on this.

Section 226.4—Finance Charge

This section, like the current § 226.4, sets forth the rules governing the determination of the finance charge for both open-end and closed-end credit. However, it has been reorganized.

(a) *Definition.* This paragraph reiterates in condensed form the existing definition of what constitutes a finance charge. The last sentence of the paragraph reflects the recent amendment to § 106(a) of the act, and states explicitly that the finance charge does not include any charges that would be imposed uniformly in comparable cash and credit transactions—for example, sales taxes, license or registration fees, or basic checking account maintenance charges.

(b) *Charges included in the finance charge.* This paragraph contains a list of charges that are part of the finance charge, much as it appears in present § 226.4(a). These are examples of finance charges, and the list is not intended to be all-inclusive. Many of the items listed here *may* be excluded from the finance charge; the following paragraphs in the section spell out the special exclusion rules, for example for credit life and property insurance premiums, certain fees in real property transactions, and filing fees.

Paragraph (b)(2) includes examples of finance charges commonly imposed in open-end credit plans, such as minimum charges. It also clarifies that the portion of checking account maintenance fees that are attributable to the existence of a credit feature (for example, overdraft lines of credit) are included in the finance charge.

Footnote 4 includes the provision from present § 226.4(h) that insurance premiums should be included for the period that insurance must be maintained. The rule on applicable insurance rates and classifications in present § 226.4(h) has been deleted because it is part of the broader issue of making disclosures based on estimates; this matter is dealt with in new § 226.11(d).

Discounts to induce payment other than by use of credit are specifically mentioned in paragraph (b)(9) as part of the finance charge. It should be noted that a discount offered for prompt payment of a credit obligation (which is treated as a type of finance charge in present § 226.8(o)) would not be included in the finance charge under this provision. This change is based on the idea that the finance charge should reflect only the comparison between cash and credit transactions and should not be applied to distinctions made among credit customers. The Board would appreciate comments on this change.

(c) *Charges excluded from the finance charge.* This paragraph lists a number of fees and charges which are *not* part of the finance charge. Unlike the items covered by the two paragraphs that follow, the creditor need not make any disclosure of these items in order to exclude them from the finance charge.

Paragraphs (c) (1), (2), and (4) are condensed and rewritten versions of current § 226.4 (c), (d), and (e), respectively. Paragraph (c)(3) provides that where a fee is charged for membership in a credit card plan, that fee is not a finance charge. The Board is aware that such fees are becoming increasingly popular and that they are being imposed in a variety of ways. Comment is requested on whether this provision is appropriate and whether it should be qualified in any way.

(d) *Insurance.* This paragraph presents in one place all of the procedures necessary to exclude credit life, accident, health, loss of income, and property damage insurance premiums from the finance charge. It basically restates the rules applicable under the current regulation and Board interpretations. However, where the

disclosed cost is subject to increase, that fact must also now be stated; the Board seeks comment on this new provision.

There are a number of provisions that should be noted. For example, the term of the insurance coverage must be stated only if it is shorter than the term of the transaction. The consumer who is the insured party is the one who is required to sign the statement indicating a desire for insurance. If more than one consumer is to be insured, however, any one of them may sign the statement on behalf of all of the insured consumers. The consumer's initials on the authorization form will be deemed to be a signature.

This paragraph eliminates the requirement in the current regulation that the credit life insurance authorization be dated. Since the authorization will now appear with all the other disclosures, there seems little need to require a separate date on the authorization.

Although single interest insurance as a general rule is included in the finance charge (see new § 226.4(b)(5)), under certain circumstances it may be treated like regular property insurance and excluded from the finance charge by following the procedures outlined in paragraph (d)(2). First, the single interest insurance must be the type that functions like regular, dual interest insurance; therefore, the so-called "blanket coverage VSI" that protects a creditor against loss on its entire portfolio would not qualify for this treatment and may not be excluded from the finance charge. Second, the insurer must waive all rights of subrogation against the consumer (although it may retain such rights against others). Note, however, that disclosure to the consumer of the waiver of subrogation is not required.

(e) *Itemized charges.* This paragraph allows certain charges having to do with security interests to be excluded from the finance charge, as long as they are itemized. Paragraph (e)(2) makes clear that only the amount of a "non-filing insurance" premium that does not exceed the usual filing fee is excludable; any excess must be included in the finance charge. If a creditor imposes charges representing both § 226.4(e)(1) fees and (e)(2) premiums, the entire amount of the premiums must be included in the finance charge.

Note that the other items listed in present § 226.4(b) (3) and (4) (taxes and license, certificate of title, and registration fees) have been deleted in light of the recent amendments to § 106 of the act.

(f) *Discounts.* This paragraph explains the conditions under which a discount offered for paying cash in lieu of using an open-end credit card account may be excluded from the finance charge. It restates in somewhat simpler form the rules found in present § 226.4(i). For example, it eliminates detailed directions on how the availability of the discount must be displayed in the seller's place of business, stating only that it must be clearly and conspicuously disclosed.

(g) *Prohibited offsets.* This paragraph restates the prohibition on offsetting interest earned by the consumer on deposits against finance charges paid by the consumer, which is found in present § 226.4(f). It eliminates the requirement that a creditor have a security interest in the consumer's property before the ban on offsets applies, because the rule logically applies whether or not the creditor holds a security interest.

Subpart B—Open-End Credit

This section deals with open-end credit accounts (for example, revolving credit, credit card accounts, overdraft and cash advance loans) and the disclosures required to be provided for such types of credit (proposed § 226.5). It also details special rules to be followed for credit card accounts (proposed § 226.6) and outlines the procedures to be followed where errors occur in open-end credit accounts (proposed § 226.7). This section also provides the rules for determining annual percentage rates for open-end credit accounts (proposed § 226.8). Section 226.9 of the proposal deals with rescission requirements as they apply to open-end credit. Finally, proposed § 226.10 deals with the rules for open-end credit advertising.

Model language is proposed in certain instances to facilitate compliance with the regulatory requirements. Comment is solicited on the model language and suggestions for improvement are encouraged. Also, it is requested that commenters, in reviewing the proposed regulation, identify provisions that would benefit from model language.

Most open-end credit Board Interpretations and many open-end credit staff interpretations have been addressed in the regulation. Two Board Interpretations, § 226.703 and § 226.707, have not been incorporated into the regulation at this point. The Board is aware that interpretative problems may exist with regard to these two interpretations and expressly requests that comment be submitted identifying those problems and suggesting solutions to them. Suggestions for proper placement in the regulation would be most welcome.

Comment is also encouraged with regard to identifying staff interpretations that may be candidates for regulatory incorporation.

Section 226.5—Disclosures

(a) *General requirements.* The general housekeeping requirements relating to open-end credit have been assembled in § 226.5(a) of the proposed draft. In general, this section draws from several different sections of the present regulation and incorporates in one section of the regulation the timing and format requirements for the disclosures required upon opening an account (initial disclosures) and for the disclosures required to be given periodically (periodic statements).

Proposed § 226.5(a)(1) (Who must make disclosures to whom) clearly provides that only one creditor in a multiple creditor situation need make disclosures. It is contemplated that creditors will agree among themselves in a multiple creditor situation as to who will in fact provide the disclosures so as to achieve the desired result that the consumer receive one complete set of disclosures. Section 226.5(a)(1)(ii) corresponds in part to § 226.6(e) of the present regulation. The proposal enunciates the rule regarding multiple consumers and provides that where multiple consumers are involved, disclosures may be made to any one of the consumers who is primarily liable on the obligation. Where the right of rescission is applicable, however, the disclosures shall be made to *each* person who has the right to rescind.

Section 226.5(a)(2) of the proposal (What disclosures must be made) provides a brief, general summary of the disclosures that must be furnished and the procedures that must be followed in open-end credit plans.

Proposed § 226.5(a)(3)(i) deals with the general timing and form rules for open-end credit disclosures. This section corresponds to parts of § 226.6(a) and § 226.7(a) of the present regulation, retaining the requirements that required disclosures be made clearly and conspicuously in writing in a form that the consumer may keep. However, in order to facilitate the use of required terminology, the proposal, unlike the present regulation, permits the use of modifying or identifying language with required terminology. In doing so, the Board recognizes that such additional language may be necessary in order for the required terminology to be used effectively. Pluralization of required terminology is also expressly permitted so as to ease its use in certain contexts.

Section 226.5(a)(3)(ii) of the proposal corresponds to § 226.6(a) of the present

regulation. The proposal provides that the terms "finance charge" and "annual percentage rate" are to be more conspicuous than other required terminology *only* when they are disclosed together with a corresponding amount or percentage rate. Examples of ways to make those terms more conspicuous, as discussed in several staff interpretations, are included in the proposed regulation.

Section 226.5(a)(4) of the proposal regarding the timing and form of the initial disclosures corresponds in part to the introductory language of § 226.7(a) of the present regulation and retains the provision that the initial disclosures be provided to the consumer before the first transaction is made under the plan. The proposed regulation incorporates the present staff position that the initial disclosures can be made on one or more pages of an integrated document. Where the initial disclosure statement is multi-page, it is suggested that the pages be numbered in sequential order and stapled together or otherwise affixed.

As provided in the present § 226.6(c), additional information can appear on or with the initial disclosures as long as the additional material does not contradict or detract attention from the required disclosures. (Note the discussion in Subpart E regarding the manner in which inconsistent state law is treated under the proposal.)

Proposed 226.5(a)(5) deals with the timing and format requirements for periodic statements. Paragraph (a)(5)(i) provides, as is presently the case under the existing regulation, that a periodic statement can be multi-page. Note the absence of any provision parallel to the present § 226.7(c) regarding the location of the periodic statement disclosures. In that the regulation already provides that disclosures be made "clearly and conspicuously," the Board believes that a provision parallel to the existing § 226.7(c) is unnecessary. The Board solicits comment on the consumer protection implications that may result from the absence of a provision parallel to § 226.7(c).

Section 226.5(a)(5)(ii) parallels the introductory language of the present § 226.7(b) and basically requires, like the present regulation, that a periodic statement be provided at the end of any cycle in which a debit or credit balance in excess of $1 exists in the account or on which a finance charge has been imposed. Language has been added to indicate that cycles can be no longer than quarterly and that periodic statements cannot, therefore, be provided any less frequently than quarterly. The proposal retains language waiving the periodic statement requirement where the creditor deems the account uncollectible. Language has been added in the proposal incorporating staff position that a creditor's following its standard procedures for uncollectible accounts shall be evidence that the creditor considers the account uncollectible.

Section 226.5(a)(5)(iii) corresponds to the present § 226.7(b)(1)(ix) regarding the timing of periodic statements when free-ride periods are involved. No substantive change is intended.

Section 226.5(a)(6) of the proposal deals with the basis of disclosures and the use of estimates. Paragraph (a)(6)(i) incorporates present staff position that disclosures (both the initial and periodic statement disclosures) be based on the assumption that the consumer will comply with the terms of the agreement. Language is included in the proposal, incorporating staff interpretations, that the disclosures should reflect the terms agreed upon even if they differ from the written obligation.

Paragraph (a)(6)(ii) of the proposal corresponds to § 226.6(f) of the present regulation and sets forth the rules regarding estimated disclosures where the information necessary to make accurate disclosures is unknown to the creditor at the time disclosures are made. This provision is more liberal than present § 226.6(f), which provides that estimates may be used only where disclosures were given at the latest possible time. The change has been made in order not to discourage creditors from providing disclosures earlier. As before, of course, the creditor is required to use the best available information, and the estimated disclosures must be designated as such.

Section 226.5(a)(7), which corresponds to § 226.6(g) of the present regulation, deals with the effect that subsequent events have on disclosures. Paragraph (a)(7)(i) of the proposal retains the existing regulatory provision that where a disclosure is rendered inaccurate as a result of an event that occurs after delivery of either the initial or periodic statement disclosures, the resulting inaccuracy would not constitute a violation of the regulation.

Paragraph (a)(7)(ii) provides that new disclosures may be required where disclosures already provided are later rendered inaccurate. Reference is made to § 226.5(i) dealing with changes in terms for guidance on when new disclosures should be provided. It is not anticipated that any new disclosures would be required where the inaccuracy results from the consumer's failure to perform his or her obligations.

Paragraph (a)(7)(iii) incorporates staff position that creditors can use inserts with outdated disclosure forms when a term change occurs until the form supply is exhausted. Needles to say, it is contemplated that the insert will clearly reference the disclosure provision(s) it replaces.

Attention is drawn to the fact that the proposal, unlike the present § 226.6(a), does not mandate that numerical amounts and percentages be represented in figures or that disclosures be made in any particular type size.

(b) *Initial disclosures.* The timing and format requirements for new account disclosures (the initial disclosures) on open-end credit accounts, located in § 226.7(a) of the present regulation, are set forth in § 226.5(a)(4) of the proposal (see discussion above). Section 226.5(b) of the proposal requires that the initial disclosures be made in terminology consistent with that required to be used on periodic statements. Thus the terms "previous balance," "payment," "credit," "periodic rate," "annual percentage rate," "finance charge," and "new balance" should be used where appropriate.

For clarity's sake, § 226.5(b)(1) of the proposal combines the disclosures relating to the imposition of finance charges into a single paragraph. To the extent that a creditor's open-end plan permits various types of credit transactions for which the finance charge may be computed differently, the disclosures required by this paragraph must clearly distinguish between types of transactions.

Section 226.5(b)(1)(i) corresponds to § 226.7(a)(1) of the present regulation and requires generally that the conditions under which a finance charge may be imposed be disclosed. Language has been added requiring a creditor to disclose specifically the absence of a "free-ride" period if its plan has no such period. This change implements new language in the amended act. Otherwise, no substantive change is intended.

Section 226.5(b)(1)(ii) of the proposal corresponds to § 226.7(a)(4) of the present regulation and requires that any periodic rate that may be imposed be disclosed, together with the range of balances to which it is applicable and its corresponding annual percentage rate. The material contained in footnote 6a of the present regulation dealing with minimum charges can be found in footnotes 17 and 19 of the proposal. Clarifying language has been added to indicate that where different periodic rates are applied to different types of transactions (for example, purchases and cash advances), that fact must be clearly explained. No substantive change in current requirements is intended.

Section 226.5(b)(1)(iii) of the proposal incorporates § 226.7(a)(2) of the current regulation dealing with the disclosure of the method of determining the balance upon which the finance charge may be computed. It makes clear that the method of computing the balance must be explained, and not merely identified by a shorthand phrase such as "previous balance method." Additional language, incorporating Board Interpretation § 226.706, has been added to the proposal indicating that the manner in which a creditor chooses to allocate payments and credits (for example, first to finance charges, second to purchases, and third to cash advances) need not be disclosed.

The Board requests comment on the model clauses in Appendix A which describe various methods used to compute balances. Comment is solicited about the extent to which they adequately (1) reflect methods being used by creditors, and (2) ensure that the disclosure of balance computation methods is meaningful to consumers.

Section 226.5(b)(1)(iv) of the proposal corresponds to § 226.7(a)(3) of the present regulation requiring an explanation of how the amount of any finance charges will be determined. No substantive change is intended; footnote 20 has been added, however, to provide examples of types of finance charges other than periodic rates.

Section 226.5(b)(2) of the proposal corresponds to § 226.7(a)(6) of the present regulation. Clarifying language has been added, in conformance with the amended act, to require disclosure of either the amount or the method of computing the amount of any charge other than a finance charge that may be imposed. Footnote 21 has been added to provide guidance regarding what constitutes an "other charge." Attention is drawn to the fact that charges for voluntary credit life insurance are specifically excluded. This represents a change in the staff's position. Insurance premiums must, of course, be identified as transactions on periodic statements in accordance with § 226.5(d) of the proposal.

Also specifically excluded from the concept of "other charges" are costs for which the consumer may be liable after credit privileges have been terminated as a result of the consumer's default. Currently, default charges such as attorney's fees and collection costs that are *automatically* imposed by the creditor are considered "other charges." Comment is solicited about the propriety of the changes in what is considered an "other charge," about the usefulness of the general definition contained in footnote 21, and about whether there are types of charges that should be included or excluded from the examples listed in footnote 21.

Section 226.5(b)(3) of the proposal corresponds to § 226.7(a)(7) of the present regulation. The proposed disclosure of a security interest differs substantially from current requirements and is patterned after language in the amended act. The proposal eliminates the need to disclose the conditions under which a security interest will be taken and to identify the type of security interest. In their place the proposal requires disclosure *about the property* that will be pledged as security. If an interest is or will be taken in all goods purchased on the account, that fact must be disclosed. If a security interest is taken in other property owned by the consumer, that fact and an identification of the property by item or type must be disclosed. The Board solicits comment on whether model clauses would be helpful for the security interest disclosure, and if so, requests that suggested language be submitted.

Section 226.5(b)(4) of the proposal corresponds to § 226.7(a)(8) of the current regulation. The proposal incorporates a staff position that permits creditors to disclose the *method* of computing the amount of any minimum payment required rather than the specific dollar amount. The words "minimum periodic payment" refer to the amount required to be paid at specified intervals in order that the account not be considered delinquent. In accordance § 226.5(a)(6) of the proposal dealing with the basis of disclosures, this determination is based on the assumption that the consumer will pay the obligation as scheduled. In other words, the disclosure of the minimum periodic payment need not contain language indicating, for example, that it is 10 percent of the new balance plus any amount delinquent or overdue from the previous month. Moreover, no requirement is to be inferred that the timing of minimum payments must coincide with receipt of periodic statements sent by the creditor. Thus, it is permissible, for example, to require minimum payments on a monthly basis and still maintain a quarterly billing cycle. Moreover, in accordance with present staff position, where a consumer opts for a voluntary payroll deduction arrangement that differs from the minimum periodic payment, the creditor can continue to disclose for purposes of § 226.5(b)(4) the minimum amount *required* rather than the voluntary payment schedule.

The proposal does not include a provision comparable to § 226.7(a)(5) of the current regulation regarding disclosure of the Comparative Index of Credit Cost. It has been eliminated in accordance with its deletion from the amended act.

Section 226.5(b)(5) of the proposal corresponds to § 226.7(a)(9) of the current regulation. The requirements for placement of the consumer rights notice have been eliminated in view of the fact that the proposal refrains from mandating specific locations for disclosures in an effort to encourage creativity in developing forms that are clear and understandable. Moreover, the Board regards the placement requirements and the corresponding "notice" language as unnecessary in light of the general requirement in § 226.5(a)(3) that disclosures be made clearly and conspicuously. The text of the notice itself is found in Appendix A and is offered merely as a model, not as required text (see discussion below). It has been rewritten in simpler language, and its length has been reduced by one-third. Paragraph 7 of the current notice, regarding a consumer's right to assert claims and defenses arising from credit card transactions, has been separately subtitled in the proposal to better distinguish it from the billing error provisions. As a whole, the proposed notice is intended to convey the same information to consumers as the current notice, but in a more brief and clear form.

Attention is drawn to the proposal's requirement that creditors provide consumers with a notice "substantially similar" to that in Appendix A. Currently, the regulation prescribes the exact text of the notice, and variation from that text is allowed only when portions are inapplicable and likely to be misleading. As stated above, under the proposal, the notice is offered merely as an example. As indicated by footnote 22 of the proposal, the Board intends to permit creditors to tailor the notice to apply more uniquely to their individual credit programs and to provide latitude for creditors that wish to personalize their forms or alter them further in light of plain English state laws. Comment is requested on whether and how the proposed notice can be improved to be simpler and more straightforward and to better meet the "plain English" standards mandated by some state statutes. The Board also requests comment on whether the expansion of the "substantially similar" standard will provide creditors sufficient flexibility while insuring meaningful disclosure to consumers.

Finally, the Board requests comment on the necessity of a creditor

identification requirement on the initial disclosures. If more than one creditor exists, only one would have to be identified. Comment is solicited about the advisability, advantages, and disadvantages of requiring identification of the creditor of an open-end plan.

(c) *Periodic statements.* Section 226.5(c) requires that consumers be provided with periodic statements and sets out the items of information that must be disclosed on them. It corresponds to § 226.7(b)(1) of the existing regulation. The time, form, and applicability requirements previously contained in the introductory language of § 226.7(b)(1) now appear in § 226.5(a)(5).

Section 226.5(c)(1) which corresponds to § 226.7(b)(1)(i) of the existing regulation requires disclosure of the outstanding account balance at the beginning of the billing cycle, using the term "previous balance." No substantive change has been made in the proposal. Language incorporating present staff interpretation has been added, however, to indicate that, where more than one type of transaction can be made on the account (for example, purchases and cash advances), the creditor may, but is not required to, disclose a separate previous balance for each type of transaction.

Section 226.5(c)(2) of the proposal corresponds to § 226.7(b)(1)(ii) of the present regulation and requires that each credit extension be identified in accordance with the specific identification requirements of § 226.5(d) of the proposal (§ 226.7(k) of the existing regulation). While the language of this paragraph has been changed for purposes of clarity, no substantive changes have been made.

Section 226.5(c)(3) corresponds to the present § 226.7(b)(1)(iii) and requires that creditors disclose the amounts and dates of crediting any payment or other credit. Unlike the present regulation, the proposal does not require the specific identification of the type of credit. In accord with existing regulation, the proposal does not require the date of crediting if the time of crediting does not result in a finance or other charge.

As in the present § 226.7(b)(1)(v), § 226.5(c)(4) requires disclosure of any periodic rate used to compute finance charges and its corresponding annual percentage rate. Clarifying language has been added to indicate, as in the initial disclosures, that where different periodic rates are applied to different types of transactions, that fact must be clearly stated. The last sentence of the present § 226.7(b)(1)(v) has been deleted from the proposed § 226.5(c)(4) and included in footnote 24 to the proposed § 226.5(c)(5) (Other types of finance charges). The present footnote 9a (referencing the last sentence of existing § 226.7(b)(1)(v) has been more appropriately placed in proposed paragraph (c)(4) and is numbered footnote 23 in the proposal.

As in the existing regulation, proposed paragraph (c)(4) contains alternative terminology for identifying the corresponding annual percentage rate. The Board questions, however, whether all of the alternatives are necessary and requests comment as to which terminology should be retained.

Section 226.5(c)(5), requires disclosure of the amount or method of computing the amount of any other type of finance charge that may be imposed. It incorporates the Board's position that, where minimum charges may be imposed on an account (see present § 226.7(b)(1)(v)), the amount of that charge must be disclosed. Likewise, where other types of finance charges, such as transaction or activity charges may also be imposed, those charges should also be disclosed. Footnote 24 to the proposed paragraph (c)(5) gives examples of the types of finance charges that would be disclosed pursuant to this paragraph. Included in the footnote are checking account charges presently mentioned as finance charges in footnote 9 to the present § 226.7(b)(1)(iv).

For a billing cycle in which a finance charge is imposed, § 226.5(c)(6), which corresponds to § 226.7(b)(1)(viii) of the present regulation, requires a creditor to disclose the dollar amount of the balance on which the finance charge was computed. If an account reflects more than one type of transaction subject to different periodic rates (for example, 1½% per month on purchases and 1% per month on cash advances), a separate balance must be disclosed for each type. Where the same periodic rate is applied to both purchases and cash advances, there is no need to disclose separately the balance for purchases and the balance for cash advances. Separate disclosure of the balances would not be prohibited, however. If more than one balance is used in computing the finance charge on a particular type of transaction (for example, a periodic rate is applied to the average daily balance of cash advances while a transaction charge is applied to the total amount of cash advances), each balance used in computing each finance charge component must be shown since the balance amounts would be different.

As the present § 226.7(b)(1)(viii) requires, the creditor must also explain how each balance was determined. As mentioned above, the Board solicits comment on model clauses provided in Appendix A in this regard.

Footnote 25 to the proposed paragraph 226.5(c)(6) incorporates Board Interpretation § 226.706 which makes clear that the creditor need not disclose how payments or other credits will be allocated. However, if a creditor does not deduct payments and credits in determining the balance on which the finance charge is imposed, the creditor is expressly required to disclose that fact and the amounts of such payments and credits. This does not mean that the dollar amount of such payments and credits must be specifically included in the explanation of the balance method. Listing the payments and credits under proposed paragraph (c)(3) together with an explanation of which payments and credits will not be deducted in determining the balance method would suffice.

Proposed paragraph (c)(7), which corresponds to § 226.7(b)(1)(iv) of the present regulation, requires that the creditor disclose the amount of the finance charge debited or added to the account during the billing cycle. It continues the existing statutory and regulatory requirement for disclosing the periodic rate component separately from the amount of any other type of finance charge. The proposal incorporates Board Interpretation § 226.701 which provides that, where there is more than one periodic rate, the rates need not be separately itemized and identified. Clarifying language indicates that other types of finance charges must continue to be individually itemized and identified.

Some creditors do not debit or add on finance charges during a cycle, but rather take accrued finance charges out of each payment. A footnote to paragraph (c)(7) incorporates a staff interpretation and makes clear that such creditors need not disclose any finance charges that may have accrued between the date of the last payment and the closing date of the cycle.

The examples of finance charges listed in the existing § 226.7(b)(1)(iv) are, as mentioned above, reflected in footnote 24 to proposed § 226.5(c)(5).

Proposed § 226.5(c)(8) corresponds to § 226.7(b)(1)(vi) of the existing regulation and requires that the annual percentage rate be disclosed (in accordance with proposed § 226.8) whenever a finance charge is imposed during the billing cycle. Language has been added to address those instances where an annual percentage rate cannot be determined (for example, where a mimimum charge is imposed and the balance on which the finance charge is

to be imposed is zero). In such instances, it is contemplated that the creditor shall disclose the fact that a minimum finance charge is being imposed but that no meaningful annual percentage rate can be determined. The Board is aware that a similar problem exists where a minimum charge is applied to a very small balance. The Board solicits comment on alternative approaches that may be used in both instances.

Present staff interpretation requires that charges other than finance charges that are imposed be reflected as transactions on the periodic statement. Proposed § 226.5(c)(9) implements this staff position and requires that the amounts of any charges other than finance charges that are debited to the account during the billing cycle be itemized and identified. This paragraph does not require that the date of imposing or debiting the amount be disclosed. Moreover, the creditor need not disclose the amount or method of computing the amount of any such charge that *may* be imposed; this paragraph requires disclosure of only those charges that were in fact imposed.

To facilitate its use, § 226.7(b)(1)(ix) has been divided into two separate sections in the proposed regulation—§§ 226.5(c)(10) and (11). Section 226.5(c)(10) requires disclosure of the closing date of the billing cycle and of the new balance. Language has been added to permit the creditor to disclose a new balance for each type of transaction (for example, purchases and cash advances) if the creditor so desires. Section 226.5(c)(11) deals with the disclosure of any free period permitted. No substantive change in these provisions is intended.

Proposed § 226.5(c)(12) parallels § 226.7(b)(1)(x) of the existing regulation which requires that an address be provided on the periodic statement for use in submitting billing error inquiries. Language has been added indicating that this address may be provided by inclusion in the alternative billing rights statement permitted by § 226.5(e)(2).

Note that present § 226.7(b)(1)(viii) dealing with the Comparative Index of Credit Cost has no parallel provision in the proposal. As mentioned earlier, it has been deleted in the amended act.

(d) *Identification of transactions.* This section of the proposal corresponds to § 226.7(k) of the current regulation which deals with the identification of transactions. Very few substantive changes are reflected in the proposal, although it has been significantly reorganized to facilitate its use. Note that footnote 27 has been added to the proposal to draw attention to language in the amended act regarding the liability implications for failure to comply with the identification provisions.

The rules for identifying transactions on periodic statements vary depending upon three factors: (1) whether the transaction involves a purchase or a cash advance; (2) whether a copy of the document evidencing the transaction accompanies the statement; and (3) whether the creditor and seller are the same or related persons. The proposal separately groups the rules for each situation.

Section 226.5(d)(1) of the proposal specifies identification requirements for purchase transactions. Paragraph (d)(1)(i) applies when "country club" billing is used; paragraph (d)(1)(ii) applies when descriptive billing is used and the creditor and seller are the same or related persons; and paragraph (d)(1)(iii) applies when descriptive billing is used and the creditor and seller are unrelated. These three subsections correspond, respectively, to §§ 226.7(k)(1), (k)(2)(i), and (k)(2)(ii).

Footnote 28 of the proposal states the rule currently contained in § 226.7(k)(6)(i) concerning the creditor's reliance on information supplied by a seller. Footnote 29 of the proposal correponds to footnote 9b in the current regulation dealing with related persons, and has been expanded in two respects. First, in deciding whether the creditor and seller are "related" persons, the fact that there exists a corporate connection between the two will not make them "related" if that connection is not obvious from the names they use in doing business. Second, a creditor may consider itself "related" to a seller for purposes of transaction identification if the sales transaction being described resulted from promotional material mailed to the consumer by the creditor (commonly, advertisements accompanying a periodic statement). These two rules represent staff interpretations of the current "related" standard, and comment is solicited as to the reasonableness of the interpretations in light of the purpose of the section, *viz.* to enable consumers to identify transactions reflected on their periodic statements.

Footnote 30 of the proposal corresponds to footnote 9d in the present regulation. The current language permitting identification to be made on a slip accompanying the periodic statement has been deleted as unnecessary since the periodic statement may comprise more than one page. Footnote 31 establishes an exception to the property identification requirements for certain creditors that are also sellers and that use descriptive billing on their periodic statements. Small (i.e., having less than 15,000 accounts) creditors that provide their customers with copies of charge slips at the point of sale may disclose their name and the location of the transaction in lieu of identifying the property purchased. If this alternative is used, however, the creditor must treat its description as being in error if a consumer submits a billing error notice concerning the transaction (see discussion in next paragraph). This alternative has been added to implement language in the amended act.

Attention is drawn to the change of language in § 226.5(d)(1)(ii)(B) of the proposal relating to the treatment of a "notice of a billing error" (as described in § 226.7(b) of the proposal and which corresponds to the existing regulation's "proper written notification of a billing error") in which a consumer questions a transaction identified by a number or symbol, rather than by a description of the property purchased. The current regulation, in § 226.7(k)(2)(ii), requires that such an inquiry be treated as an "erroneous billing" (i.e., no charges may be imposed as a consequence of a transaction's being in dispute, whether or not there is, in fact, a mistake on the consumer's statement). While the proposal does not use the phrase "erroneous billing," its requirement that the account be corrected "in accordance with § 226.7(e)(1)" is intended to mandate the same treatment. It should be noted that *any* consumer allegation of error regarding the transactions must be accorded special treatment. The allegation need not relate to the alternative identifying information that the creditor has used on its periodic statements.

Footnote 32 in the proposal incorporates the rule contained in § 226.7(k)(6)(i) of the current regulation, and expresses a staff position that for mail order transactions the date of debiting may be considered the transaction date for disclosure purposes. Footnote 33 contains the rule currently found in § 226.7(k)(6)(iii) regarding disclosure of the seller's name. Footnote 34 of the proposal corresponds to § 226.7(k)(6)(ii) of the current regulation with regard to providing information where no meaningful address is available. It contains the same requrirements except that the proviso about disclosures made or omitted for purposes of circumventing or evading the regulation has been deleted as unnecessary in light of the language in § 226.1(e) of the proposal.

Section 226.5(d)(2) of the proposal relates to nonsale credit, and paragraphs (d)(2)(i) and (ii) restate the rules found in §§ 226.7(k)(3)(i) and (ii) respectively. With respect to the amount of a transaction required to be disclosed by proposed paragraph (d)(2)(ii)(B), in the case of an amount debited to an account under an overdraft checking plan, the amount to be disclosed is the amount of the credit extension, not necessarily the face amount of the check. Paragraph (d)(2)(ii)(C) replaces the "erroneous billing" language with a reference to § 226.7(e)(1) of the proposal (see discussion above). Footnote 35 of the proposal corresponds to footnote 9e of the current regulation regarding the debiting date being considered the transaction date for identification purposes for overdraft checking plans.

Section 226.5(d)(3) of the proposal, which relates to transactions billed in precomputed installments, changes both the requirement of footnote 9c of the current regulation and the current staff position. The new section would require that on the first periodic statement where a precomputed portion of a transaction is billed, the transaction date and total transaction amount (together with other identifying disclosures) must be disclosed. Thus, if a $100 purchase is billed as $20 on five statements, the first statement must give full identification of the transaction. There would be no specific requirement for identification of the $20 debits on the four subsequent statements. Footnote 36 gives an example of the section's applicability. Comment is solicited on whether this new section facilitates compliance, better informs the consumer, and is operationally feasible, and whether sufficient information will be provided to consumers to avoid confusion about transactions not billed in full.

Section 226.5(d)(4) of the proposal reflects the rules contained in § 226.7(k)(4) of the current regulation regarding information unavailable to the creditor despite the maintenance of procedures reasonably adopted to procure the required information. Again, the reference to "erroneous billing" has been replaced with a requirement to correct the account in accordance with § 226.7(e)(1) of the proposal (see discussion above).

Section 226.5(d)(5) of the proposal, regarding foreign transactions, corresponds to § 226.7(k)(5) of the current regulation with no change intended. Section 226.7(k)(7) of the current regulation, a transition provision, has been eliminated because it contains rules that are now outdated.

(e) *Routine furnishing of billing rights statement.* Section 226.5(e) of the proposal corresponds to § 226 .7(d) of the current regulation. To implement the amended act, paragraph (e)(1) of the proposal contains the new requirement that the long form billing rights statement required by § 226.5(c)(5) be sent at least once per calendar year, at intervals of not less than six months and no more than 18 months. Currently, the regulation requires semi-annual statements. In addition, the proposal's use of the phrase "at least once" is intended to mean that a creditor may choose to send the notice as frequently as desired. Thus § 226.7(d)(4) of the current regulation has been deleted. Section 226.5(d)(3) of the current regulation regarding altering the cycle for providing semiannual statements has been eliminated in light of the amended act's provisions.

As in the current regulation, the proposal mandates delivery of the statement only to consumers who are entitled to receive periodic statements for the billing cycle selected by the creditor. Because § 226.7(d)(2)(ii) simply restates this rule as applied to new customers, it has been deleted as redundant. In light of the fact that the billing error rights statement need only be provided annually, comment is solicited on whether delivery of the billing rights statement should be required to be furnished to all consumers (as is the case in the electronic fund transfers regulation) or only to those entitled to receive periodic statements for the particular cycle selected by the creditor (as is presently the case under the current Regulation Z).

Section 226.5(e)(2) of the proposal corresponds to § 226.7(d)(5) of the current regulation, and gives creditors the alternative of providing consumers with a summary explanation of their rights on or with each periodic statement. In order to offer a creditor greater flexibility where there is limited space on its periodic statement, language has been added permitting the summary statement to appear on the portion of a periodic statement that must be returned to the creditor (with payment, for example).

A sample text of the summary statement is found in the Appendix. It has been revised to be simpler, briefer, and more straightforward. The "substantially similar" standard that governs the long form notice required to be given with the initial account disclosures is also applicable to the summary notice, as referenced by footnote 37 of the proposal (see discussion lf § 226.5(b)(5) above). Comment is solicited as to ways in which the summary statement might be improved.

The rules currently in Board Interpretation § 226.708 regarding the transition from a creditor's use of one form of billing rights statement to another are no longer accurate in light of the changes made in the amended act. Comment is solicited about problems that creditors might encounter in changing from the long to the short billing rights statement under the new provisions regarding annual notice.

(f) *Supplemental credit devices.* Section 226.5(f) of the proposal corresponds to § 226.7(j) of the current regulation. Other than the fact that proposed footnote 38 contains material now found in the body of the regulation this section reflects two substantive changes.

First, the proposal would impose a requirement of sending specified disclosures for only those supplemental credit devices that are provided on an *unsolicited* basis or whose finance charge terms are different than those previously disclosed. This presumes that a consumer who has requested a supplemental credit device is aware that use of the device is related to an open-end account, and will result in an extension of credit. Second, the proposal would also eliminate the current restriction that the required disclosures cannot appear on promotional material delivered with the credit device, but would require highlighting the disclosures when they are included in such material.

(g) *Prompt crediting of payments.* Present § 226.7(g) requires that a consumer's account be credited as of the date a payment is received regardless of the date the payment is posted, and, in paragraph (g)(2), permits the creditor to specify reasonable requirements with respect to the form, amount, manner, location and time for receipt of payments. If the creditor specifies requirements for receipt of payments under (g)(2) and the consumer does not comply with those instructions, the creditor is relieved of the duty to credit the payment as of the date of receipt; however, the regulation in its present form does not specify the time period within which the payment must be credited. The Board proposes that a sentence be added to § 226.5(g)(2) to require that, when a creditor has established reasonable requirements under that paragraph and a payment is received which does not conform to the creditor's specifications the payment must be credited as soon as possible, but in no event later than five business days from receipt.

The language of (g)(2)(ii) relating to presentment of payments has been eliminated to make the paragraph consistent with other provisions of (g) which provide for crediting as of the date of receipt or within a certain time thereafter.

The word "properly" has been deleted from the first part of paragraph (g) because the relationship between the creditor's duty to credit the payment as of the date of receipt and the provisos of paragraphs (1)–(4) is clear without it.

Currently, § 226.7(g)(3) and (4) require that under certain circumstances a payment need not be credited as of the date of receipt but must be credited "promptly" and, under (g)(3), no later than five days from the date of receipt. The proposal incorporates a staff interpretation in changing the word "promptly" to "as soon as possible." The Board believes that the proposed language is a clearer statement of the present requirement that the creditor must credit the consumer's account as soon as it is capable of doing so and, under (g)(3), no later than five days from the date of receipt of the payment.

The remainder of (g)(1), (3), and (4) is essentially unchanged from the present regulation.

Existing paragraph (g)(5) is a transitional paragraph and has been deleted from the proposal.

Proposed footnote 39 addresses the question of when a payment must be credited to a consumer's account if regular payroll deductions have been deposited into a share, escrow or similar account and are later applied by agreement, in whole or in part, as a periodic payment to the consumer's account. In the staff's opinion, if the payroll deductions are authorized by the consumer, and are not required as a condition of the extension of credit, and the consumer retains the right to withdraw any or all of the funds up until the time the periodic payment is withdrawn by the creditor, the payment may be credited as of the date it is withdrawn from the share, escrow or similar account and not the date that the regular payroll deduction was made. Footnote 39 incorporates the staff's position in this regard. It has been drafted in broader terms to cover other than payroll deductions (for example, deductions from demand deposit or other accounts).

(h) *Treatment of credit balances.* Section 226.5(h) establishes requirements for the treatment of credit balances and incorporates substantive changes to the existing regulation corresponding to § 165 of the amended act.

The amended section of the act now provides that a credit balance in excess of $1 created by (1) transmittal of funds in excess of the total balance due on the account, (2) rebates of unearned finance charges or insurance premiums, or (3) amounts otherwise owed to or held for the benefit of an obligor must either be credited to the consumer's account or refunded upon the consumer's request.

Proposed § 226.5(h) states that whenever the creditor receives a payment or other credit which exceeds the new balance (as determined by § 226.5(c)(10)) by $1 or more, the creditor must either credit the account with an amount equal to the new balance and refund the excess amount, or credit the entire amount of the payment or credit to the account. If the consumer later requests a refund of a credit balance of $1 or more the creditor must refund it.

The Board is aware that creditors may wish to refund credit balances on consumer's accounts in order to be relieved of the duty to provide periodic statements under § 226.5(c). The Board believes that it is clear without specific regulatory language that a creditor may refund the full amount of any credit balance, at any time, after having complied with the requirements of § 226.5(h).

Section 226.5(h)(2) incorporates in the regulation the requirement imposed by § 165 of the amended act that the creditor make a good faith effort to refund credit balances that remain in an account for more than six months.

(i) *Change in terms.* Section 226.5(i) outlines the requirements for notifying consumers in the event a creditor makes a change in the terms of a consumer's account. The proposed draft reflects a restructuring of the existing regulation and incorporates a number of substantive changes.

The existing regulation requires that notice of a change in a term previously disclosed be sent to consumers who are entitled to receive a periodic statement 15 days prior to the billing cycle in which the change takes place and to any consumer who subsequently activates his or her account. If the change in terms is an increase in periodic rate(s), or in any minimum, fixed, check service, transaction, activity or similar charge, notice must be sent to all consumers whether or not they are entitled to receive a periodic statement.

Proposed § 226.5(i)(1) reflects a change in the timing of delivery of the notice of change in terms from the present requirement of 15 days prior to the billing cycle in which the change will be effective to 15 days prior to the effective date of the change. This standard is consistent with the requirement of the Electronic Fund Transfer Act and Regulation E. Comment is solicited as to whether the 15 day time period should be changed to 21 days to coincide with Regulation E. The Board is concerned that the inconsistency between the two regulations in the number of days required for notice may unnecessarily complicate compliance.

Present staff interpretation is that a § 226.7(f) change in terms notice must be provided whenever a change occurs in one of the initial disclosures. Similarly, the proposal provides that whenever a term required to be disclosed under proposed § 226.5(b) is changed, a written disclosure of the change must be furnished to the consumer. Section 226.5(i)(1) further provides, unlike current regulatory interpretation, that no disclosure is required when the change involves late payment charges, charges for documentary evidence or over-the-limit charges. It also provides that no change in terms disclosure is necessary where there is a change in collateral requirements (subject, of course, to the rescission provisions of proposed § 226.9, if applicable).

Section 226.5(i)(1) incorporates a staff position that provides that only those consumers whose accounts will be affected by the change in terms need be notified. For example, if a creditor offers an overdraft credit plan to a small number of consumers and proposes a change in the terms of the overdraft plan, notice of the change in terms need be sent only to those who participate in the overdraft plan.

The existing § 226.7(f) does not require notice of a change in terms if the change is a reduction in the minimum periodic payment, periodic rate or rates, or in any minimum, fixed, check service, transaction, activity, or similar charge applicable to the account. Proposed § 226.5(i)(2) retains this exception. Paragraph (i)(2) also incorporates staff position in that it excludes from the notice requirement the suspension or termination of credit privileges. To the extent that it is applicable, Regulation B affords protection through its requirement that a creditor notify a consumer of adverse action taken on an account.

In light of the above discussed changes, proposed § 226.5(i) eliminates the distinction between the type of change in terms that requires notice to each consumer and the type of a change in terms that requires notice to only those consumers entitled to receive periodic statements.

Note that it is the Board's intention to rescind Board Interpretation § 705 which provides, in certain circumstances, that

a change in terms notice is not required when changing the balance computation method. Although a change in a balance computation method *may* result in a decrease in finance charges, depending on a consumer's use of and payment on the account, the Board believes that reliance on consumer behavior in determining whether the change in terms provision applies is impractical. Consequently, the Board contemplates that, under the § 226.5(i), a change in balance computation method would require a change in terms notice.

Paragraph (i)(3) is new and incorporates several staff interpretations addressing the conversion of closed-end to open-end credit and open-end to closed-end credit. In such instances, if a written agreement signed by the consumer is involved, the creditor shall provide the applicable disclosures under either proposed § 226.5(b) or § 226.11(f)(2), (3) and (4). Where open-end credit is terminated but not converted to closed-end credit, the creditor is required to continue providing periodic statements and to follow the error resolution procedures of proposed § 226.7. Creditors must determine whether the action they take as to an existing account or loan constitutes conversion. Conversion may occur, for example, when an open-end account is terminated and a new agreement is signed providing for a certain number of installments and a definite maturity date.

Paragraph (i)(4) is new and states that a change in terms notice is not required if the change results directly or indirectly from the consumer's default or delinquency unless the periodic rate or other finance charge is increased. If the creditor increases the periodic rate or any other finance charge, the creditor must notify the consumer of that fact in writing but is not required to do so within the time limitations of paragraph (i)(1).

Paragraph (i)(5) is also new. It reflects staff opinion that any agreement approved by a court does not require disclosure.

Staff opinion has always been that a new initial disclosure statement can be provided in lieu of a change in terms notice, as long as it is properly timed. Comment is solicited on whether such an interpretation should be reflected in the regulation. Comment is also solicited on whether the changed terms should be highlighted or referenced when an initial disclosure statement is used.

(j) *Finance charge imposed at the time of transaction.* Proposed 226.5(j)(1) requires that certain disclosures be given by persons honoring a consumer's credit card who impose a finance charge which is not excepted by § 226.4(i) (Discounts for payment in cash) at the time of honoring a consumer's credit card. With the exception of the addition of some clarifying language, the paragraph is unchanged from the regulation.

Section 226.5(j)(2) has been changed to incorporate staff position that the creditor of the open-end account, if other than the person honoring the consumer's credit card, has no responsibilities for the disclosures required under paragraph (j)(1). The paragraph is otherwise unchanged.

Section 226.6—Credit Card Provisions

(a) *Issuance of credit cards.* Section 226.6(a), which parallels § 226.13(a) of the present regulation, sets forth restrictions on the distribution of credit cards. A number of changes are reflected in the proposal.

First, the introductory language in § 226.6(a) has been revised for purposes of brevity and clarity, but no substantive change is intended.

Second, § 226.13(a)(1) of the present regulation, now § 226.6(a)(1) of the proposal, has been revised and a footnote has been added to it. The words "by that person" have been added, to indicate that card issuers may send a credit card only to the person who requests or applies for the card. Proposed footnote 40 incorporates into the regulation some principles stated in existing staff interpretations. The Board is aware that there has been considerable discussion concerning the proper interpretation of Truth in Lending rules on issuance of credit cards (for example, in what names may cards be issued). The Board solicits comment on this proposal, as well as on the subject ot issuance generally.

Lastly, § 226.6(a)(2) would be amended by the addition of a footnote and some additional material in the body of the provision. Proposed footnote 41 sets forth the definition of "accepted credit card," which is essentially the same as in present § 226.2, with changes made as appropriate to reflect changes to § 226.6(a). Additional language in § 226.6(a)(2) adopts as part of the regulation various staff interpretations.

(b) *Liability of cardholder for unauthorized use.* Section 226.6(b) contains the rules concerning liability for unauthorized use of credit cards, and replaces §§ 226.13 (b) through (h) of existing Regulation Z. Through deletion of obsolete material, transfer of some model disclosure language to the Appendix, replacement of some material by a reference to a provision of the act, and greater economy in use of words, proposed § 226.6(b) is considerably more concise than the provisions it would replace. Some of the more noteworthy changes are as follows.

Footnote 42 to § 26.6(b) references § 133(b) of the act for rules on burdens of proof and replaces § 226.13(f). Section 226.6(b)(1), which states the maximum limits on the amount of a cardholder's liability for unauthorized use, would take the place of existing § 226.13(b)(2). Footnote 43 sets forth the definition of "unauthorized use" in virtually the same language as appears in § 226.2 of present Regulation Z.

Section 226.6(b)(2) states the conditions that must be fulfilled in order for a card issuer to impose any liability on a cardholder for unauthorized use. It groups together in one place the provisions of existing § 226.13 (b)(1), (b)(3), (c), and in part, (d), as well as a provision implementing an amendment to § 133(a) of the act.

Section 226.6(b)(2)(i) requires, as a condition of imposing liability, that the credit card used without authority be an accepted credit card. This provision continues existing § 226.13(b)(1) without change.

Section 226.6(b)(2)(ii) specifies as a liability condition that the card issuer must have given adequate notice of the cardholder's maximum liability. This condition appears as § 226.13(b)(3) of existing Regulation Z. The proposed provision also provides details on what information the notice must and may contain. These details are set forth in existing § 226.13(d). (Section 226.13(d) also contains a sample notice, which in this proposal appears in Appendix A.) Finally, proposed footnote 44 defines "adequate notice"; in the existing regulation, this definition appears in § 226.2.

Section 226.6(b)(2)(iii) embodies an amendment to § 133(a) of the act. The act formerly mandated that, in order to impose liability for unauthorized use, a card issuer provide cardholders with a self-addressed, prestamped form that cardholders could use to give notice of loss or theft of a credit card. That requirement is reflected in existing § 226.13(b)(4). The amended act now requires instead that the card issuer give cardholders "a description of a means by which the card issuer may be notified of loss or theft of the card," either on the periodic statement or on a separate notice accompanying the statement. Section 226.8(b)(2)(iii) would implement this new statutory provision by requiring disclosure, on or with the periodic statement immediately preceding the unauthorized use, of the telephone number and address of the person or office to receive notification. Comment

is solicited on whether the proposed language correctly reflects the intent of the statutory amendment, as to both the time and content of the disclosure.

Section 226.6(b)(2)(iv) requires, as a condition of imposing liability, that the card issuer provide a means of identifying the cardholder. This corresponds to existing § 226.13(c). There are two changes of substance. First, obsolete transition provisions have been deleted. Second, § 226.13(c) refers to identification of the user of the card, while the proposed version would require identification of "the person to whom the credit card was issued." This change makes the proposed provision parallel to the provisions in Regulation E (the electronic fund transfer regulation) concerning liability for unauthorized use of debit cards. The Regulation E provision permits a single identifier (such as a PIN, or secret numerical code) to be used by all persons who are account holders or users on a particular account. Using more than one identifier per account may not be feasible. Adopting a similar standard in Regulation Z might facilitate the use of combined debit/credit cards.

Section 226.6(b)(3) corresponds to the present § 226.13(e) concerning what constitutes notification to a card issuer of loss, theft, or possible unauthorized use. Other than the deletion of considerable excess verbiage, there are two respects in which the present and proposed versions differ. First, in accordance with an amendment to § 133(a) of the act, proposed § 226.6(b)(3) provides that notice is deemed given when such steps have been taken as may be necessary to furnish the card issuer with the information. The present regulation specifies that the person who must take steps necessary to furnish the information is the cardholder. Second, the steps to be taken, rather than those "reasonably required in the ordinary course of business" to provide the issuer with the pertinent information, would be those "reasonably necessary" to do so. Comment is solicited on the effect of these changes.

Section 226.6(b)(4) would replace existing § 226.13(g), concerning lesser liability limits set by state law or agreement. No change in meaning is intended.

Section 226.6(b)(5) deals with business use of credit cards, and corresponds to existing § 226.13(h). While the proposal is considerably shorter than the present version, no substantive change has been made.

(c) *Right of cardholder to assert claims or defenses against card issuer.* Section 226.6(c) deals with the right of a cardholder to assert against the card issuer claims and defenses relating to property or services purchased with a credit card, if the merchant fails to resolve satisfactorily the cardholder's complaint. The corresponding provision in existing Regulation Z is § 226.13(i). Most of the changes in this section are for the purpose of simplifying or clarifying the regulatory language, rather than for modifying substantive requirements. However, there are some substantive changes, as described below.

First, language has been added to § 226.6(c)(4) (corresponding to existing § 226.13(i)(3)) to indicate that the right to assert claims and defenses does not exist when a check guarantee card is used in connection with a check. The relevance of this addition can be shown by the following example. If a consumer purchases goods with a check, using a check guarantee card to permit the check to be accepted as payment by the merchant, and if the consumer's checking account has an overdraft line of credit that is drawn upon by the check, then the check guarantee card falls within the definition of "credit card." Thus, the goods would be "property . . . purchased with a credit card in a consumer credit transaction," and if any dispute occurs as to the goods and the merchant fails to resolve it, the consumer would appear to have the right to assert any claims or defenses against the card issuer.

There are several problems with this result. First, if the card issuer has no recourse to the merchant in case of a claim relating to property purchased, as may often be the case where check guarantee cards are concerned, the issuer, rather than the merchant, will be forced to bear the loss occasioned by the merchant's wrongdoing. In the case of credit cards in general, by contrast, the card issuer will ordinarily have the right, under an agreement with the merchant or otherwise, to charge back any item as to which there is a dispute traceable to the merchant.

Second, in many cases the consumer will not even know whether a particular check will trigger an extension of credit on the overdraft line, since several checks may be written in a short time span and checks may not clear in the order in which they were written. Some checks may have been written in connection with the check guarantee card, and others not. Thus, the consumer may not intend to use credit in making a particular purchase as to which a dispute later arises, although it may be that the check used in that transaction triggers an extension of credit.

In light of these considerations, it seems desirable to expressly exclude use of check guarantee cards from the requirements of § 226.6(c). This change embodies existing staff interpretations of the regulation.

Note that use of a check guarantee card that is also an ordinary credit card may remain subject to § 226.6(c). For example, where such a card is used to purchase goods or services, not in conjunction with a check but rather as an ordinary credit card, the right to assert claims or defenses would apply.

The Board solicits comment on this proposed exemption and on whether other types of transactions should be exempted from § 226.6(c). One such type of transaction might be the purchase of goods or services with a debit card that, in accessing the consumer's account, draws on an overdraft line of credit. Comments on this subject should also address whether the exemption should be afforded only to debit card transactions that are purely electronic, only to those that are paper-based, or to both.

Comment is also requested on whether the proposed language exempts purchases made with cash advance checks (i.e., special checks that, when used, result in extensions of credit on the consumer's open-end credit account). If such checks are used in conjunction with a card, § 226.6(c) would apply, unless the card is a "check guarantee card," in which case the proposed language would exempt transactions of this type. Whether or not the proposed exemption does cover such transactions, the Board also requests comment on whether they should be exempted.

Secton 226.6(c)(5) deals with the prohibition on adverse credit reports and has been revised so that the prohibition would take effect only when the card issuer knows or has reason to know that the claim or defense exists. If the issuer does not know of the dispute, and if the cardholder ceases payment, the card issuer has no way of knowing that it is prohibited from making an adverse credit report. Also, the material in present footnote 15a would be placed in the body of the regulation.

(d) *Offsets by card issuer prohibited.* Section 226.6(d) corresponds to existing § 226.13(j). The first change is the addition of the words "whether before or after termination of credit card privileges," to incorporate in the regulation the existing staff position that a creditor does not gain the right of offset where it not previously exist merely by terminating a consumer's credit card account.

Next, the phrase "unless a court order is obtained" has been deleted, but no change in substance is intended since existing footnote 16, which has been moved into the body of the regulation as § 226.6(d)(2), appears to give creditors the same rights as the deleted language. Proposed § 226.6(d)(2) contains language regarding obtaining or enforcing security interests in order to reflect the interpretation of the existing regulation viewing consensual security interests as distinct from the right of offset and, therefore, as permissible. Comment is solicited, however, on whether a security agreement in funds held on deposit with the card issuer should be required to be limited in any way in order to be distinct from the right of offset (for example, under existing staff interpretation, the security interest must be limited to a specific amount). An additional change in § 226.6(d)(2) indicates that a card issuer may obtain and enforce a security interest under federal law (if such a procedure is available), as well as under state law.

The language of existing § 226.13(j)(2)(i) is considerably abbreviated as it appears in § 226.6(d)(3), but no change in substance is intended. Present § 226.13(j)(2)(ii) is eliminated since it is obsolete.

Finally, a sentence would be added, as proposed § 226.6(d)(4), stating that card issuers may not obtain from consumers waivers of the prohibition against offsets, and that such waivers would be void if obtained.

(e) *Prompt notification of returns and crediting of refunds.* The changes to § 226.6(e) are primarily stylistic. Proposed § 226.6(e) corresponds to the present § 226.13(k). "As soon as possible" is substituted for "promptly" in two places in order to clarify the promptness standard.

(f) *Prohibited acts of card issuers.* There are two changes of note in § 226.6(f). which corresponds to § 226.13(l) of the present regulation. First, a footnote is added to indicate that the prohibition does not apply to requiring the maintenance of an account for clearing purposes, where this is essential to the operation of the credit card plan and where no minimum balances or service charges are imposed. This position is expressed in existing staff interpretations. Second, existing § 226.13(l)(2) is deleted as obsolete.

(g) *Prohibition of surcharges.* Section § 226.6(g) is transferred from existing § 226.4(i)(4). Since the prohibition of surcharges applies only where credit cards are used, it is more appropriately placed in this section, rather than in the section on determination of finance charges as is presently the case.

(h) Relation to Electronic Fund Transfer Act and Regulations. Section § 226.6(h) is new. It explains the relationship of § 226.6 to various sections of Regulation E, the Board's regulation governing electronic fund transfers, in circumstances involving credit cards that are also "access devices" under Regulation E (i.e., combined credit/debit cards). In cases involving these multi-function devices, it is not always clear whether Regulation E, Regulation Z, or both, apply.

Section § 226.6(h)(1) deals with the application of the two regulations in the area of unsolicited issuance of credit cards and access devices. Paragraph (1)(i) specifies what is governed by the unsolicited issuance restrictions of Regulation Z. Paragraph (1)(i)(B) provides that adding a credit capability to an accepted access device is considered to be, in effect, issuance of a credit card. Thus, Regulation Z applies, and the credit capability may not be added on an unsolicited basis. This is so even if the credit feature is being added when the accepted access device is renewed which, under Regulation E, may generally be done on an unsolicited basis.

Paragraph (1)(i)(C) deals with the issuance of combined credit card/access devices, and specifies that, with an exception set forth elsewhere in the paragraph, the Regulation Z restrictions apply. Since the Regulation Z rules on unsolicited issuance are stricter than those of Regulation E, it seems appropriate that Regulation Z apply to the issuance of devices with both credit and debit functions, in order to avoid undercutting the protections of Regulation Z designed for the credit function.

Paragraph (1)(ii) lists the acts that will be covered by Regulaiton E. Paragraph (1)(ii)(B) relates to the addition of an EFT capability to an accepted credit card. The same principle applies here as under paragraph (1)(i)(B), i.e., the addition of such a capability will be considered to be issuance of an access device, and therefore may not be done on an unsolicited basis unless the Regulation E rules are followed, even though the EFT capability is added during renewal of an accepted credit card.

Paragraph (1)(ii)(C) sets forth the exception to the rule stated in Paragraph (1)(i)(C). This is the one type of combined credit card/access device whose issuance is governed by Regulation E, rather than by Regulation Z. The excepted type is a credit/debit device whose only credit function is to permit extensions of credit on a preexisting overdraft line of credit (or similar line of credit designed to maintain a specified minimum balance in the consumer's checking account or other asset account). As explained below, the Electronic Fund Transfer Act provides for a somewhat similar exception where liability for unauthorized transfers is concerned; it appears desirable for the sake of uniformity to have the same exception apply in the area of unsolicited issuance.

Section 226.6(h)(2) deals with liability for unauthorized use of multifunction devices. The difference between this and the rules of unsolicited issuance discussed above is that the choice of which regulation applies in the case of liability depends upon the specific transaction, rather than upon the type of card or device involved. Essentially, when a transaction made with a combined credit/debit device is purely a credit transaction (i.e., no electronic fund transfer is involved), Regulation Z applies (paragraph (2)(i)); when a transaction is purely an EFT transaction, Regulation E applies (paragraph (2)(ii)(A)). When a transaction made with a combined device has both credit and EFT aspects, in that the transaction involves not only an electronic fund transfer but also an extension of credit under an overdraft or similar agreement, then Regulation E applies (paragraph (2)(ii)(B)). This appears to be the only possible type of transaction involving both credit and electronic fund transfer aspects in a single transaction, although the Board solicits comment on this point.

With respect to both § 226.6(h) (1) and (2), note that virtually identical provisions have already been adopted in final form as part of Regulation E (as §§ 205.5(c) and 205.6(d), respectively). Thus, any changes to the Regulation Z provisions proposed here would require parallel changes to the Regulation E provisions.

Section 226.6(h)(3) provides that the rules set forth in the balance of § 226.6 (other than the issuance and liability rules) apply to credit cards that also constitute access devices to the extent that those rules indicate. There are no provisions in Regulation E corresponding to these portions of § 226.6; therefore, choices between competing rules are not necessary. Paragraph (3) merely makes clear that although the credit card is also an access device, the provisions of § 226.6 (other than the issuance and liability rules) still apply.

Comment is solicited on whether greater specificity is desirable in delineating the applicability of §§ 226.6

(c) through (g) to the use of combined credit/debit devices.

Section 226.7—Billing error resolution.

Proposed § 226.7 deals with error resolution procedures and corresponds to §§ 226.2(j) 226.2(cc) and 226.14 of the present regulation. While few substantive changes are reflected in the proposal, substantial restructuring has been done in an effort to facilitate the use of these regulatory provisions.

(a) Definition of billing error. Section 226.7(a) corresponds to § 226.2(j) of the current regulation, and § 226.7(b) (Notice of a billing error) corresponds to existing § 226.2(cc) (Proper written notification of a billing error). In the proposal, these two definitions have been moved from the definitional section to the section on billing error resolution. The reason for this change is to compile in one section of the regulation all provisions relating to billing error resolution, including the proper steps that a consumer must take to allege billing errors and the steps that a creditor must take to resolve them.

The billing error definition language of proposed § 226.7(a) has been simplified and, where possible, modified to parallel the proposed billing error definition in the Electronic Fund Transfer regulation. One major change from the present regulation is that billing errors would be tied to activity in the account rather than reflections on the periodic statement. The consumer would be able to activate the billing error procedure upon learning about the problem with the account even if that knowledge predated receipt of a periodic statement. For example, if a consumer attempts to use a credit card, and is told that no extension will be approved because no payment has been received for the last two months, the consumer should be able to utilize the error resolution procedures by writing to the creditor and indicating that an error exists in the account because payments have always been made in a timely manner.

In general, the specific billing error definitions contained in §§ 226.7(a) (1) through (6) of the proposal reflect minor changes other than to indicate that billing errors need not appear on periodic statements before a consumer can trigger the error resolution procedures. Proposed § 226.7(a)(7) corresponds to § 226.2(j) (2) and (6) of the current regulation and reflects a substantive change, however. Under the current § 226.2(j)(6), the creditor's *failure* to mail or deliver a periodic statement is an error under the regulation. The Board believes that as a practical matter the event triggering the error resolution procedures should be the consumer's *request* for a copy of the periodic statement rather than the *failure* of the creditor to deliver it. In making this change, the Board seeks to eliminate the kinds of factual disputes that now arise. The Board contemplates that where the only billing error alleged is a consumer's request for a copy of the periodic statement, the creditor may resolve the error by supplying the copy of the statement in a timely manner (see footnote 47 to § 226.7(a)(7) of the proposed regulation in this regard).

Similarly, under § 226.7(a)(7), the Board believes that a consumer's request for documentation or other information concerning an extension of credit should activate the billing error resolution process, even where the consumer does not articulate any particular reason for believing that an error exists in the account. This position implements language in § 161(b)(2) of the act and parallels the electronic fund transfer regulation. The Board contemplates that resolution in these cases consists merely of supplying the documentation in a timely manner, which serves to diminish the burden to creditors (see footnote 47 to § 226.7(a)(7) of the proposal). Furthermore, the Board proposes to add language to the regulation, which incorporates present staff position, that a request for documentation or information for tax or business purposes does not activate the billing error resolution procedures.

(b) Notice of billing error. As stated above, § 226.7(b) of the proposal corresponds to § 226.2(cc) in the current regulation. The substance of the proposed provision is substantially the same as in the current regulation, and the form parallels the electronic fund transfer regulation. Language has been added to clarify that the consumer need not indicate the reasons for believing the account is in error, if the alleged error consists of the consumer's request for a copy of the periodic statement or any documentation, information, or clarification concerning an extension of credit. The provision has also been modified to eliminate the need for a billing error to appear on the periodic statement before the consumer can provide notice of a billing error and trigger the error resolution procedures (i.e., the consumer may assert that an error exists in the *account*).

(c) Time for resolution; general procedures. Proposed § 226.7(c) corresponds to § 226.14(a)(1) and the general timing requirements contained in § 226.14(a)(2). The last sentence has been added to incorporate the staff's present interpretation that a creditor may temporarily correct the consumer's account as long as the dispute is permanently resolved within the time limits set forth in proposed § 226.7(c)(2).

(d) Rules pending resolution. Section 226.7(d) of the proposal consolidates all the rights and duties of the consumer and the creditor pending final resolution of the dispute. Portions of this section correspond to parts of existing regulation §§ 226.14 (a) through (e).

Section 226.7(d)(1) of the proposal corresponds to § 226.14(b) of the current regulation and addresses the consumer's right to withhold the disputed amount pending resolution. Footnote 49 clarifies the meaning of the concept of "the amount in dispute."

Section 226.7(d)(2) (Creditor's handling of disputed amount) corresponds to § 226.14(b)(4) and the last sentence of § 226.14(d). This section adds clarifying language to indicate that, pending resolution, a creditor may transmit a periodic statement that reflects not only the disputed amount *but also finance or other charges computed on that amount,* provided the creditor indicates on the periodic statement that payment of the disputed amount and related charges is not required. In light of the general requirement that disclosures be made clearly and conspicuously, the proposal eliminates the present requirement that the consumer be so informed by language appearing *on the face* of the periodic statement.

Section 226.7(d)(3) (Action to collect disputed amount) corresponds to § 226.14(a)(2) and footnote 17 of the current regulation. This section implements the statutory mandate that the creditor resolve the dispute before taking any action to collect any portion of the amount indicated by the consumer as a billing error. The proposal retains the regulatory two-day grace period for the creditor; therefore, if the creditor inadvertently takes action to collect within two business days after receiving a notice of a billing error, the inadvertent action will not be considered a violation of the regulation. The proposal further provides that the creditor must promptly cease any collection activity and redress the results of the collection activity undertaken within the two-day period. The Board contemplates that appropriate corrective action could include, for example, notifying any individuals contacted in the collection action that the disputed amount is not delinquent, and refunding disputed amounts collected as a result of the collection action. Comment is solicited about the feasibility of such procedures.

Section 226.7(d)(4) (Adverse credit reports prohibited) corresponds to portions of current § 226.14(e). This

paragraph provides that after receiving notice of the billing error the creditor may not make an adverse report to any person regarding the consumer's credit standing because of the consumer's failure to pay the amount specified as a billing error or any finance charges imposed on that amount. The proposal incorporates footnote 19 in the body of the regulation with regard to reporting a disputed amount or account as in dispute. The proposal retains the provision that, if the creditor within two business days after receiving notice of the billing error, inadvertently takes action prohibited by this provision the inadvertent action will not be considered a violation; however, the proposal conditions excusing the inadvertent action upon the creditor's prompt notification of all credit bureaus and other creditors, to the extent possible, to which adverse reports were made, that the disputed amount is not delinquent.

Section 226.7(d)(5) (Automatic debit of disputed amount) corresponds to § 226.14(c) of the current regulation with no substantive change intended. Attention is drawn, however, to § 913 of the Electronic Fund Transfer Act regarding the compulsory use of electronic fund transfers.

Section 226.7(d)(6) (Acceleration of debt; closing of accounts) combines the last sentence of § 226.14(b)(1) with the first sentence of § 226.14(d). The proposal provides that a creditor may not accelerate the consumer's debt or restrict or close an account for which a consumer has asserted a billing error, prior to complying with the requirements of this section.

(e) *Procedures after creditor determines that a billing error occured.* Section 226.9(e) corresponds to § 226.14(a)(2)(i) and § 226.14(b)(2) of the current Regulation Z and describes what a creditor must do if an incorrect billing has occurred. The proposal substitutes the phrase, "a billing error occurred" for the concept of "erroneous billing" as used in existing § 226.14(a)(2) and § 226.14(b)(2). A billing error occurs, for example, wherever there is a misidentification, insufficient identification or incorrect date of a transaction; improper crediting of payments or other credits; computation errors; a billing for property or services not accepted or delivered in accordance with any agreement; or mistakes in dollar amounts. The Board solicits comment on whether the term "erroneous billing" is necessary to define the concept of when an actual mistake has occurred, or whether the proposal clearly indicates when corrective action is required.

The proposed paragraph (e) also lists the steps a creditor must take when a billing error occurs, including correcting the error and mailing or delivering a notice of the corrections to the consumer. The proposal incorporates in the body of the regulation existing footnote 18 and provides that a notice on the periodic billing statement that is mailed within the time for resolution and that clearly identifies the correction is sufficient. The Board contemplates that the amount of the correction will be identified by stating that it is a correction of a billing error, rather than merely identifying the correction as a credit to the account.

(f) *Proceedings after creditor determines no billing error occurred.* Proposed § 226.7(f) corresponds, without substantive change, to portions of §§ 226.14(a)(2) (ii) and (iii) of the current regulation and deals with those instances in which no billing error occurred or an error occurred in a manner differing from that alleged by the consumer. Like proposed § 226.7(e), this section parallels Regulation E.

(g) *Special investigation rules.* Section 226.7(g) of the proposal corresponds, without substantive change, to portions of current § 226.14(a)(2)(iii) regarding investigating notices of billing errors that involve nondelivery of property or services or that allege that the person honoring a credit card account made an incorrect report to the card issuer.

(h) *Creditor's rights and duties after resolution.* Proposed § 226.7(h) details the creditor's duties after resolution where the creditor determines that the consumer still owes all or part of the disputed amount. Paragraph (h)(1) corresponds without substantive change to the provisions of § 226.14(b)(3). The proposal provides that the creditor shall promptly notify the consumer in writing of what the consumer owes and when it is due. The Board contemplates that this notice can be combined with the explanations required by § 226.7(e) and § 226.7(f).

Proposed paragraph (h)(2) corresponds to the current § 226.14(e)(1). This paragraph provides that the creditor may report the disputed amount as delinquent provided that the amount remains unpaid after the creditor has complied with all other requirements of the section and then allowed the greater of ten days or any free-ride period normally allowed for the consumer to pay.

Proposed § 226.7(h)(3) corresponds without substantive change to § 226.14(e)(2) and incorporates footnote 20 of the existing regulation.

(i) *Withdrawal of billing error notice.* Proposed § 226.7(i) corresponds to the introductory language in current § 226.14(a). Under this paragraph the creditor is relieved of its error resolution responsibilities if the consumer subsequently agrees that no error occurred.

(j) *Reassertion of error.* Proposed § 226.7(j) corresponds to the last paragraph of the current § 226.14(a). It conforms with Regulation E in that the proposal permits the consumer to assert billing errors of the type described in §§ 226.7(a)(1) through (a)(6) when they were discerned from documentation requested under § 226.7(a)(7).

(k) *Forfeiture penalty.* Section 226.7(k) of the proposal corresponds to § 226.14(f) of the current regulation. The provision is unchanged, except for the addition of clarifying language regarding the provision's applicability when a consumer has paid rather than withheld the amount in dispute pending resolution.

(l) *Exceptions to the general rule.* Proposed § 226. 7(l) corresponds without substantive change to § 226.14(g) of the present regulation.

(m) *Relation to Electronic Fund Transfer regulations.* Section 226.7(m) is a new provision designed to alleviate confusion concerning whether to use Regulation Z or Regulation E error resolution procedures. Under proposed paragraph (m), if a consumer and a financial institution have an agreement to extend credit when the consumer's account is overdrawn or has dropped below a specified minimum balance, and there is an error as to the extension of credit, the creditor is instructed to follow certain error resolution provisions in Regulation E.

Section 226.8—Determination of Annual Percentage Rate

(a) *General rule.* Proposed § 226.8 is substantially similar in content to the present § 226.5(a) of the regulation, but has been restructured in an effort to provide greater clarity regarding its requirements. Paragraph (a) incorporates the general standard of accuracy of ⅛ of 1% above or below the exact annual percentage rate, in line with a recent Board amendment.

As noted below in the discussion of proposed § 226.12 regarding annual percentage rate calculations for closed-end credit transactions, in light of amended § 130 of the act which provides a defense to civil liability where errors result from the good faith use of calculation tools, the Board proposes to eliminate, as no longer needed, § 226.5(c) regarding the protection

afforded creditors for use of faulty calculation tools.

(b) *Annual percentage rate for initial disclosures and for advertising purposes.* Under § 226.8(b) of the proposal, the annual percentage rate for advertising disclosures under proposed § 226.10 and initial open-end credit disclosures under proposed § 226.5(b) would be determined by multiplying each periodic rate by the number of periods in a year. This reflects the current requirements of the regulation.

(c) *Annual percentage rate for periodic statements.* Section 226.8(c) of the proposal provides rules for determining the annual percentage rate to be disclosed on periodic statements under the new § 226.5(c). This paragraph reflects the current § 226.5(a)(1) through (3). Paragraph (a)(1) addresses corresponding annual percentage rates required by new § 226.5(c)(4), while paragraph (a)(2) sets forth the methods for determining the annual percentage rate to be disclosed under new § 226.5(c)(8).

Section 226.8(c)(2)(i) permits creditors with no finance charge other than one calculated solely on the basis of a periodic rate(s) either to use the quotient method or to multiply the periodic rate(s) by the number of periods in the year. Proposed paragraph (c)(2)(ii) restates the substance of 226.5(a)(2) of the current regulation, explicitly incorporating the limitations formerly set forth in § 226.5(c)(2)(iv). The final sentence of this paragraph reflects the substance of Board Interpretation § 226.501. It should be noted that this paragraph represents an exception to the general requirement in § 107(c) of the act that the annual percentage rate in open-end credit be calculated according to the quotient method, as reflected in § 226.8(c)(3). The Board is not aware of any widespread use of this exception, which permits a degree of understatement of the annual percentage rate beyond the general accuracy limits of the regulation. In view of the apparent lack of use of this provision and its potentially distorting effect on the resulting annual percentage rate, the Board specifically requests comment on whether this provision might be eliminated entirely.

Proposed § 226.8(c)(2)(iii) corresponds to the present § 226.5(a)(3). As a general rule, where the finance charge imposed during the billing cycle includes or consists solely of a charge other than an amount applicable to a periodic rate, the creditor must use the so-called quotient method in determining the annual percentage rate. Under this method, the total finance charge for the billing cycle is calculated by dividing the finance charge by the total balances and multiplying the result by the number of periods in the year. This approach is reflected in paragraph (c)(2)(iii)(A). Paragraph (c)(2)(iii)(B) requires creditors to use a variation of the quotient method in billing cycles where the finance charge includes transaction charges. This method is similar to the quotient method set out in the paragraph above, except with regard to the determination of the denominator, consisting of the balances and other amounts on which a finance charge was imposed. Appendix B contains an expanded version of present footnote 5a, which provides examples for determining the total amount to be used as the denominator for these calculations. A further example has been added to this material to reflect a situation in which no previous balance exists and a transaction occurs sometime after the opening date of the billing cycle. The example makes it clear that the denominator in such a situation cannot be less than the amount of the transaction. The Board specifically requests comment on the need for this example, together with alternative methods of calculating the annual percentage rate in these situations.

Under § 226.8(c)(2)(iii)(A), the quotient method requires that there be an outstanding balance in the account for that billing cycle, in order to determine the denominator to be used in applying the method. Where there is no outstanding balance, but a finance charge was imposed during that billing cycle, the resulting annual percentage rate will be undefined, using the quotient method. Footnote 51 to this paragraph requires creditors under these circumstances to make special disclosures pursuant to § 226.5(c)(8), rather than attempting to compute and disclose a meaningless annual percentage rate. The Board solicits comment on whether a provision should also be added either exempting a creditor from computing and disclosing an annual percentage rate or, in the alternative, establishing additional formulas for such computation, for billing cycles in which there is an outstanding balance on the account, but it bears no relationship to the finance charge imposed during that billing cycle. For example, some plans may require an initial loan fee, which is a finance charge but is not related to the balance on the account for that month. Using the quotient method, a numerical annual percentage rate could be derived, but might not accurately reflect the cost of credit on an annualized basis.

Section 226.8(c)(2)(iii)(C) reflects the current § 226.5(a)(3)(iii) and permits creditors whose total finance charge for a monthly billing cycle does not exceed 50 cents to multiply each periodic rate by the number of periods in determining the annual percentage rate, rather than performing the more complex calculations required by the quotient method. However, as in paragraph (c)(2)(iii), where there is no balance on the account for that cycle, the creditor cannot determine an annual percentage rate and must instead make the special disclosures required by § 226.5(c)(8).

(d) *Calculations where daily periodic rate applied.* Proposed § 226.8(d) corresponds to the first two paragraphs of Board Interpretation § 226.506. As under the current regulation, it is available to creditors whose finance charge either consists solely of a periodic rate or includes other charges not associated with a specific transaction.

Section 226.9—Right of Rescission

(a) *Consumer's right to rescind.* Proposed §§ 226.9 implements §§ 125(a) and (e)(4) of the amended act, and applies to consumers' rescission rights when an open-end credit plan is secured by the consumer's principal dwelling.

Generally, rescission rights arise with each transaction made on an open-end account as provided by § 226.9(a)(1)(i) of the proposal. The amended act provides, however, that a creditor need not provide the right to rescind at the time of each transaction; instead, the consumer's rescission rights need arise only at certain limited times. Those times are the opening of the plan and the creditor's increasing the credit limit.

Section 226.9(a)(1)(ii) of the regulation provides accordingly and also provides the consumer with the right to rescind when a security interest in the consumer's home is taken to secure a preexisting open-end credit plan. The Board requests comment on whether the Board should, by regulation, require that the right to rescind be provided at any other time during the existence of an open-end plan (for example, when a term originally disclosed as an initial disclosure is changed).

Proposed footnote 54 implements § 125(e)(4) of the act and provides that the special provisions regarding limiting the consumer's rescission rights to certain events will expire three years after the effective date of the Truth in Lending Simplification and Reform Act.

As is presently required, the rescission right will expire three days after the event giving rise to rescission or after receiving a copy of all material disclosures together with the notice of

the right to rescind, whichever is later. Footnote 55 to § 226.9(a) identifies which disclosures are considered "material" disclosures (i.e., certain initial disclosures). If the material disclosures and rescission notice are not properly provided, then the customer's right to rescind shall expire upon the earlier of three years after the event giving rise to the rescission right or the date of the transfer of the principal dwelling. Additionally, as the amended § 125(f) of the act indicates, the right to rescind will expire, if an administrative proceeding is instituted, one year following final administrative action or judicial review of that proceeding. In some cases, therefore, the right to rescind will extend beyond the three-year period.

(b) *Notice of the right to rescind.* Section 226.9(b) of the proposal corresponds to § 226.9(b) of the present regulation. It no longer requires specific language or type size for the rescission notice. The proposal replaces the mandatory text of the rescission notice with only four stated disclosures that must be included in a creditor's rescission notice. Furthermore, the creditor is no longer required to give the consumer two copies of the notice. Model forms, for use in the most common situations in which rescission will arise, are provided in Appendix A to the regulation.

(c) *Delay of creditor's performance.* Section 226.9(c) of the proposal, which has been rewritten more concisely, substantially restates the present § 226.9(c). The exemption for agricultural credit has been deleted since agricultural credit is no longer subject to Truth in Lending.

(d) *Effects of rescission.* Proposed § 226.9(d) deals with the effects of rescission and restates present § 226.9(d) with only minor change. The 10-day time period in the present regulation, within which the creditor must return any money or property should the consumer rescind, has been increased to 20 days in order to implement the change in § 125(b) of the amended act.

(e) *Consumer's waiver of right to rescind.* Section 226.9(e) of the proposal deals with the consumer's waiving the right to rescind. It restates with little change the present § 226.9(e). It eliminates as unnecessary the language that the emergency be "bona fide", "immediate" and "personal"; it is believed that the general requirement of a "financial emergency" appears to cover the targeted situations. The provision also makes clear that a waiver must be signed by all persons entitled to rescind.

(f) *Exemptions.* Proposed § 226.9(f) corresponds to § 226.9(g) of the present regulation. Proposed § 226.9(f)(1) restates the present §§ 226.9(g) (1) and (2); proposed § 226.9(f)(2) restates the present § 226.9(g)(5); and § 226.9(f)(3) restates the present § 226.9(g)(3), without substantive change. Present § 226.9(g)(4) regarding agricultural credit is no longer needed.

Section 226.10—Advertising.

This section corresponds to those provisions of § 226.10 of the present regulation that govern the advertising of open-end credit.

(a) *Generally available terms; accuracy of advertising.* The proposal's § 226.10(a) corresponds to § 226.10(a)(1) of the current regulation, and unlike the present regulation which relates only to accuracy in stating the amount of credit, installment amount, and downpayment, implements a general standard that an advertisement for open-end credit should accurately reflect actual terms that the creditor is prepared to offer. It is the Board's belief that the proposed version better implements statutory intent by requiring accuracy in stating credit terms generally and by prohibiting any inaccurate or misleading information.

(b) *Advertisement of terms that require additional disclosures.* Section 226.10(b) corresponds to § 226.10(c) of the current regulation. The proposal, while not intending any substantive change, clearly indicates that for open-end credit the list of terms that trigger additional disclosures corresponds to those required by § 226.5(b). The list, however, no longer includes the Comparative Index of Credit Cost, which has been deleted from the amended act.

The additional information required to be set forth in an advertisement when one of the § 226.5(b) terms is present has been shortened. In conformity with amendments to the act, the proposal requires only (1) that any minimum, fixed, transaction or activity charges involved be stated and (2) that the corresponding annual percentage rates be set forth. This recognizes, for example, that disclosing in an advertisement the method of determining the balance upon which a finance charge will be imposed (one of the deleted items) is lengthy and complex. Since the amended act gives the Board the authority to add to the statutory list of terms required to be disclosed, however, comment is solicited on whether other terms should be added to those required by the proposal.

(c) *Catalogs and multiple-page advertisements.* Section § 226.10(c) corresponds to § 226.10(b) of the current regulation. Little change, other than style and format, has been. The proposed version incorporates the substance of Board Interpretation § 226.1002, which allows the use of representative amounts.

(d) *Use of annual percentage rate in oral disclosures.* Section 226.10(d) is new, and corresponds to a completely revised § 146 of the act. The original § 146, now repealed, required inclusion of certain language in advertisements for credit repayable in more than four installments but not subject to a finance charge. (The corresponding regulatory provision, § 226.10(f), has also been dropped.) The new § 146 requires generally that, in responding orally to an inquiry about the cost of credit, the creditor state a rate only in terms of an annual percentage rate. Section 226.10(d) applies this rule to open-end credit. Section 226.10(d) of the proposal, in accordance with the act's provisions, also permits periodic rates to be stated as additional information.

Subpart C—Closed-End Credit

Section 226.11—Disclosures

This section is the heart of Subpart C, as it contains the basic rules on closed-end credit disclosure: who must disclose what to whom, and when and how. It also contains various qualifying rules for special circumstances. The content of this section has been drawn generally from §§ 226.6 and 226.8 of the present regulation, but it also reflects matters now found in § 226.4 and in many Board interpretations. Some parts of it are new. There are some Board interpretations that have not geen incorporated into the regulation and comment would be welcome about whether that should be done.

Appendix A contains model forms and clauses that may be used to make the disclosures required by this section. Comment is welcomed on any aspect of these forms and clauses, including design, content, and usefulness.

(a) *Who must make disclosures to whom.* Although there will be very few transactions with more than one creditor (since "creditor" is defined in new § 226.2(q) as the person to whom an obligation is payable on its face), paragraph (a)(1) provides that if there are multiple creditors, only one of them must make disclosures. The object is to ensure that the consumer receives a single complete set of disclosures concerning the transaction; any of the multiple creditors may provide that set. This is different from the rule in present

§ 226.6(d) which places disclosure responsibilities on all of the multiple creditors. Those items unique to credit sales must be provided whenever one of the creditors is a seller, whether that creditor or another actually makes the disclosures.

Paragraph (a)(2) provides that where there are several consumers in a transaction, the creditor must provide disclosures to only one of them, provided that person is one primarily liable on the obligation. In rescindable transactions, however, disclosures must be made to each person entitled to rescind.

(b) *What disclosures must be made.* Paragraph (b)(1) provides that a creditor initially has a choice of which type of disclosures to make, that is, transactional disclosures or alternate shopping disclosures. Transactional disclosures are the type that have traditionally been provided under Regulation Z. They reflect the specific terms of a particular obligation and they usually are provided very close to the time a transaction is consummated. Alternate shopping disclosures are new. They are not tailored to individual obligations, but rather are based on representative amounts and terms the creditor usually offers. Since they are more general in nature, they can be prepared in advance, made available to the public, and provided to consumers much earlier than is possible with transactional disclosures. Thus, the shopping disclosures should facilitate comparisons among credit sources by putting information into the hands of consumers at a time when credit shopping is most likely to occur. These two types of disclosures are more fully described in paragraphs (f) and (h).

Paragraph (b)(2) is a reminder that where transactional or alternate shopping disclosures are later rendered inaccurate, the creditor may be required to redisclose. The rules governing redisclosure are more fully described in paragraph (e), Effect of subsequent events.

(c) *Timing and form of disclosures.* Paragraph (c)(1) states the timing rules for transactional disclosures. In most cases, they must be made before consummation of the transaction (see the definition of "consummation" in new § 226.2(n)). In some residential mortgage transactions, however, the disclosures must be given earlier than that and in some transactions involving mail or telephone orders and series of sales, the disclosures may be delayed. These special timing rules are found in other paragraphs in this section.

Paragraph (c)(2) states the timing rules for alternate shopping disclosures. They must be given at the time of application or as soon thereafter as possible. It is also permissible for these disclosures to be given before a formal application is made. In no case may they be given later than consummation.

Paragraph (c)(3) sets forth the format rules that are designed to highlight the Truth in Lending disclosures and ensure that the consumer's attention is drawn to them. In particular, it provides for segregation of the disclosures from other matters. The disclosures may appear on their own document or they may be included in another document (such as the contract). In the latter case, however, they must be separated from other items. This could be done, for example, by placing the disclosures in a boxed section of the form, by separating them from the contract provisions with bold print dividing lines, or a similar technique.

The disclosures must be presented together and they must begin on the front of the document on which they appear. There is no limitation on the number of pages that may be used for disclosures; therefore, as long as they begin on the front of the document, they may continue on the reverse side or on following pages.

There are two exceptions to the rule that all Truth in Lending disclosures must appear together. First, the creditor's identity need not be located with the segregated disclosures. Thus, for example, a company name and symbol may appear at the top of a form, while the other Regulation Z disclosures appear further down the page.

The second exception concerns the itemization of the "amount financed." If the customer chooses to have the components of this figure itemized (as provided in new §§ 226.11(f)(2) and 226.11(h)(2)(ii)), the itemization may not appear with the other Truth in Lending disclosures.

The provision regarding additional information is stricter than that in the present regulation. The section of the form containing the Truth in Lending disclosures may not include any material that does not directly relate to the disclosures. For example, a creditor may include with the disclosures an explanation of why certain items are disclosed as estimates, but may not include information on warranties. Although the regulation does not require the customer to acknowledge receipt of the disclosure statement, the final sentence of paragraph (c)(3) permits inclusion of an acknowledgment of receipt with the disclosures.

Paragraph (c)(4) states that the words "annual percentage rate" and "finance charge" must be presented more conspicuously than other required disclosures. This may be done through use of bolder print, contrasting color, underscoring, asterisks, and so forth. An exception to this rule is made for the creditor's identity so that it may be more prominently displayed.

It should be noted that several requirements in the present regulation relating to the format of disclosures have been eliminated. Two of these are the requirement that numerical amounts be expressed as numerals and the specifying of a minimum size of type for numerals. The Board believes that such technical matters can be adequately policed under the general "clear and conspicuous" requirement in paragraph (c)(3).

Another deletion is the requirement in present § 226.8(a) that all disclosures in combined contract-disclosure documents be above the customer's signature. Since that provision was originally intended to draw the customer's attention to the disclosures when they are combined with other matters, it appears unnecessary in light of the proposed requirement that all disclosures be grouped and segregated on combined documents.

(d) *Basis of disclosures and use of estimates.* This paragraph is intended to provide guidance in disclosing information that may be subject to uncertainty or to minor irregularities over the life of the transaction.

Paragraph (d)(1) first states the general rule that the creditor should make its disclosures on the basis of the best information it knows at the time disclosures are made. Furthermore, the creditor should assume that the terms of the agreement will be complied with, for example, that payments will be made on time.

The first paragraph also provides that the disclosures should be based on the repayment arrangement agreed upon by the parties, even if that arrangement differs from the one provided for in the contract. For instance, if an employee/borrower signs a note reflecting one rate of finance charge but the parties agree that a lower rate will be charged as long as the borrower continues in the creditor's employ, the disclosures should be based on the lower rate (and should include disclosure of the variable rate feature).

One exception is made to this rule that disclosures should be based on the actual agreement, and it concerns a common situation for credit unions and for creditors extending credit to their employees. The contract document may provide, for example, for monthly payments, but the creditor and the consumer may agree that payments will

be made on another basis, such as biweekly payroll deductions. Disclosures may be made on the basis of a monthly repayment schedule in this instance, provided the consumer is free to terminate the payroll deduction without penalty of any kind. The Board solicits comment on whether this special rule is appropriate, and whether it should be applied to any other situations.

Paragraph (d)(2) provides that disclosures may be estimated if the exact information is unknown at the time disclosures are made. This provision is more liberal than its counterpart in present § 226.6(f), which provides that estimates may be used only where disclosures are given at the latest possible time. The change has been made in order not to discourage creditors from providing disclosures earlier. As before, of course, the creditor is required to use the best available information, and the estimated disclosures must be designated as such.

Paragraph (d)(3) allows certain very minor variations in payment amounts and timing to be disregarded. Since payments cannot be collected in fractional cents, it is often difficult to exactly amortize an obligation with equal payments; the amount of the last payment must often be adjusted slightly to account for the rounding of the other payments to whole cents. Paragraph (d)(3)(i) permits the effects of this practice to be disregarded. Similarly, the following three provisions permit creditors to disregard the fact that dates for payments and advances must occasionally be changed on account of weekends and holidays, the fact that months differ in length, and the fact that leap years contain an extra day.

Paragraph (d)(4) also permits certain common variations in the payment schedule to be disregarded for purposes of computations and disclosures. It contains the so-called "minor irregularities" provisions from present § 226.8(s). Where the final payment in a transaction differs from the others because of an irregular first period (i.e., one that is shorter or longer than the regular period by the number of days specified), the variations may be ignored, for example, in disclosing the payment schedule and the finance charge.

The length of the irregular first period that may be treated as regular varies, depending on the term of the obligation; thus, in shorter term transactions, the degree of variation from a regular period is smaller, while in longer transactions, the variation can be much larger. Note that the degree of variation in the first period is identical to the "minor irregularities" provision for computation of the annual percentage rate found in new § 226.12(e). Note also that additional guidance has been provided on how to determine the length of the periods in order to measure the irregularity. A regular period is the most common payment interval in the transaction. In measuring the length of that period, the creditor looks to the next regular period following the irregularity and, as a general rule, measures it based on the actual number of days. In transactions involving payment intervals of a month, semi-month, or multiple of a month, however, the creditor has the choice between using the actual number of days and an assumed 30-day month.

Paragraph (d)(5) continues the policy in present § 226.4(g) that disclosures for demand obligations should assume a certain maturity. However, the Board believes that an assumed maturity of one year is a simpler standard to use for computations rather than the one-half year in the current regulation. As in the present provision, if the demand instrument contains an alternative maturity date, disclosures shall be based on that date. Also, if a consumer executes a demand note but has an agreement with the creditor that payments of interest or principal or both will be made in certain installments, the disclosures must be based on that repayment schedule. This rule is essentially a specific application of the more general rule stated in the last sentence of paragraph (d)(1).

This subparagraph makes two other changes in the treatment of demand loans. First, the creditor must state that disclosures are made on an assumed one year maturity. Second, all of the usual disclosures must be given; that is, the exemptions now provided in Board Interpretation § 226.815 have been eliminated.

Paragraph (d)(6) prohibits splitting up a single obligation for purposes of disclosure, as well as combining what are actually two or more obligations. The second sentence addresses a common situation in which the downpayment in a credit sale of goods or services is itself financed. It provides that in such cases, the two credit obligations arising from a single sale may be disclosed as two transactions, incorporating a position taken in Official Staff Interpretation FC–0161.

(e) *Effect of subsequent events.* This paragraph explains what happens when, after disclosures have been made, something happens that makes those disclosures inaccurate. Examples of such "subsequent events" are a delay in the date of disbursement of funds, a change in the finance charge to be imposed, and a change in the creditor's policy concerning late payment charges.

Paragraph (e)(1) restates the rule found in present § 226.6(g) that the regulation is not violated merely because a subsequent event renders inaccurate the disclosures already given. This provision does not, however, answer the question of whether new disclosures must be provided to reflect the effect of the subsequent event; that question is addressed by the following three subparagraphs for three different situations.

Paragraph (e)(2) explains what must be done if the change occurs before consummation of the transaction and the disclosures already given are transactional (rather than the alternate shopping disclosures). In such cases, the creditor must disclose the changed term prior to consummation. In general, it is not necessary to provide an entire set of diclosures, although creditors may do so if they prefer. The exception to this general rule that only the changed term must be redisclosed concerns certain residential mortgage transactions. As more fully explained in paragraph (g), an entire new set of disclosures is sometimes required.

Paragraph (e)(3) also addresses changes occurring before consummation, but it applies where the disclosures already given are the alternate shopping disclosures. In such cases, new transactional disclosures may be required prior to consummation, and the explanation of when that must be done is described in more detail in paragraph (h).

Paragraph (e)(4) concerns an event that occurs after consummation. Once the transaction has begun, the question of whether new disclosures must be given revolves around whether the change constitutes a refinancing. Paragraph (i) on refinancings addresses this in greater detail.

Note also that if the subsequent event is the fact that another person is to take over the consumer's obligation, it may require new disclosures to be given to the new party; see paragraph (j) on assumption.

(f) *Transactional disclosures.* This paragraph consolidates what is contained in current § 226.8(b), (c), (d), and (e). It reduces the number and complexity of the current disclosures and combines into a single list disclosures for credit sales and for nonsale credit. Certain disclosures, such as unpaid balance of cash price, unpaid balance, and required deposit balance, have been eliminated. In addition, the required terminology has been eliminated for other items, including

balloon payment, cash downpayment, trade-in, and prepaid finance charge.

Required terminology is retained, however, for "amount financed," "finance charge," "annual percentage rate," "total of payments," and "total sale price" (the last of these being the new term for what was formerly called "deferred payment price"). The required terminology must be explained to the consumer in simple language. The descriptive phrases for annual percentage rate and finance charge are prescribed by the regulation. Descriptors for the other three disclosures are provided in the proposal as a model, although that exact language need not be used.

Disclosures need be made only to the extent applicable and footnote 56 calls attention to the fact that there are a number of special exceptions found in paragraph (f)(17). Finally, a creditor may choose to make either the transactional disclosures required by this paragraph or the alternate shopping disclosures found in paragraph (h).

Paragraph (f)(1) requires that the creditor making the disclosures be identified. The purpose of this disclosure is to give the consumer the name of a person to whom inquiries and complaints can be directed.

Paragraph (f)(2) requires disclosure of the "amount financed," using that term, and a descriptive explanation. The computations used to figure the "amount financed" are the same as those currently required, but the itemized computations no longer have to be shown in all cases. The "principal amount of the loan" is a new phrase that essentially corresponds to the term "amount of credit" found in present § 226.8(d)(1). The phrase "cash price less downpayment (which includes any trade-in)" corresponds to the "unpaid balance of cash price" in present § 226.8(c)(3). Paragraph (f)(2)(i)(C) refers to prepaid finance charges, which are defined essentially the same as in present § 226.8(e)(1).

In addition to showing the amount financed, the creditor must state that the consumer is entitled to receive a written itemization of that figure and provide a way for the consumer to indicate a desire for such an itemization by initialing "yes" or "no." If the consumer requests an itemization, it must be given at the time the other required transactional disclosures are given or as soon as possible thereafter. This timing rule is a slight relaxation of the statutory provision. It reflects the fact that it may be difficult or impossible to provide the itemization simultaneously with the other disclosures; the Board believes, however, that every effort must be made to provide the itemization promptly.

Paragraph (f)(2)(ii)(B) lists the items that must be disclosed when the consumer requests this itemization. This paragraph implements amended § 128(a)(2) of the act with very few changes. The Board solicits comment on this treatment.

Under paragraph (f)(3), creditors must disclose the total finance charge and the specified description, using the required terminology. The major change from the current regulation is that the finance charge no longer needs to be itemized. Another change is that the finance charge must be disclosed in all transactions, including real estate transactions, in accordance with the recent statutory amendments.

Paragraph (f)(4) requires disclosure of the annual percentage rate and the specified parenthetical explanation, using the required terminology. The de minimis exception found in the current § 226.8(b)(2) has been retained but is now found in paragraph (f)(17)(ii) of the proposal.

Paragraph (f)(5) requires additional disclosures if the annual percentage rate is subject to increase. These disclosures are similar to those in current § 226.8(b)(8). However, the disclosures in the proposal are steamlined and clarified. In particular, the hypothetical examples showing the effects of an immediate rate increase of ¼ percent have been eliminated. These hypothetical examples have caused considerable difficulty for creditors and the Board questions their usefulness for consumers since the amount and timing of the assumed rate increase generally bears little resemblance to the rate changes likely under a variable rate contract. Comment on this matter would be appreciated.

Section 226.11(f)(6) calls for disclosure of the payment schedule. It calls for disclosure of the "timing" of payments, rather than the "due dates or periods" as in present §§ 226.8(b)(3), but it has the same meaning. Although the amount of any large payment must be shown, it need not be labeled as a balloon payment, as is now the case under present § 226.8(b)(3). Similarly, the requirement of stating the conditions under which that payment would be refinanced if not paid when due has been deleted.

Footnote 59 permits a simplified payment schedule disclosure when the amount of any payment in a series is not more than 5 percent larger than the smallest payment in that series. In such cases, the payments may be disclosed as if they were uniform, at the highest level. This will simplify disclosure of the payment schedule when the variation in payment amounts is relatively small, for example, in mortgage transactions where the principal and interest portion of the payment is uniform, but the portion attributable to mortgage insurance differs slightly from year to year. Note, however, that the actual amounts of payments would have to be accounted for in calculating and disclosing the finance charge and the annual percentage rate, even if this provision is used to simplify the payment schedule disclosure.

"Series" of payments as used here means consecutive payments in a stream of payments. Therefore, for example, in a graduated payment mortgage where payments rise sharply for 5 years and then decline gradually over the next 25 years as the mortgage insurance premium decreases, the 25 years of payments would be considered a series; if the "5 percent test" is met, those 300 payments could be disclosed as if they were equal in amount.

In applying the "5 percent test," an irregular first payment resulting from an odd first period may be disregarded; however, the amount of such a payment would have to be separately disclosed.

Transactions of the type covered by present Board Interpretation § 226.808, as well as mortgages involving mortgage insurance premiums calculated on a declining unpaid balance, may be able to take advantage of this "5 percent test." Transactions like the one described in Official Staff Interpretation FC–0157, which involve premiums for credit life and disability insurance that are computed on the outstanding principal balance, may also take advantage of it. The Board solicits comment on the usefulness of this rule and whether it should be modified in any way.

Section 226.11(f)(7) requires disclosure of the total of payments, using that term, including a descriptive explanation. The descriptor in the proposal is not required, but may be used as a guideline. Footnote 60 provides that if footnote 59 is used in disclosing the payment schedule, the total of payments should be consistent with the payment amounts disclosed and should be labeled as an estimate. The total of payments must be disclosed in all transactions, including purchase money mortgages, because of the elimination of the exemption in the statute.

Section 226.11(f)(8) provides for disclosure of the fact that an obligation is payable on demand. If the disclosures are based on an assumed maturity of one year as provided in § 226.11(d)(5), that fact must also be stated. Both of these are new disclosures that have

been added in the proposal in order to provide more complete information. Comment is solicited on this provision.

Disclosure of the total sale price in credit sales, using that term, along with a descriptive explanation, is mandated by § 226.11(f)(9). As § 128(a)(8) of the amended act specifically requires, the description must include reference to the amount of the downpayment. The total sale price is the sum of the cash price, other charges, and the finance charge, and it corresponds to the "deferred payment price" in § 226.8(c)(8)(ii) of the present regulation.

Section 226.11(f)(10), dealing with the effect of prepayment, is virtually identical to amended § 128(a)(11) of the act. It distinguishes between obligations with precomputed finance charges, and so-called simple interest obligations, but also recognizes that some obligations include both types of finance charge. Where there is a precomputed finance charge, the creditor must disclose whether or not the consumer will receive a rebate of any finance charge upon prepayment. The method of rebate need not be named. The distinction between "earned" and "unearned" finance charge in present § 226.8(b)(7) has been deleted. This provision applies to both voluntary and involuntary repayment; therefore if there is a rebate upon voluntary prepayment but none for prepayment upon acceleration, that would have to be disclosed. If there is a penalty in simple interest obligations, only that fact need be disclosed. If there is no penalty, no disclosure need be made.

The proposal eliminates the requirement in the present regulation that an explanation be given of how rebates or penalties would be computed. These matters are generally explained in greater detail in the contract, and the Truth in Lending disclosures will now contain a cross reference to the appropriate contract document for further information about these matters. (See paragraph (f)(15) below.)

As mentioned above, some transactions involve both a precomputed finance charge and a finance charge computed by application of a rate to the unpaid balance. In these cases, § 226.11(f)(10)(iii) requires disclosures about both prepayment rebates and penalties. Examples of this type of transaction include simple interest student loans with loan guarantee insurance and mortgages with mortgage guarantee insurance. If the insurance premiums are precomputed finance charges, disclosure about rebate of finance charges would be required with regard to that portion of the obligation. In addition, disclosure of a prepayment penalty would be required if one may be imposed.

Section 226.11(f)(11) implements amended § 128(a)(10) of the act. This provision requires disclosure only of charges imposed on account of late payments before maturity, that is, charges added to individual delinquent installments by a creditor who otherwise considers the transaction ongoing on its original terms. Therefore, this proposal does not require disclosure of the right of acceleration or of charges involved in collecting a defaulted obligation. The Board believes that in a simple interest obligation, the continued accrual of a finance charge need not be disclosed as a late charge, unless a higher rate of interest is imposed once a payment is overdue. This accords with the position taken by the Board staff in Official Staff Interpretation FC–0083. Deferral and extension charges are not covered by this provision.

Section 226.11(f)(12) is proposed in virtually the same form as it appears in § 128(a)(9) of the amended act and concerns disclosure of security interests. The type of security interest no longer needs to be disclosed, only the fact that there is a security interest. Again it should be noted that under paragraph (f)(15), the consumer will be reminded to consult the other documents in the transaction for additional information about the security interest.

The property covered by the security interest must be identified. If the collateral is the item purchased as part of the credit transaction, it may be identified in a general fashion. (Note that this streamlined approach is available only in credit sale transactions since there is no purchase if it is non-sale credit.) Other collateral must be more specifically identified by item or type, although the description may be brief, e.g., "1980 Ford Torino" or "household goods." If after-acquired property will be covered by the security interest, that must be disclosed, but the "future indebtedness" disclosure in present § 228.8(b)(3) has been eliminated.

Section 226.11(f)(13) relates to the disclosure of certain insurance premiums. If the disclosure specified in § 226.4(d) are made in order to exclude the insurance premiums from the finance charge, these disclosures must appear with the other required disclosures.

Similarly, certain charges are excludable from the finance charge if itemized under § 226.4(e). Section 226.11(f)(14) provides that this itemization also must appear with the other disclosures.

Section 226.11(f)(15) is virtually identical to amended § 128(a)(12) of the act. Since some disclosures have been eliminated and others have been abbreviated, this provision requires a cross reference to the contract documents for certain information not contained in the disclosure statement. Information about nonpayment, default, the right to accelerate the maturity of an obligation, and prepayment rebates and penalties is covered.

Section 226.11(f)(16) implements amended § 128(a)(13) of the act and adds a disclosure. For residential mortgage transactions (as defined in new § 226.2(aa)), the consumer must be told whether or not a subsequent purchaser or assignee may assume the obligation on its original terms. If a creditor requires an assignee to pay an assumption fee or similar charge, this would not mean the assumption was on terms differing from the original ones, but if the interest rate differs from that originally imposed, that would be considered to be on different terms.

Various disclosures otherwise required need not be made in certain types of transactions, and these special rules are gathered in § 226.11(f)(17). In interim student credit transactions, the finance charge, schedule of payments, total of payments, and total sale price need not be disclosed. The Board intends "interim credit extension" to mean one without a set repayment schedule. This phrase is used in place of "student loan" since some transactions are actually credit sales, for example, where a university is the creditor. Present Board Interpretation § 226.809 and staff letters have been incorporated in this subparagraph since all student credit guarantee programs are covered, whether federal, state, or private. In transactions with small finance charges, as described in paragraph (f)(17)(ii), the annual percentage rate need not be disclosed. In transactions with a single payment, the total of payments need not be disclosed. The disclosure exemptions for residential mortgage transactions in the present regulation have been eliminated. (See proposed § 226.11(g) for the special rules concerning these transactions.)

(g) *Special rule for certain residential mortgage transactions.* This paragraph implements § 128(b)(2) of the amended act, requiring early disclosure in residential mortgage transactions that are also subject to the Real Estate Settlement Procedures Act (RESPA). Just as the good faith estimates under RESPA must be made within three business days of the consumer's written application, the Truth in Lending

disclosures must be given in the same time period. Transactional, rather than alternate shopping, disclosures must be given, but they may be based on good faith estimates.

As long as the annual percentage rate in the mortgage transaction actually entered into is within ⅛ percentage point of the rate disclosed on these early disclosures, the creditor will have no further obligations. If, however, the variance is greater than ⅛ percentage point in either direction, a *complete* set of transactional disclosures is required prior to consummation or settlement.

The statutory provision has been implemented virtually unchanged. The Board solicits comment on whether this matter requires further elaboration.

(h) *Alternate shopping disclosures.* The proposals in this paragraph are altogether new and represent a radical departure from past thinking about Regulation Z disclosures. In essence, it provides an alternative to the current requirement that all disclosures be based on the specific details of the actual transaction; this requirement has in practice meant that the consumer almost always receives the information at the last possible moment before consummation, when the consumer is, at least psychologically, committed to the transaction. Relying on this paragraph, creditors could prepare disclosures for representative transactions and give them to consumers upon inquiry or application, before the details of a particular loan or credit sale are negotiated. Since they would be given to the consumer early in the shopping process, these alternative disclosures may be far more likely to influence the consumer's shopping decision than the individualized disclosures currently required.

Although this approach to providing disclosures about credit terms differs from the traditional approach, the Board believes it is well within its authority under § 105 of the act to write regulations containing whatever adjustments and exceptions may be required to carry out the purposes of the law. Since this alternative scheme has the potential of greatly enhancing credit shopping, the Board considers the provision an appropriate exercise of its rule-writing responsibility. Furthermore, the Board would note that the idea of early disclosures has been supported by Senator Proxmire, the principal sponsor of the recent Truth in Lending reform amendments. See 125 Cong. Rec. S15262 (October 29, 1979.)

The shopping disclosures would have to be made at or as soon as reasonably possible after application, and copies of them would have to be available to the public generally. A creditor electing to rely on this section would compile the specified disclosures for representative amounts of credit. The creditor would determine a range of typical (albeit hypothetical) credit extensions—perhaps loans from $1,000 to $5,000, in $500 increments—and present the required disclosures in a format which would permit an applicant or prospective applicant to examine the terms of those representative transactions. Being more or less standardized transactions with standardized terms, these disclosures would provide immediate descriptive and comparative information on credit costs.

The specific items to be disclosed (listed in paragraph (h)(2)) parallel those for transactional disclosures, although there are some divergences. For example, rather than showing a figure for the "total sale price" (since that depends largely on the amount of the downpayment), the shopping disclosures would instead include a statement that the total sale price equals the total of payments plus any downpayment and trade-in. Similarly, although consumers will be told of their right to receive an itemization of the amount financed, the shopping disclosures will not provide "yes" and "no" boxes to be initialed, since they will be provided to the public like advertisements and will not be returned to the creditor.

Paragraph (h)(3) provides a check against a creditor providing shopping disclosures that bear little resemblance to the terms actually contained in consummated transactions. A creditor providing shopping disclosures under this paragraph will also have to make transactional disclosures under paragraph (f) unless several conditions are met.

The schedule of payments in the actual transaction must be essentially the same as that disclosed and the annual percentage rate and amount financed must be within a specified percentage of those disclosed—⅛ percentage point for the annual percentage rate and 10 percent for the amount financed. As an example, a creditor might provide alternate shopping disclosures describing loans for $1,000, $2,000, and $3,000, at an annual percentage rate of 17.125% and payable in 24 equal monthly installments. If the actual loan negotiated and consummated with the consumer had an amount financed of $2,200 at an annual percentage rate of 17.25%, payable in 24 equal monthly installments, the creditor would not need to make new transactional disclosures to the consumer. On the other hand, if the amount financed of the consummated transaction was $2,350, a new set of transactional disclosures for that loan would be required.

Furthermore, if credit life insurance or property insurance is written in connection with the transaction and excluded from the finance charge, the creditor must comply with the usual rules outlined in § 226.4(d). Finally, if the consumer requests in writing an itemization of the amount financed, the creditor must provide it prior to consummation.

The Board particularly solicits comment on this new approach to disclosures. Although it realizes that this provision may be feasible only for fairly standardized types of credit extensions, it welcomes views on whether the provision promotes the credit shopping function of the Truth in Lending Act, whether it provides a workable scheme, and whether there might be any special problems in proving that these disclosures were provided.

(i) *Refinancings—new disclosures.* Section 226.11(i) sets forth the conditions under which closed-end creditors must provide new disclosures when the terms of the existing credit transaction are changed. In substantially revised form, this paragraph replaces the current § 226.8(j) and incorporates several Board and staff interpretations regarding refinancings. As a general rule, when the creditor and consumer agree to change the terms of an existing transaction, that agreement is a refinancing and it requires new disclosures.

Under paragraph (i)(1), the type of agreement giving rise to new disclosures would not be limited to written agreements. The focus of the rule, in the Board's view, should be on whether the creditor and the consumer have a mutual understanding of the change, amounting to an offer and acceptance of that revision. Although a writing would simplify the determination of whether an agreement in fact exists, the Board believes that requiring a writing in order for a refinancing to exist would be unnecessarily formalistic. In the Board's view, the need for a writing might eliminate agreements where new disclosures would be equally useful to the consumer and no more difficult to prepare than disclosures reflecting a formal written agreement. The Board is aware, however, that the question of whether there is a new agreement between the parties may cause difficulty, and specifically solicits comments on whether a more precise definition of this term is possible.

The general rule in paragraph (i)(1) would apply only in those situations where the existing obligation is itself a consumer credit transaction subject to Regulation Z. A change in terms in a transaction not previously subject to the regulation would not be considered a refinancing but would instead be measured against the general standards of coverage of Regulation Z. Additionally, the terms whose revision may give rise to a refinancing include only those terms originally required to be disclosed under paragraph (f) or (h) and not to other contractual terms whose disclosure was never required. As a general rule, this provision assumes that any change in the terms originally required to be disclosed would constitute a refinancing, unless otherwise specified in the exceptions set forth in the following provisions of paragraph (i).

Tne new disclosures to be given in the event of a refinancing are the transactional disclosures outlined in paragraph (f). The creditor must give these individualized disclosures even if the alternate shopping disclosures under paragraph (h) were given on the original transaction. The Board believes that such a limitation is warranted, since the rationale for the shopping disclosures, from the creditor's point of view, no longer applies. In the event of a refinancing, the creditor already has the information necessary for that specific transaction and should be able to provide those disclosures without difficulty.

Paragraph (i)(2) sets out specific types of changes in terms which do not trigger the refinancing disclosures. Paragraphs (3) and (4) of the section provide further conditions regarding several of the exceptions noted in paragraph (2). Each of these exceptions represents a change in terms which, in the Board's view, need not be accompanied by new disclosures. For the most part, they represent changes for which new disclosures are unlikely to be of significant value to the consumer, in which the change in terms is favorable to the consumer, or in which the change in terms is unikely to provide the consumer with a realistic opportunity for comparison shopping.

Paragraph (i)(2)(i) restates existing Board Interpretation § 226.817 and further allows a change in the payment schedule resulting from the reduction in the annual percentage rate to be excepted from being a refinancing.

Under paragraph (i)(2)(ii), deferral of a single payment or a portion of that payment would not constitute a refinancing. This replaces and substantially revises the present § 226.8(1). This exception applies to the deferral of a portion of a payment as well as a full payment. This exception would not apply, however, where the creditor charges a fee for the deferral. Where the creditor defers a series of payments, one at a time, merely to take advantage of this exception and not give disclosures, the general provision in § 226.1(e) regarding circumvention or evasion may be applicable. While circumstances may validly lead to a series of deferrals of more than one payment, the Board believes that a single agreement by which more than one payment is deferred or extended would not come within this exception but would instead be considered a refinancing.

Paragraph (i)(2)(iii) states that substitution or addition of collateral, changes in late payment charges or changes in prepayment provisions need not be treated as refinancings. However, a change in collateral involving a security interest in the consumer's principal dwelling may give rise to the right of rescission. (See footnote 67 to new § 226.13(a).) Under paragraph (i)(2)(iv), an agreement approved by a court, such as a formal workout agreement, would not require refinancing disclosures. This paragraph would also exempt from disclosure requirements reaffirmations of debts discharged in bankruptcy, where approved by a court.

The exceptions from refinancing mentioned in paragraphs (i)(2)(v) and (vi) are discussed more fully in paragraphs (i)(3) and (4), respectively. The last subsection in paragraph (2) exempts from refinancing disclosures workout agreements that result from the consumer's default or delinquency and involve a change in the payment schedule. This exception would not apply, however, if the annual percentage rate is increased on the transaction or if additional credit is advanced beyond the amount already accrued plus continuing insurance premiums. The Board specifically solicits comment on whether this exception should be extended to workout agreements made in anticipation of the consumer's default or delinquency.

Paragraph (i)(3) incorporates present Board Interpretation § 226.811. Under this provision, no additional disclosures are required for renewal of single payment obligations so long as the appropriate disclosures have already been made, the new amount financed and payment term are essentially unchanged, and the annual percentage rate previously disclosed is not increased.

Paragraph (i)(4) makes further disclosures unnecessary in three situations where the amount of credit is increased. Under paragraph (i)(4)(i), the increase results from the creditor reimbursing itself for expenses incurred in performing the consumer's duties with regard to the transaction. Paragraph (i)(4)(ii) exempts from refinancing disclosures the addition of subsequent purchases to an outstanding balance under a series of sales agreement which complies with proposed § 226.11(1).

Paragraph (i)(4)(iii) reflects the provisions of current Board Interpretation § 226.814. Optional insurance purchased by the consumer after consummation of the underlying credit transaction and added to the balance on that transaction would require no new disclosures on the underlying credit extension. However, as under the present interpretation, separate disclosures must be provided for the insurance transaction itself.

(j) *Assumptions—new disclosures.* Under paragraph (j), a creditor must make disclosures to a new consumer whom the creditor agrees to accept as an obligor on an existing transaction. In substantially revised form, this paragraph is based on present § 226.8(k) and Board Interpretation § 226.807. As in the refinancing provision, the new disclosures required must be transactional disclosures. Unlike the current regulation, the agreement by which the subsequent consumer is accepted need not be in writing. At this time, the Board does not believe that the existence of a writing is necessary to the finding of an agreement between the parties. However, the Board understands that difficulties may arise with regard to determining the existence of an agreement, and specifically requests comment on this issue.

(k) Mail or telephone orders—delay in disclosures. Paragraph (k) consolidates mail order and telephone credit sales and loans into one set of disclosures. This paragraph implements amended § 128(c) of the act and is essentially a restatement of current § 226.8(g) and Board Interpretation § 226.802, with the addition of "total sale price" as a required disclosure. If the procedure outlined in this paragraph is not followed, the transactional disclosures found in paragraph (f) would have to be provided in their entirety, following the normal timing rules.

(l) **Series of sales—delay in disclosures.** Paragraph (l) incorporates current § 226.8(h) and Board Interpretations §§ 226.804 and 226.805. It implements § 128(d) of the act.

(m) *Multiple advance transactions; series of sales.* Paragraph (m) combines

the provisions of present § 226.8(i) and (m). Neither situation is addressed in the act. Present § 226.8(i) makes it optional for a creditor to treat a series of advances pursuant to an agreement as a single transaction. The proposal definitely requires them to be treated as a single transaction. Present § 226.8(m) has not been substantively altered.

Section 226.12—Determination of Annual Percentage Rate

Section 226.12, setting forth the rules for calculation of the annual percentage rate in closed-end credit transactions, is substantially similar to § 226.5(b) of the current regulation (as amended effective January 10, 1980). One minor change is found in paragraph (e), relating to calculation of the annual percentage rate where the transaction involves irregularities in the payment schedule. Additional guidance has been provided on how to determine the length of the periods in order to measure the irregularity. A regular period is the most common payment interval in the transaction. In measuring the length of that period, the creditor looks to the next regular period after the irregularity, and, as a general rule, measures the length based on the actual number of days. In transactions involving months, semi-months, or multiples of a month, however, the creditor could use either the actual number of elapsed days or an assumed 30-day month in calculating the length of the periods involved.

A more important change is the elimination of a provision found in current § 226.5(c). Under the existing provision, an error in disclosing the annual percentage rate or finance charge that results from an error in the calculation tool used in good faith by the creditor is not considered a violation of the regulation. The creditor thus has no liability under the act. The Board believes that this protection is no longer necessary or appropriate for the regulation, in view of the fact that § 130 of the act has been amended to provide a defense to civil liability where errors result from the good faith use of calculation tools. In the Board's view, this change in the act, combined with the administrative enforcement agencies' present policy of not requiring reimbursement for violations in such cases, makes the existing regulatory provision unnecessary. Thus, under the revised regulation, there would be no counterpart to the present § 226.5(c).

Supplement I, which contains the detailed rules and equations for calculation of annual percentage rates was recently revised by the Board. No further revisions are planned at this time. If it should later be determined that revision is necessary, or if the comments suggest changes that should be made, they will be published for comment.

Section 226.13—Right of Rescission

(a) Consumer's right to rescind. Section 226.13(a) implements § 125(a) of the act, granting a consumer the right to rescind a transaction in which a security interest is retained in a consumer's principal dwelling. In one way, the applicability of the right of rescission has been narrowed when compared to the general rule in § 226.9(a) of the existing regulation. The present rule permits rescission whenever real property used or "expected to be used" as a consumer's principal residence is involved. Since the amended statute eliminates the "expected to be used" language, the proposed rule does also. Therefore, the right of rescission applies only where the property is used as the consumer's principal dwelling at the time the security interest is retained.

On the other hand, the applicability of the right to rescind has been somewhat broadened since it no longer is limited to security interests in *real* property, but rather applies to any property used as the principal dwelling. Therefore, it could apply to mobile home-secured transactions, even where the mobile home is considered personal property under state law.

Footnote 67 provides that adding a security interest in the dwelling to an existing obligation is a rescindable transaction. It should be emphasized that the right of rescission applies only to the addition of the security interest; if the right is exercised, it does not void the earlier obligation.

Under paragraph (a)(1), the right of rescission is available to any consumer whose ownership interest is subject to the security interest. This language clarifies the rule in present § 226.9(f). The Board intends the right of rescission to apply to any obligor, co-owner, guarantor, or surety whose ownership interest in his or her own principal residence is subject to the risk of loss. This differs from the present regulatory language, which appears to extend the right to rescind to any co-owner whether or not that person's ownership interest is encumbered. The Board believes that there is no reason for the right of rescission to apply to a person whose ownership interest is in no way implicated in the credit transaction.

Paragraph (a)(2) describes how the right of rescission may be exercised by the consumer and when notice is considered given. It generally restates the corresponding provisions in § 226.9(a) of the existing regulation.

Paragraph (a)(3) provides that the rescission period runs from the later of the consummation of the transaction or delivery of the rescission notice and all other material disclosures. Footnote 68 defines "material disclosures" to be the basic credit cost terms included in § 226.11(f) and (h). The "material disclosures" may be either transactional or alternate shopping disclosures. Disclosure of a security interest is not a "material disclosure" for rescission purposes since the existence of a security interest in the dwelling will be stated in the rescission notice itself under paragraph (b).

Paragraph (a)(3) is silent as to when a creditor must deliver the rescission notice to a customer. The notice may be delivered before or after consummation of a transaction and before or after disclosure of the other material disclosures. But delivery of the notice is one of the conditions that must be satisfied before the three-day rescission period starts to run.

The last sentence in paragraph (a)(3) corresponds to amended § 125(f) of the act and states the rule for expiration of the right of rescission. The general rule is that the right expires the earlier of three years from consummation or the transfer of the property. A transfer includes sale and other types of transfers, such as gift and bequest. In the Board's opinion, both voluntary and involuntary transfers terminate the right of rescission. Therefore, a foreclosure sale could cause the right to expire. To implement the recent amendment to § 125(f), an exception to the general rule has been added. If certain administrative proceedings are instituted, the rescission period will continue for one year following the conclusion of those proceedings.

(b) *Notice of right to rescind.* Paragraph (b) replaces present § 226.9(b). One change is that the precise language of the rescission notice is no longer specified in the proposed regulation. Instead, to give creditors more flexibility, the proposal simply stipulates four disclosures that must be included in the notice. A model form that may be used and that will insulate a creditor who uses it from civil liability, is included in the appendix. The creditor may provide a separate form that a consumer may use to exercise the right of rescission or that form may be combined with the other rescission disclosures, as is done in the Board's model form. Note that only one copy of the rescission notice, rather than two, need be given to a consumer.

(c) *Delay of creditor's performance.* Paragraph (c) essentially restates § 226.9(c) of the existing regulation and

prohibits disbursement of money (other than into escrow), performance of services, or delivery of materials until the creditor is reasonably satisfied that the consumer has not rescinded the transaction.

(d) *Effects of rescission.* Paragraph (d) implements amended § 125(b) of the act. The time period within which the creditor must return a consumer's money or property and terminate a security interest after receiving notice of rescission has been expanded from 10 to 20 days. A creditor also has 20 days, instead of 10, to take back the money or property after a consumer has offered to return it.

The final sentence of paragraph (d), which permits the procedures to be modified by court order, reflects the recent statutory amendment to § 125(b). In the Board's view, this could apply, for example, to a situation where a consumer is in bankruptcy proceedings and may be prohibited from returning anything to the creditor.

(e) *Consumer's waiver of right to rescind.* Paragraph (e) corresponds to § 125(d) of the act. The requirement in the act that an emergency be "bona fide" and "personal" is eliminated since the general requirement of a "financial" emergency appears to sufficiently cover the situations where waiver would be appropriate. The provision makes clear that a waiver must be signed by all persons entitled to rescind.

(f) *Exempt transactions.* Paragraph (f) is based on amended § 125(e) of the act. The first exemption, residential mortgage transactions (as defined in proposed § 226.2(aa)), combines the purchase money and construction loan exemptions contained in present § 226.9(g)(1) and (2). Note, however, that transactions can qualify for this new exemption whether they have first lien status or not. Thus a second lien transaction made to acquire a dwelling would be exempt under the proposal, although it is now subject to rescission.

Paragraph (f)(2) incorporates the position taken in present Board Interpretation § 226.903 concerning the right of rescission in refinancings. The right applies only to the extent that a refinancing by the same creditor involves new advances, and then only to the extent of those advances. If the refinancing is with a different creditor, it is subject to rescission.

Paragraph (f)(3) exempts state and federal agencies from the rescission provisions. Although the act mentions only state agencies, the Board believes that the policy reason for exempting state agencies is equally applicable to federal agencies.

Paragraph (f)(4) corresponds to proposed § 226.11(m), covering series of advances and series of single payment obligations that are treated as a single transaction. Just as new disclosures need not be made for subsequent advances, no new rescission rights arise so long as the appropriate notices were provided at the outset of the transaction.

Paragraph (f)(5) exempts any subordination of a security interest and parallels § 226.9(g)(3) of the present regulation. The Board believes subordination per se is not a rescindable event, regardless of whether the original transaction was rescindable. This provision is broader than present § 226.9(g)(3), which exempts only transactions in which the security interest was originally exempt from the right of rescission. If new funds are advanced by the creditor at the time of subordination of the security interest, the rules for refinancings in paragraph (f)(2) would apply, and the consumer has the right to rescind to the extent of the new advances.

Section 226.14—Advertising

Section § 226.14, implementing Chapter 3 of the act, contains rules for advertising closed-end consumer credit. For the most part, the proposal reflects the approach taken in § 226.10 of the current regulation.

(a) *Generally available terms; accuracy of advertising.* Paragraph (a)(1) restates the present § 226.10(a) in a more abbreviated form. Paragraph (a)(2) is a new provision and imposes a general standard of accuracy on the advertising of consumer credit.

(b) *Advertisement of rate of finance charge.* Section 226.14(b) requires advertised rates of finance charge to be stated in terms of an annual percentage rate. This paragraph is substantially similar to the present § 226.10(d)(1), including the authorization to show a simple annual rate or periodic rate along with the annual percentage rate.

(c) *Advertisement of terms that trigger additional disclosures.* In its use of "triggering" terms as the basis for more complete disclosure, paragraph (c) takes the same approach as is utilized in the present § 226.10(d)(2), but it has been restructured for clarity. Paragraph (c)(1) sets forth the credit terms whose use in advertising requires disclosure of the credit terms listed in paragraph (c)(2). The terms that trigger disclosure are unchanged from the current regulation, but the number of items that have to be disclosed has been reduced, reflecting the recent amendment to § 144(d) of the act. Under the proposal, an advertisement using a "triggering" term would have to disclose only the downpayment or that none is required, the repayment schedule, and the annual percentage (together with any variable rate provision). In making these disclosures, creditors may use examples and avail themselves of any special disclosure provisions in § 226.11.

(d) *Transactions involving a dwelling.* Paragraph (d) includes a special rule to facilitate the advertising of mortgages with varying payments due to mortgage insurance. It permits a shorthand disclosure of the varying payment schedule.

Under the act, the Board is empowered to treat residential real estate transactions differently or even exempt them from the requirements of the advertising provisions. This paragraph reflects a special rule for such transactions and the Board solicits comment on whether it is appropriate as well as on the need for any further relief in this area.

(e) *Catalogs and multiple-page advertisments.* Paragraph (e) is substantially similar to existing § 226.10(b), with the addition of paragraph (e)(2) to make it clear that all the terms required by paragraph (c)(2) must be provided for a representative range of transactions.

(f) *Use of annual percentage rate in oral disclosures.* Paragraph (f) reflects the current Board Interpretation § 226.101 and implements § 146 of the act.

Subpart D—Leasing

Section 226.15—Disclosures

Section 226.15 contains the basic rules relating to consumer leases. Following the organizational framework established throughout the proposal, paragraphs (a) through (d) set forth technical rules relating to timing, form, and other general matters. These paragraphs are similar to their counterparts in § 226.11, disclosures for closed-end credit, and the above discussion relating to that section generally applies here. The differences that do exist between these paragraphs in §§ 226.11 and 226.15 generally involve the omission of material deemed inapplicable to leasing. The provisions that have been added to reflect concerns related to leasing are discussed below.

A number of staff interpretations have been incorporated into the proposal. The Board solicits comment on whether other interpretations could appropriately be included in the regulation.

(a) *Who must make disclosures to whom.* This paragraph is substantively the same as § 226.11(a). Section 182 of the Consumer Leasing Act requires that each lessor give the consumer the

required disclosures. The proposal provides, like the closed-end credit provisions, that only one lessor need make disclosures. The Board solicits comment on this change.

(b) *Timing and form of disclosures.* Paragraph (b)(2) differs from its counterpart in § 226.11 in that it requires the disclosures to be dated. This additional requirement stems from § 182 of the act. Other provisions of the current regulation, such as the special exemption for multiple-item leases, have also been retained. The proposal requires segregation of disclosures from other information.

(c) *Basis of disclosures and use of estimates.* Paragraphs (c)(1) and (3) are substantively identical to § 226.11(d)(1) and (3) of this proposal. Paragraph (c)(2) is similar to § 226.11(d)(2), with the additional provision that a lessor may understate the estimated value in calculating the total lease obligation. This provision is similar to § 226.6(f) of the current regulation, but has been amended to permit lessors to understate the estimated value in *any* consumer lease, rather than in purchase option leases only, as is the case under the current regulation. This may be done, however, only if any excess of realized value over estimated value will be returned to the comsumer at the end of the lease term. The Board believes that this condition does not materially reduce the consumer protection offered by the current regulation.

(d) *Effect of subsequent events.* This paragraph is substantively identical to § 226.11(d) of the proposal.

(e) *Content of disclosures.* This paragraph is largely unchanged from § 226.15(b) of the current regulation, although the disclosures relating specifically to open-end leases have been taken out of the list of generally applicable disclosures and placed in a separate paragraph immediately following this one.

Paragraphs (e)(1) and (2) incorporate the requirement in current § 226.15(a) that the identity of the lessor and consumer be disclosed. Only one lessor need be identified, even where there are several. The requirement that the lessee be identifed is found in § 182 of the act.

Paragraph (e)(3) adopts, without substantive change, elements of present § 226.15(a) and (b)(1).

Paragraph (e)(4) is an amended version of present § 226.15(b)(2). It is standard practice for lessors to receive payments of the type described in this provision after consummation, at or before the time the leased property is delivered to the consumer. Such charges are generally disclosed under present § 226.15(b)(5), which relates mainly to payments made at the end of the lease term. It appears that a more logical treatment of these charges would be to include them with other initial payments, even though they are made after consummation. The proposal therefore requires that all payments that are to be made at or before delivery of the leased property must included in the total figure disclosed under this paragraph. This change is also reflected in the definition of "total lease obligation" under proposed § 226.2(dd).

Paragraph (e)(5) remains substantively the same as § 226.15(b)(3) of the current regulation, as it has been interpreted in several official staff interpretations. Thus, in conformity with the amended definition of "total lease obligation" under proposed § 226.2(dd), only lease charges that are financed by the lessor are included in this item. The language has also been amended to conform to similar sections in Subparts B and C. Footnote 71 permits a simplified payment schedule disclosure if the payments in a series vary within a range of 5 percent of the lowest payment in the series. This special rule is similar to that provided in footnote 59 to § 226.11(f)(6), and the concept is discussed more fully above in connection with that section.

Paragraph (e)(6) differs from present § 226.15(b)(4) only in that initial charges disclosed under proposed paragraph (e)(4) would not be included in this total. Since any charges of this kind that are paid initially will be disclosed under paragraph (e)(4) there is no need to include them here. Note that if they are financed, however, the initial charges will be reflected in the schedule of payments under § 226.15(e)(5).

Proposed paragraph (e)(7) differs from present § 226.15(b)(5) by expressly eliminating from this item any charges already disclosed under paragraphs (e)(4) (initial payments), (e)(5) (schedule of payments), and (e)(6) (official fees and taxes). This change incorporates into the proposed regulation a position taken in present Board Interpretation § 226.1501.

Paragraph (e)(8) differs from current § 226.15(b)(6) only in that insurance procured by the lessor for its own benefit (such as residual value insurance to protect the lessor's interest, or its equivalent) has been explicitly excluded. Neither the cost nor the coverage of such insurance needs to be disclosed under the proposed regulation.

Paragraph (e)(9) is unchanged from current § 226.15(b)(2).

Paragraph (e)(10) adds to current § 226.15(b)(8) the requirement that if a maintenance agreement (such as a mechanical breakdown protection contract) is provided or paid for by the lessor, a brief description of the coverage must be disclosed.

Paragraph (e)(11) adopts without change the second half of current § 226.15(b)(8).

Paragraph (e)(12) is substantially the same as current § 226.15(b)(9). The last sentence in the proposal makes clear that any security interest in after-acquired property must also be disclosed. The Board solicits comment on any further change that could be made in this disclosure or in the definition to clarify the security interest disclosure requirements for leasing.

Paragraph (e)(13) expands § 226.15(b)(10) of the current regulation to include dollar charges for excessive wear or use. Deferral or extension charges, however, need not be disclosed. The continued accrual of a lease charge in a so-called simple interest lease when a periodic lease payment is late need not be disclosed, confirming the position taken in Official Staff Interpretation FC–0156.

Paragraphs (e)(14) and (e)(15) are substantively unchanged from present § 226.15(b)(11) and (12), respectively.

(f) *Special disclosures concerning the consumer's liability on termination of a lease.* The material contained in § 226.15(b)(13), (14), and (15) of the current regulation relates only to open-end leases. (Briefly, an open-end lease is one in which the consumer may be liable for the difference between the actual or "realized" value of the leased property at the end of the lease term and its "estimated" value or the amount the lessor thought it would be worth.) The proposed amendments segregate these sections from the generally applicable disclosure requirements in order to make clear that they relate only to open-end leases.

Paragraph (f)(1) restates current § 226.15(b)(13), without substantive change.

Paragraph (f)(2) adopts the substance of § 226.15(b)(14) of the current regulation, with the additional provision that the appraisal must be obtained within a reasonable time after the lease has been terminated or has run its term. The Board solicits comment on whether the standard of "reasonableness" is too vague, and whether it should be either amended to set a specific time frame or eliminated entirely.

Paragraph (f)(3) is substantially the same as § 226.15(b)(15) of the current regulation. One addition in the proposal, however, is a disclosure that any final agreement must be reached after termination of the lease in order to be binding. This disclosure is based on § 183(a) of the act.

(g) *Renegotiations—new disclosures.* This paragraph is a revision and extension of § 226.15(c) of the current regulation. Proposed paragraph (g)(1) sets out the basic rule that a renegotiation must be treated as a new transaction and that new disclosures must be given.

Paragraph (g)(2) lists some changes in terms for which no new disclosures are required even though they might fit the definition of a "renegotiation." Paragraph (g)(2)(i) relates to certain changes in multiple-item leases, adopting without significant change present § 226.15(c)(1); (g)(2)(ii) exempts a deferral of all or part of one periodic lease payment; and (g)(2)(iii) covers the addition or renewal of optional insurance that is purchased by the consumer after consummation. Under the last of these three provisions, no new disclosures would have to be made on the underlying lease if the insurance is financed and the appropriate credit disclosures are given for the insurance transaction itself. This rule applies, however, only where the purchase of insurance is genuinely separate from the underlying lease.

The provision in present § 226.15(c)(2) that only extensions of leases for six months or less are not renegotiations has been eliminated. Under the proposal, a lessor that enters into an agreement with a consumer to extend the term of a lease (on a month-to-month or other basis) need not make new disclosures, provided that no other terms are changed.

Paragraph (g)(3) is new. It requires lessors that extend, or permit a consumer to extend, the duration of an open-end lease for more than one month to recalculate the estimated value of the leased property in order to reflect the actual lease term. The new estimated value need not be determined until the property is returned. In any case, however, the lessor must use the same method of calculation originally used to determine the estimated value of the leased property when recalculating that figure for purposes of this paragraph and § 183(a) of the act. The Board particularly solicits comment on this proposed change. The applicability of the three monthly payment limitation when a consumer extends the lease has been unclear. The Board believes that the limitation continues to apply, but proposes to permit lessors to recalculate the value of the property based on the actual rather than the anticipated lease term in such cases.

Section 226.16—Advertising

This section incorporates the various parts of § 226.10 of the current regulation that relate to the advertising of consumer leases.

(a) *Generally available terms.* Proposed paragraph (a) restates the substance of § 226.10(a)(2) of the current regulation, in somewhat simpler language.

(b) *Advertisement of terms that require additional disclosures.* This paragraph, which is based on § 184(a) of the act, is substantially the same as § 226.10(g) of the current regulation. In addition, it clarifies that lessors may use examples of typical consumer leases in their advertisements, reflecting the position taken in Board Interpretation § 226.1001.

(c) *Multiple-item leases—merchandise tags.* This paragraph is substantially the same as § 226.10(h) of the current regulation.

(d) *Catalogs and multiple-page advertisements.* Paragraph (d) restates the provisions of § 226.10(b) of the current regulation as they apply to leasing advertisements, without significant change. Paragraph 9d)(2) incorporates the substance of Board Interpretation § 226.1002 into the regulation.

Subpart E—Miscellaneous

Subpart E contains general provisions which apply equally to openend credit, closed-end credit and leasing transactions. While most of the five sections concern administrative matters, the topics covered vary, ranging from state exemption procedures to Spanish language disclosures.

Section 226.17—Record Retention

Section 226.17 specifies the period of time for which disclosure statements or other evidence of compliance must be retained. It has no statutory counterpart, but is analogous to the present § 226.6(i). As under the current regulation, records must be kept for at least two years, measured from the point when disclosures were required to be given. While the Board believes that advertising has always been subject to this requirement as well, a specific reference to advertisements has been added to clarify this point. In the existing regulation, a special record retention rule applies to creditors subject to the five federal agencies participating in the Regulation Z Enforcement Guidelines (44 FR 1444, January 4, 1979). Under the amended act, the enforcement policy reflected in the guidelines must now be applied by all administrative agencies. Since it is uncertain how these new statutory enforcement provisions will be implemented, the Board proposes to eliminate this special rule. In its place, proposed § 226.17 recognizes the authority of each administrative agency to extend the record retention period beyond the minimum two-year requirement, as necessary to carry out its enforcement responsibilities. The Board specifically requests comment on this alternative to the approach in current § 226.6(i)(2).

Section 226.18—Spanish Language Disclosures

Under § 226.18, a creditor or lessor operating in Puerto Rico may provide either Spanish or English disclosures. As in present § 226.6(a), however, a creditor or lessor must honor a request by a consumer for English language disclosures. The last sentence of § 226.18(b) makes it clear that advertisements are not subject to the rule regarding customers' requests for disclosures in English.

Section 226.19—Effect on State Laws

This section, which implements §§ 111(a), 171(a), and 186(a) of the act, sets forth procedures for determining whether a state law is inconsistent with or substantially similar to a requirement of the regulation. Any person may apply to the Board for such a determination. Under § 226.19(a), a creditor or lessor is not permitted to comply with an inconsistent state law. Under § 226.19(b), which implements § 111(a)(2), as amended, a creditor is specifically authorized to bypass a requirement of Regulation Z in favor of a state provision determined by the Board to be substantially similar. The procedures proposed in this section have no counterpart in the current regulation, and the Board invites comment on them.

The Board has refrained from setting forth specific standards for determining inconsistency and substantial similarity in the belief that each request may present unique circumstances requiring an individual analysis. The Board invites comment, however, on the need for more specific criteria for making these judgments, as well as on the criteria appropriate to the decisions.

Section 226.20—State Exemptions

This section implements § 123 of the act. The substance of § 226.20 is similar to current § 226.12, but it has been restructured for added clarity. As under the current regulation, the standards for exemption of state-regulated transactions are somewhat different for chapter 2 (credit transactions), chapter 4 (credit billing), and chapter 5 (consumer leases) of the act, reflecting the various statutory provisions. The procedures for applying for an exemption are set forth

in present Supplements II, IV, V, and VI, which will be revised if necessary to reflect the regulation ultimately adopted by the Board.

Section 226.21—Issuance of Staff Interpretations

This section defines the types of interpretations issued by the staff and provides procedures for their issuance. While this provision is not substantially different from current § 226.1(d), the scope of interpretations is somewhat modified. The prohibition against approving forms is extended to tools or methods for calculating required disclosures, such as the annual percentage rate. However, forms and methods prescribed by government agencies are not subject to this prohibition. Under amended § 113 of the act, such agencies may be required to consult with the Board regarding the Truth in Lending implications of their activities. In appropriate cases, forms and tools generated by those agencies may be the subject of interpretations specifically sanctioning their use. This does not represent a significant departure from the current situation in which interpretations have occasionally been issued regarding government forms and/or calculation methods. "Government agency," as that term is used in proposed § 226.21(d), includes state and federal entities, as well as certain quasigovernmental organizations, such as those relating to home financing and student loans.

Appendix A

Appendix A includes model forms and clauses for use in open-end and closed-end credit transactions. (Leasing forms are not included at this time.) Amended § 105 of the act requires the Board to publish such forms to facilitate compliance by creditors and to aid consumers in understanding their transactions. Use of these forms and clauses is not mandatory; however, as provided in § 105(b), creditors who properly use them will be deemed to be in compliance with the requirements of the regulation. Creditors may delete inapplicable information and rearrange the format, provided the substance, clarity, and meaningful sequence of the disclosures are not affected.

Comments are solicited on all aspects of these forms and clauses, including design, content, and usefulness. If additional forms and clauses should be provided, suggestions will be welcome.

The model form for tranactional disclosures, which appears as Section (A)(7), is a model for both closed-end credit sales and loans. Items not generally applicable to all types of transactions are marked by asterisks, along with explanatory footnotes.

The phrases in parentheses are the descriptors required by the act. As mandated by § 226.11(f)(3) and (4), the phrases accompanying "finance charge" and "annual percentage rate" must be used. However, the exact wording of the descriptors accompanying "amount financed," "total of payments," and "total sale price" need not be used by a creditor.

The phrases in brackets are given as alternatives and may be changed to suit the specific terms of transaction. For instance, the form states that the "total of payments" will be paid in [monthly] payments. This term could be changed to correspond to whatever the scheduled period of payments is. Another example is the disclosure of credit life insurance [for — years]. The term of the insurance need not be stated at all unless the term is shorter than the term of the transaction, as provided in proposed § 226.4(d)(1)(ii). The signed and dated acknowledgment at the end of the form is also optional. Proposed § 226.11(c)(3) provides than an acknowledgment of receipt may, but need not, be included in the disclosure statement.

Two disclosures marked by asterisks are necessary only in certain types of transactions. The "total sale price" is required only for credit sales, as the footnote explains. The other term marked by asterisks is the statement of whether or not a subsequent purchaser may assume the obligation on its original terms. As the footnote provides, this disclosure is required only for residential mortgage transactions.

The form for alternate shopping disclosures, which appears as Section A(9), differs from the others since it is not a model, but a sample. Therefore, instead of being generally applicable to any transaction for which alternate shopping disclosures are given, this form sets out the specific terms and figures for a hypothetical credit sale transaction.

The notice of right to cancel, which appears as Section A(10), is a model form for a closed-end credit transaction in which a security interest in a dwelling is taken at the time the transaction is entered into. A somewhat different form would be necessary for transactions in which a security interest is added to an existing obligation, since that notice would have to reflect the fact that the right of rescission applies only to the addition of the security interest, and not to the existing obligation. Another form may also be required for refinancings to reflect the fact that, in general, the right of rescission applies only to additional advances.

Appendix B

Appendix B contains an explanation of how the annual percentage rate is computed for certain open-end credit plans involving application of both a periodic rate and a transaction charge. It relates to proposed § 226.8(c)(2)(iii)(B). Examples of how the computation is done are included.

In consideration of the foregoing and pursuant to the authority granted in § 105 of the Truth in Lending Act (15 U.S.C. 1604, as amended), the Board proposes to issue a revised Regulation Z (12 CFR Part 226) as follows:

PART 226—TRUTH IN LENDING

Subpart A—General

226.1 Authority, purpose, scope, organization, circumvention or evasion.
226.2 Definitions and rules of construction.
226.3 Transactions exempted from the regulation.
226.4 Finance charge.

Subpart B—Open-End Credit

226.5 Disclosures.
226.6 Credit card transactions; special requirements.
226.7 Billing error resolution.
226.8 Determination of annual percentage rate.
226.9 Right of rescission.
226.10 Advertising.

Subpart C—Closed-End Credit

226.11 Disclosures.
226.12 Determination of annual percentage rate.
226.13 Right of rescission.
226.14 Advertising.

Subpart D—Consumer Leasing

226.15 Disclosures.
226.16 Advertising.

Subpart E—Miscellaneous

226.17 Record retention.
226.18 Spanish language disclosures.
226.19 Effect on state laws.
226.20 State exemptions.
226.21 Issuance of staff interpretations.

Appendix A: Model Disclosure Forms and Clauses
Appendix B: Annual Percentage Rate Computations

Authority: Title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601–1667).

Subpart A—General

§ 226.1 Authority, purpose, scope, organization, circumvention or evasion.

(a) *Authority.* This regulation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending, Fair Credit Billing, and Consumer Leasing Acts, which are contained in Title I of the Consumer Credit Protection Act, as amended (Title 15, §§ 1601 through 1667 of the United States Code).

(b) *Purpose.* (1) The general purpose of this regulation is to require disclosure of information about the cost and terms of consumer credit and consumer leases to promote their informed use by consumers. The regulation also gives a consumer the right to cancel certain credit transactions that involve a lien on the consumer's principal residence, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes.

(2) This regulation is not intended to govern charges for consumer credit or

consumer leases, nor is its purpose to regulate trade practices except to the extent that those practices are inconsistent with the requirements of the regulation.

(c) *Scope.* (1) In general and subject to the applicable definitions in § 226.2 and the exemptions in § 226.3, the credit provisions of this regulation (Subparts B and C) apply to each individual or business that offers to extend credit (that is, the obligation will be payable on its face or by agreement to the individual or business) if four conditions are met. They are: first, the credit must be offered to consumers (that is, natural persons, not businesses, government units, or organizations); second, the offering of credit to consumers must be done regularly by the individual or business; third, the credit must be subject to a finance charge or must be repayable by agreement in more than four installments; and, fourth, the credit must be primarily for personal, family, or household purposes. Note that where a credit card is involved, however, certain provisions of the regulation apply even if the credit is not subject to a finance charge or is not repayable by agreement in more than four installments; see the definition of "creditor" in § 226.2(q). Also note that certain provisions apply even if a credit card is used or expected to be used by an individual or a business for business purposes; see the special requirements for credit card transactions in § 226.6.

(2) Subject to the applicable definitions in § 226.2 and the exemptions in § 226.3, the leasing provisions of this regulation (Subpart D) generally apply to each individual or business that offers to lease or arranges for the lease of property if five conditions are met: first, the leases must be offered to or arranged for consumers; second, the offering or arranging of personal property leases to consumers must be done regularly by the individual or business; third, the leases must be of personal property; fourth, the lease term must be for more than four months; and fifth, the leases must be primarily for personal, family, or household purposes.

(d) *Organization.* (1) The regulation is divided into five subparts in order to enhance its ease of use by grouping together provisions relating to general matters, open-end credit, closed-end credit, consumer leasing, and miscellaneous rules. Thus, for each type of transaction—open-end credit, closed-end credit, consumer lease—a person generally need consult only one self-contained subpart of the regulation to determine the applicable rules, referring only as necessary to the definitions and procedural rules.

(2) Subpart A contains general information. It sets forth the basis, purpose, scope, and organization of the regulation, the definitions of basic terms used in the regulation, the transactions that are exempted from coverage, and the method of determining the finance charge for consumer credit obligations.

(3) Subpart B contains the rules relating to open-end credit. Those provisions explain what initial and periodic disclosures are required, what special rules apply to credit card transactions, what procedures must be followed for resolving billing errors, how to determine the annual percentage rate, what rules govern the three-day cooling-off period applicable to certain mortgage transactions (a procedure called rescission), and what rules apply to advertising.

(4) Subpart C covers closed-end credit disclosures, annual percentage rate calculations, rescission requirements, and advertising rules.

(5) Subpart D contains the consumer leasing disclosure and advertising rules.

(6) Subpart E collects the miscellaneous rules regarding record retention, Spanish language disclosure in Puerto Rico, inconsistent state law requirements, criteria for obtaining an exemption based upon a similar state law, and prodedures for seeking a staff interpretation.

(7) Following Subpart E are two appendices—one containing model disclosure forms and language for open-end and closed-end credit, and the other containing rules for computing an annual percentage rate in certain open-end credit plans.

(e) *Circumvention or evasion.* Any person subject to the requirements of this regulation shall not take any action for the purpose of circumventing or evading those requirements.

§ 226.2 Definitions and rules of construction.

For the purposes of this regulation, the following definitions and rules of construction apply:

(a) "Advertisement" means a message in any medium that is designed to promote, directly or indirectly, any credit or lease transaction. The term does not include the alternate shopping disclosures for closed-end credit permitted by § 226.11(h) of Subpart C.

(b) "Arrange for a lease" means regularly to offer a consumer lease to be extended by another person if the person who offers to arrange the lease receives compensation for that service or participates in preparing the lease contract with knowledge of its terms.

(c) "Arranger of credit" means a person who regularly offers consumer credit to be extended by another person if—

(1) A finance charge may be imposed for that credit, or the credit is payable by agreement in more than four installments; and

(2) The person extending the credit is not a creditor.

(d) "Billing cycle" or "cycle" means the interval between the days or dates of regular periodic statements. These intervals shall be no longer than a quarter of a year. They shall be equal and may be considered equal unless the number of days in a cycle varies by more than four days.

(e) "Board" means the Board of Governors of the Federal Reserve System.

(f) "Business day" means a calendar day except Sunday and the federal holidays of New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day (as specified in Title 5, § 6103(a) of the United States Code).

(g) "Cardholder" means a person to whom a credit card is issued for any purpose, including business or commercial, or a person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(h) "Card issuer" means a person who issues a credit card or that person's agent with respect to the card.

(i) "Cash price" means the price at which the creditor, in the ordinary course of business, offers to sell for cash the property or service that is the subject of the transaction. The term includes charges imposed by the creditor equally on cash and credit customers. It may include the price of optional accessories, services related to the sale (such as delivery, installation, modification, and improvements), and service contracts. The term does not include any finance charge.

(j) "Closed-end credit" means consumer credit other than open-end credit as defined in paragraph (u) of this section.

(k) "Consumer" means a cardholder or a natural person to whom consumer credit or a consumer lease is offered, and it includes a comaker, endorser, guarantor, surety, or similar person who may be obligated to repay the extension of credit or the lease obligation.

(l) "Consumer credit" means credit offered by a creditor to a consumer primarily for personal, family, or household purposes.

(m) "Consumer lease" means an obligation in the form of a bailment or lease for the use of personal property by a consumer primarily for personal, family, or household purposes, for an original term of more than four months, for a total lease obligation not exceeding $25,000, whether or not the consumer has the option to purchase or otherwise become the owner of the property at the end of the lease term.

(n) "Consummation" means the time that a consumer becomes obligated on a credit or lease transaction or pays any nonrefundable fee, other than a bona fide applicable fee.

(o) "Credit" means the right granted by a creditor to a consumer to defer payment of debt or to incur debt and defer its payment.

(p) "Credit card" means any card, plate, coupon book, or other device that may be used from time to time to obtain credit.

(q) "Creditor" means (1) A person

(i) Who regularly extends consumer credit that may be subject to a finance charge or that is payable by agreement in more than four installments and

(ii) To whom the debt arising from the transaction is initially payable on the face of the evidence of indebtedness or, if there is no evidence of indebtedness, by agreement;

(2) An arranger of credit;

(3) A card issuer; or

(4) For the purposes of §§ 226.4(f), 226.5(j) and 226.6(e) of Subpart B, a person who honors a credit card.

(r) "Credit sale" means a sale in which the seller is a creditor. The term includes a bailment or lease (unless terminable without penalty at any time by the consumer) under which the consumer

(1) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the aggregate value of the property and services involved; and

(2) Will become or has the option to become, for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

(s) "Dwelling" means a residential structure that contains one to four units or a mobile home or trailer, whether or not attached to real property. The term includes individual condominium or cooperative units.

(t) "Lessor" means a person who regularly leases, offers to lease, or arranges for a lease.

(u) "Open-end credit"[1] (1) Means consumer credit extended by a creditor on an account under a plan in which

(i) The creditor reasonably contemplates repeated transactions;

(ii) The consumer has the privilege of paying the balance in full at any time, without penalty or additional charge imposed for payment in full;

(iii) A finance charge may be imposed by the creditor from time to time on an outstanding unpaid balance; and

(iv) The amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the creditor, is replenished to the extent that the consumer repays any outstanding balance.

(2) For purposes of the requirements of §§ 226.5(b)(2), (3), (4), and (6); 226.5(c)(1), (2), (3), (9), (10), (11); 226.5(e), (g), (h), (i), and (j); 226.6(c), (d), and (e); and 226.7 of Subpart B, includes consumer credit extended on an account under a plan that meets criteria (i), (ii), and (iv) of paragraph (u)(1) of this section, whether or not a finance charge may be imposed by the creditor.

(v) "Periodic rate" means a percentage rate or the decimal equivalent of finance charge that is or may be imposed by a creditor on a balance for a day, week, month, or other subdivision of a year.

(w) "Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

(x) "Personal property" means property that is not real property under the law of the state in which it is located at the time it is offered or made available for lease.

(y) "Realized value" means (1) The price received by the lessor for the leased property at disposition;

(2) The highest offer for disposition; or

(3) The fair market wholesale or retail value at the end of the lease term if the use of wholesale or retail value is consistent with the estimated vlaue made at consummation.

(z) "Required deposit balance" means a deposit balance or investment that a consumer is required to make, maintain, or increase in a specified amount as a condition of the extension of credit. The term does not include a deposit balance or investment that will earn interest or dividends during the term of the obiligation, or an escrow account for the payment of taxes or insurance.

(aa) "Residential mortgage transaction" means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained on the consumer's dwelling to finance the acquisition or initial construction of that dwelling.

(bb) "Security interest" or "security"[2] means an interest in property that secures performance of a consumer credit or lease obligation and that is recognized by and enforceable under state law.

(cc) "State" means any state, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(dd) "Total lease obligation" means the sum of (1) The total of all scheduled periodic lease payments, excluding any charge upon which a lease charge is not assessed (such as an insurance premium paid directly to the insurer or that is not financed by the lessor);

(2) Any nonrefundable payment made by the consumer at or prior to delivery of the leased property for the purpose of reducing the amount that will be amortized over the term of the lease; and

(3) The estimated value of the leased property at the end of the lease term.

(ee) "Value of the property at consummation" means the cost to the lessor of the leased property, including, if applicable, any increase or markup by the lessor prior to consummation.

(ff) Where appropriate, the singular form of a word is to be construed to include the plural form and vice versa.

(gg) Where the words "obligation" and "transaction" are used in this regulation, they refer to a consumer credit or a consumer lease obligation or transaction, depending upon the context. Where the words "credit" and "lease" are used in this regulation, they mean "consumer credit" and "consumer lease," respectively, unless the context clearly indicates otherwise.

(hh) Unless defined in this regulation, the words used have the meanings given to them, to the extent applicable, by state law or contract.

(ii) Footnotes have the same legal effect as the text of the regulation.

§ 226.3 Transactions exempted from the regulation.

This regulation does not apply to the following types of credit or lease:

(a) *Business, agricultural, or organizational credit.* An extension of

[1] The creditor of an open-end credit account may verify credit information regarding the consumer from time to time without affecting the classification of the account as open-end credit.

[2] The terms may include, for example, a security interest under the Uniform Commercial Code, a real property mortgage or deed of trust, any other consensual or confessed lien (whether or not recorded), a right of set-off (whether provided by agreement or by operation of law), a lien that may arise by virtue of a confession of judgment or cognovit provision if the consumer does not have the right to prior notice and opportunity to present a defense, and any lien that may arise by operation of law.

credit primarily for a business, commercial, or agricultural[3] purpose or to a person other than a natural person, except with regard to the issuance of credit cards and the liability for their unauthorized use as provided in paragraphs (a) through (f) of § 226.6.

(b) *Credit over $25,000 not secured by real property for a dwelling.* An extension of credit not secured by real property or a dwelling in which the amount financed exceeds $25,000 or in which the transaction involves a specific written commitment to extend credit in excess of $25,000.

(c) *Public utility credit.* An extension of credit involving public utility services provided through pipe, wire, or other connected facilities, or through radio transmission, if the charges for service, delayed payment, or any discounts for prompt payment are filed with or regulated by any government unit. The financing of durable goods or home improvements by a public utility is not exempt.

(d) *Securities or commodities credit.* An extension of credit for the purchase of securities or commodities where the credit is extended by a broker-dealer registered with the Securities and Exchange Commisstion or the Commodity Futures Trading Commission.

(e) *Certain leases.* The following types of leases:

(1) A lease primarily for agricultural, business, or commercial purposes, or to a person other than a natural person.

(2) A lease of personal property incident to a lease of real property if—

(i) The consumer has no liability for the value of the property at the end of the lease except for abnormal wear and tear; and

(ii) The lessee has no option to purchase the leased personal property.

(3) A lease of a safe deposit box or its substantial equivalent.

§ 226.4 Finance charge.

(a) *Definition.* The finance charge is the cost of consumer credit expressed as a dollar amount. It includes any charge imposed directly or indirectly by the creditor and payable directly or indirectly by the consumer as an incident to, or as a condition of, the extension of credit. It does not include any charge of a type payable in a comparable cash transaction (such as a sales tax or license, title, or registration fee).

(b) *Charges included in the finance charge.* Unless specifically excluded by paragraphs (c) through (f) of this section, the finance charge includes the following types of charges:

(1) Interest, time price differential, and any amount payable under an add-on, discount, or other system of additional charges.

(2) Service, transaction, activity, or carrying charge, including any charge imposed in connection with a checking or similar transaction account (for example, for issuance, payment, or handling of checks or for account maintenance) to the extent that it exceeds the charge for a similar account without a credit feature.

(3) Points, loan fee, assumption fee, finder's fee, or similar charge.

(4) Appraisal, investigation, or credit report fee.

(5) Premiums [4] for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss, including single interest insurance.

(6) A charge imposed upon a creditor by another person for purchasing or accepting a consumer's obligation that the consumer is required to pay in cash, as an addition to the obligation or as a deduction from the proceeds of the obligation.

(7) Premiums [5] for credit life, accident, health, or loss of income insurance, written in connection with [6] a credit transaction.

(8) Premiums [7] for insurance against loss of, or damage to, property or against liability arising out of the ownership or use of property, written in connection with [8] a credit transaction.

(9) A discount for the purpose of inducing payment other than by use of credit.

(c) *Charges excluded from the finance charge.* The finance charge does not include the following types of charges:

(1) A charge for actual, unanticipated late payment, exceeding a credit limit, delinquency, default, or similar occurrence.

(2) A charge imposed by a financial institution for paying a check or similar instrument that overdraws or increases an overdraft in an account, unless the payment of the instrument and the imposition of the charge were previously agreed upon in writing.

(3) A fee charged for membership in a credit card plan.

(4) In connection with a transaction secured by real property, if they are bona fide and reasonable in amount:

(i) Fees for title examination, abstract of title, title insurance, or property survey;

(ii) Fees for preparing a deed, mortgage, settlement statement, or similar document;

(iii) Notary, appraisal, or credit report fees; and

(iv) Amounts required to be paid into escrow or trustee accounts that would not otherwise be included in the finance charge.

(d) *Insurance.* (1) Premiums for credit life, accident, health, or loss of income insurance may be excluded from the finance charge if the following three conditions are met:

(i) The insurance coverage is not required by the creditor, and this fact is disclosed.

(ii) The premium [9] for the initial term of insurance coverage is disclosed. If the term of insurance is less than the term of the transaction, the term of insurance shall be disclosed. If the premium disclosed may increase, that fact also shall be stated.

(iii) The consumer signs an affirmative written statement indicating a desire for the insurance after receiving the disclosures specified in this provision. If there is more than one consumer to be insured, any one of them may sign the statement.

(2) Premiums for insurance against loss of, or damage to, the property securing the obligation, or against liability arising out of the ownership or use of that property [10] may be excluded from the finance charge if the following two conditions are met:

(i) The insurance coverage may be obtained from a person of the consumer's choice,[11] and this fact is disclosed.

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[3] An agricultural purpose includes the planting, propagating, nurturing, harvesting, catching, storing, exhibiting, marketing, transporting, processing, or manufacturing of food, beverages (including alcoholic beverages), flowers, trees, livestock, poultry, bees, wildlife, fish, or shellfish by a natural person engaged in farming, fishing, or growing crops, flowers, trees, livestock, poultry, bees, or wildlife. It also includes the acquisition of real property (including real property with a dwelling), personal property, and services, if the acquisition is used primarily in any of those activities.

[4] The amount to be included in the finance charge is the premium for coverage for the period of time that the creditor requires the insurance to be maintained.

[5] See footnote 4.

[6] A policy of insurance owned by the consumer and assigned to or otherwise made payable to the creditor to satisfy a requirement imposed by the creditor is not insurance "written in connection with" a credit transaction if the policy was not purchased for use in connection with that credit extension.

[7] See footnote 4.

[8] See footnote 6.

[9] For an open-end credit plan where the premium is computed on the outstanding balance, the unit cost of the premium may be used if the period is stated.

[10] This includes single interest insurance that functions like dual interest insurance if the insurer waives all right of subrogation against the consumer.

[11] A creditor's right to refuse to accept an insurer offered by the consumer, for reasonable cause, does not require inclusion of the premium in the finance charge.

(ii) If coverage may be obtained from or through the creditor, the premium [12] for the initial term of insurance coverage is disclosed. If the term of insurance is less than the term of the transaction, the term of insurance shall be disclosed. If the premium disclosed may increase, that fact also shall be stated.

(e) *Itemized charges.* If itemized and disclosed, the following charges may be excluded from the finance charge:

(1) Fees prescribed by law that actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest.

(2) Premiums for insurance in lieu of perfecting a security interest to the extent that the premium does not exceed the fees described in paragraph (e)(1) of this section that otherwise would be payable.

(f) *Discounts.* A discount for the purpose of inducing payment for a purchase by cash, check, or similar means rather than by use of an open-end credit card account (whether or not a credit card is physically used) may be excluded from the finance charge [13] if the following three conditions are met:

(1) The discount does not exceed 5 percent [14] of the regular price [15] of the property or service.

(2) The discount is available to all prospective purchasers, whether or not they are cardholders, and this fact is clearly and conspicuously disclosed in the seller's place of business.[16]

(3) If an advertisement or telephone communication by which the creditor invites or accepts purchase orders states that consumers are allowed to pay for property or services by use of a credit card or its underlying account, the availability of the discount shall be clearly and conspicuously stated either in the advertisment or communication or before the transaction has been completed by use of the credit card or its underlying account. If a price other than the regular price is disclosed in an advertisment or communication, the fact that that price is not available to credit card purchasers also shall be disclosed.

(g) *Prohibited offsets.* Interest, dividends, or other income received or to be received by the consumer on deposits or on investments shall not be deducted from the finance charge.

Subpart B—Open-End Credit

§ 226.5 Disclosures.

(a) *General requirements.* (1) *Who must make disclosures to whom.* If the plan involves only one creditor, that creditor shall make the disclosures required by this section. Except as provided in paragraph (j) of this section, if the plan involves more than one creditor, only one creditor must make all the disclosures.

(ii) The disclosures shall be made to the consumer. If there is more than onc consumer, the disclosures may be made to any one of the consumers who is primarily liable on the obligation. Where the right of rescission under § 226.9 is applicable, however, the disclosures shall be made to each person who has the right to rescind.

(2) *What disclosures must be made.* A creditor must give the initial disclosures required under paragrph (b) of this section and the periodic statment disclosures required under paragraph (c) of this section. A creditor must also follow the procedures described in § 226.7 if a consumer asserts an error under that section.

(3) *Time and form; general.* (i) The disclosures required by this subpart shall be made clearly and conspicuously in writing in a form that the consumer may keep. The disclosures shall be made at the time, in the format, and in the terminology required by the applicable paragraphs of this subpart. Appropriate identifying language may accompany required terminology. (For example, the rate applied to a balance on a daily basis may be described as the "daily periodic rate"; payments on a loan account may be described as "loan payments.") Pluralization of required terminology is permitted.

(ii) When the words "finance charge" and "annual percentage rate" are required to be disclosed together with a corresponding amount or percentage rate, those words shall be more conspicuous (for example, by use if capitalization, asterisks, bolder type, underlining, or a contrasting color) than any other required terminology. This rule does not apply to paragraph (c)(4) of this section and to § 226.10.

(4) *Initial disclosures; time and form.* (i) The creditor shall furnish the initial disclosure required by paragraph (b) of this section to the consumer before the first transaction is made under the plan.

(ii) These disclosures must be made together but can be made on one or more pages of an integrated document. The document may contain other material (such as the agreement, explanations, disclosures requied by state law or promotional material) as long as the additional material does not contradict or detract attention from the required disclosures.

(5) *Periodic statements; time and form.* (i) The disclosures required to be on or with a periodic statement should be made together; however, a periodic statement can consist of one or more pages. Additional material appearing on or with any periodic statement shall not contradict or detract attention from the required disclosures.

(ii) A periodic statement containing the disclosures required by paragraph (c) of this section shall be mailed or delivererd by the creditor to the consumer at least quarterly for each cycle at the end of which the account has a debit or credit balance of more than $1 or on which a finance charge has been imposed. No periodic statement need be sent to any consumer whose account the creditor deems to be uncollectible. A creditor's following its standard procedures for uncollectible accounts shall be evidence that the creditor has deemed the account uncollectible.

(iii) The creditor shall mail or deliver the periodic statement at least 14 days priror to any date or the end of any time period required to be disclosed by paragraph (c)(11) of this section in order for the consumer to avoid the imposition of any finance or other charges. If the creditor fails to meet this requirement, no finance or other charges may be collected on the amount required to be paid to avoid the imposition of finance charges as provided in paragraph (c)(11) of this section. This time limitation shall not apply if the creditor has prevented, delayed, or hindered in meeting this requirement by an act of God, war, civil disorder, natural disaster, or strike.

(6) *Basis of disclosures and use of estimates.* (i) The creditor shall base the disclosures on the information known to it at the time disclosures are made. The disclosures shall be based on the assumption that the consumer will comply with the terms of the agreement.

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[12] See footnote 9.

[13] A discount tht is not a finance charge under this paragraph shall not be considered a finance charge or other charge for credit under any state law relating to usury, disclosure of information in connection with credit extensions, or charges permissible in connection with the extension with the extension or use or credit.

[14] If the discount is greater than 5 percent, the total amount of the discount shall be a finance charge.

[15] "Regular price" means (1) the tagged or posted price; or (2) the price charged for the property or service where payment is made by use of an open-end credit card account if either (i) no price is tagged or posted, or (ii) two prices are tagged or posted, one of which is charged where payment is made by use of an open-end credit card account and the other where payment is made by use of cash, check, or similar means. For the purpose of this definition, payment by check, draft, or similar instrument that may result in the debiting of a cardholder's open-end account shall not be considered payment payment made by use of that account.

[16] The availability of the discount may be limited on the basis of some other distinction such as certain types of property or services, certain outlets, or cash payments only, if the limitations are clearly and conspicuously disclosed.

The disclosures shall reflect the terms as actually agreed upon even if they differ from the written obligation (for example, a creditor-employer that offers a preferential employee rate cannot furnish the employee with a preprinted disclosure from reflecting the non-employee rate.)

(ii) If any information necessary to make an accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available to it and shall state clearly that the disclosure is an estimate.

(7) *Effect of subsequent events.* (i) If a disclosure is rendered inaccurate as a result of an event that occurs after delivery of the disclosures, the resulting inaccuracy is not a violation of this regulation.

(ii) If a disclosure is later rendered inaccurate, new disclosures may be required. The conditions for new disclosures are set forth in paragraph (i) of this section (Change in terms).

(iii) Whenever a term change renders a disclosure form inaccurate, an insert reflecting the new term may be used with the outdated disclosure form until the form supply is exhausted.

(b) *Opening new account; initial disclosure statement.* The creditor shall disclose to the consumer, in accordance with the timing and format requirements of paragraph (a) of this section and in terminology consistent with that in quotation marks in paragraph (c) of this section, each of the following items, to the extent applicable:

(1) *Finance charge.* The circumstances under which a finance charge will be imposed and an explanation of the method of determining the finance charge, as follows:

(i) A statement of when finance charges begin to accrue, including an explanation of whether or not any time period exists within which any credit extended may be repaid without incurring a finance charge. When such a time period is provided, a creditor may, at its option and without disclosure, refrain from imposing finance charges even though payment is received after the time period's termination. If no such time period is provided, that fact shall be disclosed.

(ii) A disclosure of each periodic rate that may be used to compute the finance charge, the range of balances to which it is applicable,[17] and the corresponding annual percentage rate (determined by multiplying the periodic rate by the number of periods in a year). If different periodic rates apply to different types of transactions (such as, purchases and cash advances), those periodic rates and their corresponding annual percentage rates together with the types of transaction to which they apply, must be disclosed.

(iii) An explanation of the method used to determine the balance on which the finance charge may be computed.[18] Where a balance was determined, for example, without first deducting all credits and payments made during the billing cycle, that fact shall be disclosed. (See Appendix A for model clauses.)

(iv) An explanation of how the amount of any finance charges will be determined.[19] This explanation shall indicate, for example, that the periodic rate will be applied to the balance, and shall describe how any other finance charges [20] will be determined.

(2) *Other charges.* An identification of any charges [21] other than finance charges that may be imposed as part of the plan, together with a disclosure of either the amounts of those charges or an explanation of how the amounts of those charges will be determined.

(3) *Security interests.* Where a security interest is or will be taken in goods charged to the account, a statement of that fact; where a security interest is or will be taken in property not charged to the account, a statement of that fact and an identification, by item or type, of the property that will serve as security.

(4) *Minimum payment.* The amount or method of computing the amount of any minimum periodic payment required by the creditor to be made for a particular interval, and an identification of that interval (for example, $50 per month; or 10% of the outstanding balance every two weeks).

(5) *Statement of billing rights.* A statement that is substantially similar [22] to the statement found in Appendix A concerning a consumer's right to withhold payments and to dispute transactions.

(c) *Periodic statements.* The creditor shall, at least quarterly and in accordance with the timing and format requirements of paragraph (a) of this section, furnish the consumer with a periodic statement that discloses to the consumer the following items, to the extent applicable:

(1) *Previous balance.* The outstanding account balance at the beginning of the billing cycle, using the term "previous balance." If the balance is a credit balance, that fact shall be disclosed. Where there is more than one type of transaction (such as purchases and cash advances), the creditor may show a previous balance for each type of transaction.

(2) *Identification of transactions.* An identification of each credit extension in accordance with paragraph (d) of this section.

(3) *Payments and credits.* The amount and date of crediting any payment or other credit (for example, a return, adjustment, or finance charge rebate) during the billing cycle, using the term "payment" or "credit," as applicable. The date need not be provided if a delay in crediting does not result in the imposition of any finance or other charges.

(4) *Periodic rates.* Each periodic rate, using the term "periodic rate," that may be used to compute the finance charge, the range of balances to which it is applicable,[23] and the corresponding annual percentage rate (determined by multiplying the periodic rate by the number of periods in a year). The words "corresponding annual percentage rate," "corresponding nominal annual percentage rate," "nominal annual percentage rate," or "annual percentage rate" may be used to describe the corresponding annual percentage rate. If different periodic rates apply to different types of transactions (such as, purchases and cash advances), those

[17] A creditor is not required to adjust a range of balances disclosure to reflect the balance below which only a minimum charge applies. (For example, if a minimum charge is imposed on balances of less than $10, the bottom limit of the range of balances may still be shown as $0).

[18] The explanation need not describe, however, the manner in which payments and other credits are allocated (for example, the fact that payments are applied first to finance charges, then to purchases, and then to cash advances need not be disclosed).

[19] If no finance charge is imposed when the outstanding balance is less than a certain amount, no disclosure is required of that fact or of the balance below which no finance charge will be imposed.

[20] Examples include: minimum, fixed, transaction, and activity charges; required insurance; appraisal, investigation, or credit report fees; or charges imposed in connection with a checking or similar account, such as the issuance, payment or handling of checks, or for account maintenance, to the extent they exceed the charges for a similar account without a credit feature.

[21] Examples include: charges for late payment; for providing documentary evidence of transactions requested under § 226.7 (Billing error resolution); for membership in an open-end credit plan; over-the-credit limit charges; and taxes or fees imposed only as a result of credit extensions. "Other charges" would not include, for example: premiums for voluntary credit life or disability insurance, amounts payable by a consumer for collection activity after default; or charges for documentary evidence of transactions supplied for income tax records.

[22] For example, descriptive terms or names that are appropriate to the creditor's program may be used ("the xyz credit union's monthly statement" instead of "your bill"); inappropriate provisions may be deleted (paragraph 7 may be deleted if no credit card is involved in the account); and modifications may be made to conform with plain English state laws.

[23] See footnotes 17 and 19.

periodic rates and their corresponding annual percentage rates, together with the types of transactions to which they apply, must be disclosed.

(5) *Other types of finance charges.* The amount or method of computing the amount of any other type of finance charge that may be imposed.[24]

(6) *Balance on which finance charge computed.* The dollar amount of each balance on which a component of the finance charge was computed (for example, a transaction charge or a periodic rate) for each type of transaction that is subject to a different periodic rate (for example, 1½% per month on purchases or 1% per month on cash advances) reflected on the statement and an explanation of how each balance was determined.[25] Where a balance was determined, for example, without first deducting all credits and payments made during the billing cycle, that fact and the amounts of such credits and payments shall be disclosed. (See Appendix A for model clauses.)

(7) *Amount of finance charge.* The amount of the finance charge debited or added to the account during the billing cycle, using the term "finance charge."[26] The components of the finance charge shall be itemized and identified to show the amounts due to the application of any periodic rates and the amount of any other type of finance charge. Where there is more than one periodic rate, the rates need not be separately itemized and identified. Where there are other types of finance charges, each charge must be individually itemized and identified.

(8) *Annual percentage rate.* When a finance charge is imposed during the billing cycle, the annual percentage rate determined under § 226.8, using the term "annual percentage rate." Where an annual percentage rate cannot be determined under § 226.8(c)(2)(iii)(A) (for example, where a minimum charge is imposed and the balance on which the finance charge is to be imposed is zero), the creditor shall disclose that fact.

(9) *Other charges.* The amounts of any charges other than finance charges (see footnote 21 for examples) debited to the account during the billing cycle. These charges must be itemized and identified.

(10) *Closing date of billing cycle; new balances.* The closing date of the billing cycle and the outstanding account balance on that date, using the term "new balance." If the new balance is a credit balance, that fact shall be disclosed. If the periodic statement reflects more than one type of transaction, the creditor may show a new balance for each type of transaction.

(11) *Free-ride period.* The date by which or the time period within which the new balance must be paid in order to avoid the imposition of finance charges. If only a portion of the new balance need be paid to avoid a finance charge, that amount must be disclosed. The creditor may, at its option and without disclosure, impose no finance charge when payment is received after the specified date or time period.

(12) *Address for notice of billing errors.* The address to be used for notice of billing errors, preceded by the caption "Send Inquiries To" or similar language. Alternatively, the address may be provided on the billing rights statement permitted by paragraph (e)(2) of this section.

(d) *Identification of transactions.* The creditor shall identify credit transactions on or with a periodic statement by furnishing the information required by this section, as applicable.[27]

(1) *Sale credit.* For each extension of credit involving the sale of property or services, the following rules shall apply:

(i) *Furnishing a copy of the credit document.* Each extension of sale credit for which an actual copy of the document (not a facsimile draft) evidencing the credit transaction accompanies the first periodic statement that reflects the transaction shall be identified by disclosing on or with the periodic statement at least the following information:[28]

(A) The amount of the transaction; and

(B) Either the date of the transaction or the date of debiting the transaction to the consumer's account, whichever the creditor chooses.

(ii) *Describing transaction if the creditor and seller are the same person or related persons.*[29] If the creditor and the seller are the same person or related persons, and if an actual copy of the document evidencing the credit transaction does not accompany the periodic statement, the transaction shall be identified by disclosing on or with the first periodic statement that reflects the transaction at least the following:

(A) The amount and date of the transaction; and

(B) A brief identification[30] of the property or services purchased.[31] Alternatively, the creditor may disclose a number or symbol that also appears on the document evidencing the transaction and given to the consumer. The number or symbol must reasonably identify that transaction with that creditor. If the creditor discloses a number or symbol and the consumer submits a notice of a billing error regarding the transaction, the creditor must comply with § 226.7, including correcting the account in accordance with § 226.7(e)(1). The creditor must also furnish the consumer with documentary evidence of the transaction, whether or not the consumer requests it, free of charge and within the time period allowed for resolution under § 226.7.

(iii) *Description if the creditor and seller are not the same person or related persons.* If the creditor and seller are not the same person or related persons, and

[24] See footnote 20.

[25] See footnote 18.

[26] Creditors that do not debit or add on finance charges during a billing cycle, but instead reflect the amount being allocated from each payment to finance charges, need not disclose any finance charges that may have accrued between the date of the last payment and the closing date under paragraph (c)(10) of this section.

[27] Note that under § 127(b)(2) of the act, failure to disclose the information required by this paragraph shall not be deemed a failure to comply with the act or the regulation if: (1) the creditor maintains procedures reasonably adapted to procure and provide such information; and (2) the creditor responds to and treats any inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with § 226.7(e)(1).

[28] The creditor complies with this requirement by disclosing the amount and date of a transaction as supplied by the seller. This does not relieve the creditor of its duty to investigate a notice of a billing error under § 226.7(g).

[29] For purposes of this section, franchised or licensed sellers of a creditor's product shall be considered related to the creditor. Sellers that assign or sell open-end consumer sales accounts to a creditor or arrange for credit under an open-end credit plan that allows the consumer to use the credit only in transactions with that seller shall also be considered related to the creditor. A person is not related to the creditor, however, simply because an agreement or contract exists under which the person is authorized to honor the creditor's credit card, or even though the person and the creditor have a corporate connection if that connection is not obvious from the names used by the person and the creditor. Transactions with third party sellers resulting from promotional material or solicitations mailed by the creditor may, at the creditor's option, be described as transactions in which the seller and the creditor are the same or related persons.

[30] Designations such as "merchandise" or "miscellaneous" are insufficient, but a reference to a department in a sales establishment that accurately conveys the identification of the types of property or services available in that department is sufficient. Identification may be made by a symbol relating to an identification list printed on the statement.

[31] An identification of property or services may be replaced by the seller's name and the location of the transaction where: (1) the creditor and the seller are the same person; (2) the creditor's open-end plan has fewer than 15,000 accounts; (3) the creditor provides all consumers with point-of-sale transaction documentation; and (4) the creditor responds to consumers' notices of billing errors about transactions in the manner described in this paragraph. If all transactions with the seller occur at one location, the seller's name and that location need not be repeated on the periodic statement for each transaction.

if an actual copy of the document evidencing the credit transaction does not accompany the periodic statement, the transaction shall be identified by disclosing on or with the first periodic statement that reflects the transaction at least the following:

(a) The amount and date of the transaction; [32]

(B) The seller's name; [33] and

(C) The address where the transaction took place [34] (city, and state or foreign country, using understandable and generally accepted abbreviations if the creditor desires).

(2) *Nonsale credit.* For nonsale credit (such as cash advance or overdraft loans), the following rules shall apply:

(i) *Furnishing a copy of the credit document.* Each extension of credit for which an actual copy of the document (not a facsimile draft) evidencing the credit transaction accompanies the first periodic statement reflecting the transaction shall be sufficiently identified if the document contains:

(A) The amount of the transaction; and

(B) Either the date of the transaction, the date of debiting the transaction to the consumer's account, or the date placed on the document by the consumer, if the consumer signed the document.

(ii) *Description of the transaction.* Each nonsale credit transaction for which an actual copy of the document evidencing the transaction and containing the information described in paragraph (d)(2)(i) of this section does not accompany the first periodic statement reflecting the transaction shall be identified by at least the following:

(A) A characterization of the transaction as a cash advance, loan, overdraft loan, or other appropriate designation (for example, any readily identifiable trade name for the program);

(B) The amount of the transaction; and

(C) The date of the transaction, [35] or the date appearing on the document evidencing the transaction, if the consumer signed the document. Alternatively, the debiting date may be disclosed. If this alternative is followed, however, and the consumer submits a notice of a billing error regarding the transaction, the creditor must comply with § 226.7, including correcting the account in accordance with § 226.7(e)(1). The creditor must also furnish the consumer with documentary evidence of the transaction, whether or not the consumer requests it, free of charge and within the resolution time period under § 226.7.

(3) *Transactions not billed in full.* A transaction that is billed in precomputed installments on more than one periodic statement [36] rather than billed in full on any single statement shall be identified by disclosing, on the first periodic statement on which any portion of the transaction is billed, the full amount of the transaction, and the date on which the transaction took place. Identifying disclosures other than the amount and date shall be made in accordance with the applicable provisions of this section.

(4) *Unavailable information.* If information required by paragraphs (d)(1) through (3) of this section is unavailable to the creditor despite the maintenance of procedures reasonably adapted to obtain such information, the following rules shall apply:

(i) If the required date is unknown, the debiting date shall be substituted (except that the debiting date need not be provided if an actual copy of the document evidencing the transaction is provided with the periodic statement.

(ii) The creditor shall disclose as much of the other required information as is available; and

(iii) If the consumer submits a notice of a billing error regarding the transaction, the creditor must comply with § 226.7, including correcting the account in accordance with § 226.7(e)(1). The creditor must also furnish the consumer with documentary evidence of the transaction, whether or not the consumer requests it, free of charge and within the resolution period under § 226.7.

(5) *Foreign transactions.* If a transaction does not occur in a state:

(i) The creditor may disclose the transaction's debiting date; and

(ii) The provisions of paragraph (d)(4) of this section shall apply whether or not the creditor maintains procedures reasonably adapted to obtain the information otherwise required by paragraph (d) of this section.

(e) *Routine furnishing of billing rights statement.* (1) *Annual statement.* the creditor shall mail or deliver during at least one billing cycle per calendar year the billing rights statement required by paragraph (b)(5) of this section at intervals of not less than six months or no more than 18 months to each consumer entitled to receive a periodic statement under paragraph (a)(5)(ii) of this section for that billing cycle.

(2) *Alternative summary statement.* As an alternative to the requirements of paragraph (e)(1) of this section, the creditor may mail or deliver, on or with each periodic statement, a statement that is substantially similar [37] to that found in Appendix A. If it is made on the periodic statement, it need not appear on a portion of the periodic statement that the consumer may keep.

(f) *Disclosures for supplemental credit devices.* If a creditor of an open-end credit plan, more than 30 days after mailing or delivering the initial disclosures required under paragraph (b) of this section, mails or delivers to a consumer already participating in the plan any credit device, other than a credit card, for use with the consumer's account, [38] that is unsolicited or whose finance charge terms differ from those previously disclosed the device shall be accompanied by the disclosures required by paragraph (b)(1) of this section. If the disclosures required by this paragraph appear with any other disclosures or material, the required disclosures must be highlighted.

(g) *Prompt crediting of payments.* Regardless of the date on which a payment is posted to a consumer's account, it shall be credited to the consumer's account as of the date it is received by the creditor [39] and no

[32] See footnote 19. Also, for mail order transactions, the debiting date may be disclosed instead of the transaction date.

[33] Disclosure of a seller's name as it appears on the document evidencing the transaction (or a more complete spelling of the name if it is alphabetically abbreviated on the document evidencing the transaction) is sufficient.

[34] The creditor may omit the address or provide any suitable designation that assists the consumer in identifying the transaction when no meaningful address is readily available because the transaction (1) took place at a location that is not fixed (for example, aboard a public conveyance such as an airplane, in which case the flight number, "flight from [point of departure] to [destination]," or similar description is sufficient); or (2) took place in the consumer's home (in which case "consumer's home" or similar description is sufficient); or (3) was the result of a mail or telephone order (in which case "telephone order," "mail order," or similar description is sufficient).

[35] In cases in which an amount is debited to a consumer's open-end credit account under an overdraft checking plan, the debiting date is considered the transaction date for purposes of this paragraph.

[36] For example, for a $120 purchase, a creditor may agree to bill a consumer $40 a month for three months. Since there is only one "transaction" for the identification purposes of § 226.5(d), this paragraph requires that full identifying information must appear on or with the first periodic statement reflecting the $120 transaction. There are no specific identification requirements for the subsequent $40 debits.

[37] See footnote 22.

[38] Examples of a credit device for purposes of this paragraph are a blank check, payee-designated check, blank draft or order, or authorization form for issuance of a check. This paragraph does not apply to checks used in conjunction with a checking account, even through such checks may also activate a cash advance under an open-end credit plan.

[39] If payroll or another similar type of deduction is authorized in order to make the minimum periodic payment on an open-end credit account and the deduction is held in a share, escrow, or similar account until such time as the periodic payment amount is withdrawn and applied by the creditor to

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finance or other charge shall be imposed when payment is received on or before the time indicated by the creditor to avoid imposition of these charges, provided that:

(1) If a creditor fails to post a payment in time to avoid the imposition of finance or other charges, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next billing cycle.

(2) The creditor may specify on the periodic statement or on accompanying material that the consumer need not be able to keep reasonable requirements relating to the form, amount, manner, location, and time for receipt of payment; however,

(i) If no particular hour of the day is specified as the time by which payment must be received in order to be credited to the consumer's account as of that date, payments received before the close of business on any particular day must be credited as of that date;

(ii) If no location is specified for receipt of payment, then payment at any location where the creditor conducts business shall be credited as of the date the payment is received; and

(iii) If no particular manner of payment is specified, then payment by check, cash, money order, bank draft, or other similar instrument in properly negotiable form is proper manner of payment.

(3) If a creditor receives a payment that does not conform to one of the requirements the creditor has specified under this paragraph, the payment must be credited as soon as possible but no later than five business days from the date of receipt.

(4) If the creditor accepts payment at locations other than those specified under paragraph (g)(2) of this section, and if the possibility of delay is clearly disclosed to the consumer on the periodic statement or on material accompanying the statement, the consumer's account shall be credited as soon as possible but no later than five days from the date of receipt. The possibility of delay need not be stated on a portion of the periodic statement that the consumer may keep.

(5) If a delay in crediting a payment does not result in the imposition of any finance or other charges for the billing cycle in which the payment is received or a later billing cycle, the payment need not be credited as of the date of receipt but in any case must be credited as soon as possible.

(h) *Treatment of credit balances.* (1) Whenever a creditor receives a payment or other credit that exceeds by more than $1 the new balance (as defined in paragraph (c)(10)) to which the payment or other credit is to be applied, the creditor shall:

(i) Credit the consumer's account with an amount equal to the new balance and, as soon as possible but no later than five business days from receipt of the payment or other credit, refund the excess amount; or

(ii) Credit the consumer's account with the total amount of the payment or other credit. If the consumer requests in writing a refund of any credit balance of $1 or more, the creditor shall refund any such credit balance as soon as possible but no later than five business days from receipt of the consumer's request.

(2) The creditor shall make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required in any case where the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.

(i) *Change in terms.* (1) Whenever any term required to be disclosed under paragraph (b) of this section is changed, a written notice of the change shall be mailed or delivered to all consumers whose accounts may be affected by the change at least 15 days prior to the effective date of the change. No notice is required when the change involves late payment charges, charges for documentary evidence or over-the-limit charges. No notice is required when there is a change in the collateral requirements.

(2) No disclosure is necessary under this section if the change is a reduction in the minimum periodic payment, in any component of the finance charge or in any charge other than the finance charge, or if the change is the suspension of future credit privileges or the termination of an account or plan.

(3) Whenever open-end credit is converted to closed-end credit or closed-end credit is converted to open-end credit under the terms of a written agreement signed by the consumer, the creditor shall provide the disclosures required by § 226.11(f) (2), (3) and (4) and § 226.5(b) respectively. Where either an individual open-end credit account or an entire open-end credit plan is terminated but no written agreement converting a consumer's account to a closed-end loan is involved, the creditor shall continue to provide the periodic statements required by § 226.5(c) and to follow the error resolution procedures of § 226.7.

(4) A change in terms resulting directly or indirectly from the consumer's default or delinquency does not require any notice under this section unless the periodic rate or other finance charge is increased in which case the creditor shall notify the consumer of the change in writing but shall not be required to comply with the timing requirements of paragraph (g)(1) of this section.

(5) An agreement approved by a court does not require any disclosures.

(j) *Finance charge imposed at the time of transaction.* (1) Any person honoring a consumer's credit card, other than the creditor of the open-end credit account, who imposes a finance charge not excepted by § 226.4(f) (Discounts for payment in cash) shall, at the time of honoring a consumer's credit card, make the disclosures required under § 226.11(f) (2), (3) and(4). The annual percentage rate to be disclosed shall be determined by dividing the finance charge by the amount financed and multiplying the quotient (expressed as a percentage) by 12.

(2) The creditor of the open-end credit account, if other than the person honoring the consumer's credit card, shall have no responsibility for disclosures required by paragraph (j)(1) of this section and shall not separately consider any charge imposed under paragraph (j)(1) of this section for purposes of the disclosure requirements of paragraphs (b) and (c) of this section.

§ 226.6 Credit card transactions; special requirements

(a) *Issuance of credit cards.* Regardless of the purpose for which a credit card is to be used, including business or commercial use, no credit card shall be issued to any person except:

(1) In response to an oral or written request or application by that person;[40] or

(2) As a renewal of, or in substitution for, an accepted credit card [41],

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the open-end credit account, the payment may be credited as of the date it is withdrawn from the share, escrow, or similar account if the deductions (1) are not a condition of the extention of credit, and (2) are held in an account subject to withdrawal by the consumer.

[40] The card issuer may send more than one credit card to a person if the person so requests, and may imprint on a card(s) a name other than that of a person to whom the cards are sent, provided that the cards are sent only to the person making the request.

[41] For purposes of this section, "accepted credit card" means any credit card that the cardholder has requested or applied for and received, or has signed, used, or authorized another person to use to obtain credit. Any credit card issued as a renewal or substitute in accordance with this paragraph becomes an accepted credit card when received by the cardholder.

regardless of whether the card is issued by the same or a successor card issuer or whether the card has credit or other features the same as or different from the accepted credit card; provided, however, that each accepted card is replaced by no more than one renewal or substitute card. A card will not be considered to be issued in renewal of or in substitution for another card if it is not honored by any of the persons who honored the original card. (See also paragraph (h)(1) of this section.)

(b) *Liability of cardholder for unauthorized use.*[42] (1) *Limitation on amount of liability.* The liability of a cardholder for unauthorized use [43] of a credit card shall not exceed the lesser of $50 or the amount of money, property, labor, or services obtained by the unauthorized use before notification to the card issuer under paragraph (b)(3) of this section.

(2) *Conditions of liability of cardholder.* A cardholder shall be liable for unauthorized use of a credit card only if:

(i) The credit card is an accepted credit card;

(ii) The card issuer has provided, on the credit card or within two years preceding the unauthorized use, adequate notice [44] of the cardholder's maximum potential liability. The notice shall state that the cardholder's liability shall not exceed $50 (or any lesser amount); that the cardholder may give oral or written notification of loss, theft, or possible unauthorized use; and the telephone number and address of the person or office to receive the notification. It may include any additional information not inconsistent with the provisions of this section;

(iii) The card issuer has disclosed to the cardholder, on or with the periodic statement that immediately precedes the unauthorized use, the telephone number and address of the person or office to be notified of loss, theft, or possible unauthorized use; and

(iv) The card issuer has provided a means (such as by signature, photograph, fingerprint, or electronic or mechanical confirmation) to identify the person to whom the credit card was issued.

(3) *Notification to card issuer.* Notification to a card issuer is given when such steps have been taken as may be reasonably necessary to provide the card issuer with pertinent information about the loss, theft, or possible unauthorized use of a credit card, regardless of whether any particular officer, employee, or agent of the care issuer does, in fact, receive the information. Notification may be given, at the cardholder's option, in person, by telephone, or in writing. Notification in writing is considered given at the time of receipt or, whether or not received, at the expiration of the time ordinarily required for transmission, whichever is earlier.

(4) *Effect of other applicable law or agreement.* If applicable state law or an agreement between a cardholder and the card issuer imposes lesser liability than that provided in this paragraph, the cardholder's liability shall not exceed the lesser liability imposed under that law or agreement.

(5) *Business use of credit cards.* If 10 or more credit cards are issued by one card issuer for use by the employees of an organization, nothing in this section prohibits the card issuer and the organization from agreeing to liability for unauthorized use without regard to the provisions of this section. However, liability for unauthorized use may be imposed on any employee of the organization only in accordance with this section.

(c) *Right of cardholder to assert claims or defenses against card issuer.* (1) *Limitations.* When a person who provides property or services fails to resolve satisfactorily a dispute as to property or services purchased with a credit card in a consumer credit transaction, the cardholder may assert against the card issuer all calims (other than tort claims) and defenses arising out of the transaction and relating to the failure to resolve, and may withhold payment up to the amount of credit outstanding for the property or services that gave rise to the dispute and any finance or other charges imposed on that amount, if:

(i) The cardholder has made a good faith attempt to obtain satisfactory resolution of the dispute relating to the transaction from the person honoring the credit card;

(ii) The amount of credit extended to obtain the property or services that result in the assertion of the claim or defense by the cardholder exceeds $50; and

(iii) The transaction that gave rise to the assertion of the claim or defense by the cardholder occurred in the same state as the cardholder's current disignated address or, if not within the same state, within 100 miles from that address.

(2) *Exceptions.* The limitations stated in paragraphs (c)(1)(ii) and (iii) of this section shall not apply when the person honoring the credit card:

(i) Is the same person as the card issuer;

(ii) Is controlled by the card issuer directly or indirectly;

(iii) Is under the direct or indirect control of a third person that also directly or indirectly controls the card issuer;

(iv) Controls the card issuer directly or indirectly;

(v) Is a franchised dealer in the card issuer's products or services; or

(vi) Has obtained the order for the transaction through a mail solicitation made by or participated in by the card issuer.

Simply honoring or indicating that a person honors a particular credit card is not any of the relationships described in paragraphs (c)(2)(i) through (vi).

(3) *Maximum amount of claims or defenses; determining credit outstanding.* The amount of the claim or defense that the cardholder may assert may not exceed the amount of credit outstanding for the disputed transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of the existence of the claim or defense. To determine the amount of credit outstanding for purposes of this section, payments and other credits shall be applied in the following order:

(i) Late charges in the order of entry to the account;

(ii) Fanance charges in the order of entry to the account; and

(iii) Any other debits in the order of entry to the account.

When more than one item is included in a single extension of credit, credits are to be distributed pro rata according to prices and applicable taxes.

(4) *Types of transactions excluded.* This paragraph does not apply to the use of a credit card to obtain a cash advance unrelated to any specific credit sale item, nor to the use of a check guarantee card in connection with a check.

(5) *Adverse credit reports prohibited.* If, in accordance with this paragraph, the cardholder withholds payment of the amount of credit outstanding for the disputed transaction, and if the card issuer knows or has reason to know that the claim or defense exists, the card issuer shall not report that amount as delinquent until the dispute is settled or judgment is rendered. Nothing in this paragraph prohibits a creditor from

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[42] See § 133(b) of the act for rules concerning burdens of proof in actions to enforce liability for use of credit cards.

[43] "Unauthorized use" means the use of a credit card by a person, other than the cardholder, who does not have actual, implied, or apparent authority for such use, and from which the cardholder receives no benefit.

[44] "Adequate notice" means a printed notice to a cardholder that sets forth clearly the pertinent facts so that the cardholder may reasonably be expected to have noticed it and understood its meaning. (See Appendix A for model notice.)

reporting the disputed amount or account as being in dispute.

(d) *Offsets by card issuer prohibited.* (1) A card issuer may not take any action, whether before or after termination of credit card privileges, to offset a cardholder's indebtedness arising from a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer.

(2) This paragraph does not alter or affect the right of a card issuer acting under state or federal law to obtain or enforce a security interest in, or to attach or otherwise levy upon, funds of a cardholder held on deposit with the card issuer if the same procedure is constitutionally available to creditors generally.

(3) This paragraph does not prohibit the cardholder and the card issuer from agreeing in writing to a plan under which the card issuer may periodically deduct all or a portion of the cardholder's credit card debt from a deposit account with the card issuer (subject to the limitations in § 226.7(d)(5)).

(4) Any waiver of the provisions of this paragraph is prohibited and void.

(e) *Prompt notification of returns and crediting of refunds.* (1) When any creditor other than the card issuer accepts the return of property or forgives a debt for services that is to be reflected as a credit to the consumer's open-end credit card account, that creditor shall, as soon as possible but in no case later than seven business days from the date the return is accepted or the debt is forgiven, transmit a credit statement to the card issuer through the card issuer's normal channels for credit statements.

(2) Upon receipt of a credit statement, the card issuer shall credit the consumer's account with the amount of the refund as soon as possible but in no case later than three business days from receipt of the statement.

(3) If a creditor other than a card issuer routinely gives cash refunds to cash customers, the creditor must also give credit or cash refunds to credit card customers, unless it is disclosed at the time the transaction is consummated that credit or cash refunds for returns are not given. Nothing in this section shall be construed to require refunds for returns nor to prohibit refunds in kind.

(f) *Prohibited acts of card issuers.* No card issuer may, by contract or otherwise:

(1) Prohibit any person who honors a credit card from offering discounts of the type described in § 226.4(f) to all consumers to induce them to pay by cash, check, or similar means rather than by use of a credit card or its underlying account for the purchase of property or services; or

(2) Require any person who honors the card issuer's credit card to open or maintain any account or obtain any other service not essential to the operation of the credit card plan from the card issuer, its subsidiary, agent, or any other person, as a condition of participation in a credit card plan. This paragraph does not prohibit requiring maintenance of an account for clearing purposes where essential to the operation of the credit card plan and where no service charges or minimum balance requirements are imposed.

(g) *Prohibition of surcharges.* No creditor in any sale transaction may impose a surcharge.[45] This paragraph shall cease to be effective on February 27, 1981.

(h) *Relation to Electronic Fund Transfer Act and regulations.* (1) *Issuance.* (i) The act and this regulation govern:

(A) Issuance of credit cards;

(B) Addition of a credit feature to an accepted access device, as defined in 12 CFR 205.2(a), whether done when the accepted access device is renewed, or otherwise; and

(C) Issuance of credit cards that are also access devices, as defined in 12 CFR 205.2(a), except as provided in paragraph (h)(1)(ii)(C) of this section.

(ii) The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) and 12 CFR Part 205 (Regulation E), which restrict the unsolicited issuance of access devices, govern:

(A) Issuance of access devices;

(B) Addition to an accepted credit card of the capability to initiate electronic fund transfers, whether done when the accepted credit card is renewed, or otherwise; and

(C) Issuance of access devices that permit credit extensions only under a preexisting agreement to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account.

(2) *Liability.* (i) The act and this regulation govern a consumer's liability for unauthorized use of a credit card that is also an access device but that does not involve an electronic fund transfer.

(ii) The Electronic Fund Transfer Act and Regulation E govern a consumer's liability for an unauthorized electronic fund transfer that:

(A) Is initiated by use of an access device that is also a credit card; or

(B) Involves an extension of credit under an agreement to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account.

(3) *Other rules.* Paragraphs (c) through (g) of this section, and the corresponding provisions of the act, apply to the use of credit cards that are also access devices to the extent appropriate under the terms of those paragraphs.

§ 226.7 Billing error resolution.

(a) *Definition of billing error.* For purposes of this section, the term "billing error" means:

(1) An extension of credit that was not made to the consumer;

(2) An extension of credit that results from unauthorized use (as defined in footnote 43 to § 226.6);

(3) An extension of credit not identified on or with the periodic statment in accordance with the requirements of § 226.5(c)(2) and § 226.5(d);

(4) An extension of credit for property or services not accepted by the consumer or the consumer's designee, or not delivered to the consumer or the consumer's designee as agreed; [46]

(5) The creditor's failure to credit properly a consumer's payment or other credit to the account;

(6) A computational or similar error of an accounting nature made by the creditor relating to a credit extension;

(7) A consumer's request for any documentation required by § 226.5, or for additional information or clarification concerning an extension of credit. This includes any request for documentation, information, or clarification in order to assert an error within the meaning of paragraphs (a)(1) through (6) of this section.[47] It does not include a request for duplicate copies of documentation or other information that is made only for tax or other recordkeeping purposes.

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[45] "Surcharge" means any amount added at the point of sale to the regular price (as defined in footnote 15) as a condition or consequence of payment being made by use of an open-end credit card account. For the purposes of this definition, payment by check, draft, or other negotiable instrument, or by electronic fund transfer, that may result in the debiting of a cardholder's open-end account is not considered payment made by use of that account.

[46] This includes delivery of property or services different from that described in any agreement, delivery of the wrong quantity, late delivery, or delivery to the wrong location; but does not include any dispute relating to the quality of property or services.

[47] With regard to the type of error described in this paragraph, compliance with this section is achieved by transmitting the requested information, clarification, or documentation within the time limits set forth in paragraph (c)(2) of this section.

(b) *Notice of billing error.* A notice of a billing error is a written notice [48] from the consumer that

(1) Is received by the creditor at the address disclosed under § 226.5(c)(12) no later than 60 days after the creditor

(i) Transmitted a periodic statement on which the alleged error is first reflected; or

(ii) Transmitted additional information, clarification, or documentation described in paragraph (a)(7) of this section that was initially requested in accordance with paragraph (b)(1)(i) of this section;

(2) Enables the creditor to identify the consumer's name and account number; and

(3) Except for errors described in paragraph (a)(7) of this section, indicates the consumer's belief, and the reasons for that belief, that an error exists in the consumer's account or is reflected on documentation required by § 226.5(c) and indicates to the extent possible the type, the date, and the amount of the error.

(c) *Time for resolution; general procedure.* After the creditor receives notice of a billing error, the creditor shall:

(1) Not later than 30 days after receiving the notice, mail or deliver written acknowledgment of receipt to the consumer's address, unless the appropriate actions required by paragraph (e) of this section are taken within the 30-day period; and

(2) Resolve the dispute not later than the end of the second complete billing cycle, but in no event later than 90 days from the date the creditor receives notice of a billing error, by following the applicable steps in paragraph (e) of this section. A creditor may make a temporary correction of the consumer's account pending investigation as long as the dispute is permanently resolved within the time limits set forth in this paragraph.

(d) *Rules pending resolution.* Until the dispute is resolved under paragraph (e) of this section, the following rules apply:

(1) *Consumer's right to withhold disputed amount.* The consumer may withold that portion of any required payment that the consumer believes is related to the amount in dispute.[49] When the disputed amount is only a part of the total amount of an item or bill, the consumer remains obligated to pay the undisputed portion. The creditor may collect any minimum periodic payment and finance or other charges on the undisputed portion.

(2) *Creditor's handling of disputed amount.* Nothing in this section prohibits a creditor from:

(i) Mailing or delivering a periodic statement that reflects a disputed amount (which includes finance or other charges related to the disputed amount), as long as the creditor indicates that payment of the disputed amount is not required pending the creditor's compliance with this section; or

(ii) Deducting any disputed amount from the maximum amount of credit available to the consumer.

(3) *Action to collect disputed amount.* The creditor shall resolve the dispute before taking any action to collect any portion of the amount indicated by the consumer as being a billing error or any finance or other charges on the disputed amount. If, despite the establishment by the creditor of practices reasonably adapted to ensure compliance with this paragraph, the creditor or its agent, within two business days after receiving a notice of a billing error, inadvertently takes action to collect, that action will not be considered a violation of this paragraph, as long as the creditor ceases any further collection activity and, as soon as possible, takes any action necessary to correct the collection action.

(4) *Adverse credit reports prohibited.* (i) After receiving notice of a billing error, the creditor may not directly or indirectly make or threaten to make, an adverse report to any person regarding the consumer's credit standing, including reporting the disputed amount or account as in dispute, because the consumer failed to pay either the amount specified as a billing error or any finance or other charges imposed on this amount. (This restriction does not prohibit a creditor from reporting the disputed amount or account as being in dispute or from making an adverse report on some other aspect of the consumer's account unrelated to the dispute.) If, despite maintenance of procedures reasonably adapted to ensure compliance with this paragraph, the creditor or its agent, within two business days after receiving a notice of a billing error, inadvertently takes action prohibited by this paragraph, that action will not be considered a violation of this paragraph as long as the creditor notifies as soon as possible all credit bureaus [50] and, to the extent possible, all other creditors, to which a report was made, that the disputed amount is not delinquent.

(ii) If a notice of a billing error is received by the creditor after the creditor has reported to a credit bureau that a disputed amount is delinquent, the creditor shall, within one billing cycle after receiving the notice, notify each such credit bureau in writing that the amount in dispute is not delinquent. For purposes of this paragraph, "in writing" includes transmission by computer communication.

(5) *Automatic debit of disputed amounts.* (i) In the case of credit card plans where the cardholder has agreed to permit the card issuer to pay periodically the cardholder's indebtedness by deducting the appropriate amount of the cardholder's deposit account held by the card issuer, if the card issuer receives notice of a billing error within 16 days from the date of mailing or delivery of the periodic statement on which the suspected billing error first appears, the card issuer shall:

(A) Prevent the automatic debiting of any disputed amount if receipt of the notice precedes the automatic debiting of the cardholder's account, or

(B) As soon as possible, but in no case more than two business days after recipt of the notice, restore to the cardholder's deposit account any portion of the disputed amount that was previously deducted, if receipt of the notice follows the automatic debiting of the cardholder's account for any disputed amount.

(ii) Nothing in paragraphs (d)(5)(i)(A) and (B) of this section shall limit the cardholder's right to dispute an amount believed to be in error within 60 days of the mailing or delivery of the statement on which the billing error first appears, as otherwise provided in this section.

(6) *Acceleration of debt; closing of accounts.* A creditor may not, prior to complying with the resolution procedures of pragraphs (c), (d), (e), and (f) of this section, accelerate the consumer's entire debt or restrict or close an account about which the consumer has provided notice of a billing error solely because of the consumer's refusal or failure to pay the amount indicated to be in error.

(e) *Procedures after creditor determines that a billing error occurred.* If the creditor determines that a billing error occurred, it shall as soon as

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[48] The creditor may require that the written notice not be made on the payment medium or other material accompanying the periodic statement if the creditor so stipulates in the billing rights statement required by § 226.5(b)(5) and § 226.5(e)(2).

[49] The amount in dispute is the amount of the transaction or charge being questioned by the consumer, even though the inquiry itself might not concern a dollar figure, but rather might concern some other description of the transaction, such as the date or the seller's name.

[50] For purposes of this section, a credit bureau is any person in the business of collecting and disseminating information relating to the creditworthiness of borrowers.

possible but no later than the time limits set forth in paragraph (c)(2) of this section:

(1) Correct the error including crediting the consumer's account with any finance or other charges imposed as a result of the error; and

(2) Mail or deliver a notice of the corrections to the consumer. This requirement may be satisfied by a notice on a periodic statement that is mailed within the time limits in paragraph (c)(2) of this section and that clearly identifies the correction to the consumer's account.

(f) *Procedures after creditor determines no billing error occurred.* If, after conducting a reasonable investigation, the creditor determines that no billing error occurred or that an error occurred in a different manner or amount from that described by the consumer, the creditor shall as soon as possible but no later than the time limits set forth in paragraph (c)(2) of this section:

(1) Mail or deliver an explanation to the consumer, setting forth the reasons for the creditor's belief that the consumer's assertion of a billing error was incorrect in whole or in part;

(2) Furnish copies of documentary evidence of the consumer's indebtedness, if the consumer so requests; and

(3) Where a differing error occurred, if applicable, correct the error including crediting the consumer's account with any finance or other charges imposed as a result of the differing error.

(g) *Special investigation rules.* (1) If the consumer submits a notice of a billing error involving the delivery of property or services, a creditor shall not deny the assertion unless it determines, after having conducted a reasonable investigation, that the property or services were delivered or otherwise sent as agreed and provides the consumer with a written explanation of its determination.

(2) If the consumer asserts in a notice of billing error that information appearing on a periodic statement is incorrect because the person honoring the card has made an incorrect report to the card issuer, the card issuer shall not deny the assertion unless it determines, after having conducted a reasonable investigation, that the information was correct and provides the consumer with a written explanation of its determination.

(h) *Creditor's rights and duties after resolution.* If, after resolving the error under paragraphs (e), (f) and (g) of this section, the creditor determines that the consumer still owes all or part of the disputed amount, the creditor:

(1) Shall promptly notify the consumer in writing of that portion of the disputed amount that the consumer owes and when it is due. In those cases where the creditor has determined that a billing error occurred, if the creditor allows a free-ride period for payment of undisputed transactions of the same type, the creditor shall allow the same period or 10 days (whichever is longer) after delivering the notification for the consumer to pay the amount before imposing any additional finance or other charges on the disputed amount.

(2) May report as delinquent any disputed amount (including any finance or other charges imposed on that amount), providing the amount remains unpaid after the creditor has:

(i) Complied with all of the requirements of this section and

(ii) Allowed the greater of 10 days or any free-ride period that the creditor customarily or by agreement permits for the consumer to pay.

(3) May not report to any third party that the disputed amount is delinquent (or that the account is delinquent because of the disputed amount) if, within the time allowed for payment set forth in paragraph (h)(2) of this section, the creditor receives a further notice from the consumer that any portion of a billing error resolved under this section is still in dispute, unless the creditor also:

(i) Reports that the amount or account is in dispute;

(ii) Mails or delivers to the consumer at the same time the report is made, a written notice of the name and address of each party to whom the creditor is reporting information concerning the disputed amount or account; and

(iii) Promptly reports in writing to these third parties the subsequent resolution of the reported delinquency. For purposes of this paragraph, "in writing" includes transmission by computer communication.

(i) *Withdrawal of billing error notice.* The creditor need not comply with the requirements of paragraphs (c) through (h) of this section if the consumer discovers that no error occurred and voluntarily withdraws the notice of a billing error.

(j) *Reassertion of error.* A creditor that has fully complied with the requirements of this section has no further responsibilities under this section if the consumer subsequently reasserts the same error, regardless of the manner in which it is reasserted. This paragraph does not preclude the assertion of an error as defined in paragraphs (a)(1) through (6) of this section following the assertion of an error as described in paragraph (a)(7) of this section regarding the same transaction.

(k) *Forfeiture penalty.* (1) Any creditor that fails to comply with the requirements of this section forfeits any right to collect from the consumer the amount indicated by the consumer to be a billing error, whether or not the amount is in fact in error, and any finance or other charge imposed on this amount, provided that the amount forfeited shall not exceed $50 for each asserted billing error. Where the creditor loses the right to collect the amount from the consumer for failure to follow the requirements of this section, if the consumer nevertheless pays or has paid the amount to the creditor, the creditor must either credit the amount to the consumer's account or refund the amount to the consumer. In no case shall a creditor forfeit any amount for an error in a total figure or subtotal figure reflected on a statement that is caused solely by an error in another item that is the subject of a dispute, nor shall a creditor suffer any forfeiture more than once for any item or transaction that may appear on a periodic statement.

(2) Nothing in this subsection shall be construed to limit a consumer's right to recover under § 130 of the act.

(l) *Exceptions to the general rule.* This section does not apply to closed-end credit, whether or not a periodic statement is mailed or delivered, unless it is consumer credit extended on an account by use of a credit card.

(m) *Relation to Electronic Fund Transfer Act and regulations.* Where an extension of credit is incident to an electronic fund transfer, under an agreement between a consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, the creditor shall comply with the requirements of 12 CFR 205.11 governing error resolution rather than those of paragraphs (a), (b) and (c) of this section.

§ 226.8 Determination of annual percentage rate.

(a) *General rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate. An annual percentage rate shall be considered accurate if it is not more than 1/8th of 1 percentage point above or below the annual percentage rate determined in accordance with this section.

(b) *Annual percentage rate for initial disclosures and for advertising purposes.* Where one or more periodic rates may be used to compute the finance charge, the annual percentage

rate to be disclosed for purposes of § 226.5(b)(1)(ii) before opening an account and for advertising purposes under § 226.10 shall be computed by multiplying each periodic rate by the number of periods in a year.

(c) *Annual percentage rate for periodic statements.* (1) The annual percentage rate to be disclosed for purposes of § 226.5(c)(4) shall be computed by multiplying each periodic rate by the number of periods in a year.

(2) The annual percentage rate to be disclosed for purposes of § 226.5(c)(7) shall be determined as follows:

(i) Where the finance charge is determined solely by applying one or more periodic rates, the annual percentage rate shall be determined, at the creditor's option, either:

(A) By multiplying each periodic rate by the number of periods in a year; or

(B) By dividing the total finance charge for the billing cycle by the sum of the balances to which the periodic rates were applied and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.

(ii) Where the creditor imposes all periodic finance charges in amounts based on specified ranges or brackets of balances, the periodic rate shall be determined by dividing the amount of the finance charge for the period by the amount of the median balance within the range or bracket of balances to which it is applicable, and the annual percentage rate shall be determined by multiplying that periodic rate (expressed as a percentage) by the number of periods in a year. If, however, the annual percentage rate determined on the median balance understates the annual percentage rate determined on the lowest balance in that range or bracket by more than 8 percent of the rate on the lowest balance, then the annual percentage rate for that range or bracket shall be computed upon any balance lower than the median balance within that range so that any understatement will not exceed 8 per cent of the rate on the lowest balance within that range or bracket of balances. Nothing in this paragraph prevents a creditor who uses ranges or brackets from also exercising the options referred to in paragraph (c)(2)(i) of this section.

(iii)(A) Except as provided in paragraphs (c)(2)(iii)(B) and (c)(2)(iii)(C) of this section, where the finance charge imposed during the billing cycle includes a minimum, fixed, or other charge not due to the application of a periodic rate, the annual percentage rate shall be determined by dividing the total finance charge for the billing cycle by the amount of the balance(s) to which applicable [51] and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.

(B) Where the finance charge imposed during the billing cycle includes a charge relating to a specific transaction, the annual percentage rate shall be determined by dividing the total finance charge imposed during the billing cycle by the total of all balances and other amounts on which a finance charge was imposed during the billing cycle without duplication and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year, [52] except that the annual percentage rate shall not be less than the largest rate determined by multiplying each periodic rate imposed during the billing cycle by the number of periods in a year.

(C) Where the finance charge imposed during the billing cycle includes a minimum, fixed, or other charge not due to the application of a periodic rate and the total finance charge imposed during the billing cycle does not exceed 50 cents for a monthly or longer billing cycle, or the pro rata part of 50 cents for a billing cycle shorter than monthly, the annual percentage rate may be determined, at the creditor's option, by multiplying each applicable periodic rate by the number of periods in a year, notwithstanding the provisions of paragraphs (c)(2)(iii)(A) and (B) of this section. [53]

(d) *Calculations where daily periodic rate applied.* In any open-end credit account to which the provisions of paragraphs (c)(2)(i)(B) or (c)(2)(iii)(A) of this section apply where all or a portion of the finance charge is determined by the application of one or more daily periodic rates, the annual percentage rate may be determined (1) by dividing the total finance charge by the average of daily balances and multiplying the quotient by the number of billing cycles in a year, or alternatively (2) by dividing the total finance charge by the sum of the daily balances and multiplying the quotient by 365.

§ 226.9 Right of rescission.

(a) *Consumer's right to rescind.* (1) In an open-end credit plan where a security interest is retained or acquired in property used as the consumer's principal dwelling, except for exemptions described in paragraph (f) of this section, the consumer whose ownership interest is subject to the security interest shall have the right to rescind.

(i) Each transaction made under the plan; or, alternatively,

(ii) As follows: [54]

(A) The plan when the plan is opened;

(B) A security interest when added to secure an existing open-end credit plan.

(C) The increase when the credit limit on the plan is increased.

(2) To exercise the right to rescind, the consumer shall give the creditor written notice of the rescission by mail, telegram, or other means of communication. Notice is considered given when mailed, when filed for telegraphic transmission, or, if sent otherwise, when delivered to the creditor's designated place of business.

(3) The consumer may exercise the right to rescind until midnight of the third business day following the later of either:

(i) The occurrence described in paragraph (a)(1) of this section which gave rise to the right of rescission, or

(ii) Delivery of the notice required by paragraph (b) of this section together with a copy of the material disclosures [55] required by § 226.5(b).

(4) If the required notice and material disclosures are not delivered in the manner specified in paragraph (a)(3) of this section, the right to rescind shall expire the earlier of three years after the occurrence giving rise to the right of rescission or the date of transfer of the property. If an administrative proceeding as described in § 125(f) of the Act is instituted, the right to rescind may expire one year following the conclusion of the proceeding, or the later of judicial review or period of review of that proceeding.

(b) *Notice of right to rescind.* In any occurrence described in paragraph (a)(1) of this section, a creditor shall clearly and conspicuously disclose on a separate statement (see Appendix A for model notices):

(1) That a security interest is retained or acquired in property used as the consumer's principal dwelling;

(2) That the consumer has the right to rescind as described in paragraph (a)(1) of this section;

(3) How the right may be exercised, with a form for that purpose, designating

[51] If there is no balance to which the finance charge is applicable, an annual percentage rate cannot be determined under this section. See § 226.5(c)(8) for disclosure requirement.

[52] See Appendix B regarding determining the denominator of the fraction under this paragraph.

[53] See footnote 51.

[54] The limitations on the consumer's right to rescind under this section shall cease to be effective three years after the effective date of the Truth in Lending Simplification and Reform Act. Upon expiration, the consumer shall have the right to rescind each advance under open-end plans secured by the consumer's principal dwelling.

[55] For purposes of this section, the term "material disclosures" means the required disclosures of the method of determining the finance charge and the balance upon which a finance charge will be imposed, the annual percentage rate, and the minimum payment requirements.

the address of the creditor's place of business where the form may be sent; and

(4) The effects of rescission.

(c) *Delay of creditor's performance.* Unless a consumer waives the right of rescission under paragraph (e) of this section, no money shall be disbursed other than in escrow, no sevices shall be performed, and no materials shall be delivered until after the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded.

(d) *Effects of rescission.* A consumer who rescinds shall not be liable for any amounts, including any finance charge, and the security interest giving rise to the right of rescission shall be void. Within 20 days after receipt of a notice of rescission, the creditor shall return any money or property given to any party by the consumer (including any downpayment or other payments) and shall take any action necessary to reflect the termination of the security interest. If the creditor has delivered any money or property, the consumer may retain possession of it until the performance of the creditor's obligations under this paragraph. The consumer shall at that time offer to return the money or property; if return of the property in kind would be impracticable or inequitable, the consumer shall offer its reasonable value. At the consumer's option, the offer may be made at the location of the property or at the consumer's residence. If the creditor does not take possession of the money or property within 20 days after the consumer's offer to return it, the consumer may keep it without further obligation. These procedures may be modified by court order.

(e) *Consumer's waiver of right to rescind.* If a consumer determines that, because of a financial emergency, a delay of three business days in the creditor's performance would endanger the welfare, health, or safety of natural persons or risk damage to property that the consumer owns or for which the consumer is responsible, the consumer may modify or waive the right to rescind by giving the creditor a personal, written statement, dated and signed by all consumers entitled to rescind. The statement must describe the emergency and must modify or waive the right to rescind. The use of printed forms is prohibited.

(f) *Exemptions.* The right to rescind does not apply to:

(1) A residential mortgage transaction.

(2) An open-end credit plan in which a state or federal agency is the creditor.

(3) Subordination of a security interest, whether or not the open-end credit plan in which the security interest was originally created was exempt from the right of rescission.

§ 226.10 Advertising.

(a) *Generally available terms; accuracy of advertising.* (1) If an advertisement for open-end credit states specific credit terms, it shall state only those terms that the creditor generally arranges or offers.

(2) No advertisement for open-end credit shall contain information that is inaccurate or misleading or that otherwise misrepresents the credit offered.

(b) *Advertisement of terms that require additional disclosures.* If any of the terms required to be disclosed under § 226.5(b) is set forth in or otherwise determinable from an advertisement, that advertisement shall also clearly and conspicuously set forth any minimum, fixed, transaction, activity or similar charge which could be imposed, and any periodic rate which could be applied expressed as a corresponding annual percentage rate as determined under § 226.8(b).

(c) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement gives information in a table or schedule of credit terms in sufficient detail to permit determination of the disclosures required by paragraph (b) of this section, it shall be considered a single advertisement if:

(i) The table or schedule is clearly and conspicuously set forth; and

(ii) Any statement of credit terms, other than the cash price, appearing anywhere else in the catalog or advertisement clearly refers to the page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with this paragraph if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

(d) *Use of annual percentage rate in oral disclosures.* In an oral response to an inquiry by a consumer about the cost of open-end credit, only the corresponding annual percentage rate, as determined under § 226.8(b), shall be stated, except that if the corresponding annual percentage rate is stated, the periodic rate may also be stated.

Subpart C—Closed-End Credit

§ 226.11 Disclosures.

(a) *Who must make disclosures to whom.* (1) If a transaction involves only one creditor, that creditor shall make the disclosures required by this section. If a transaction involves more than one creditor, only one creditor shall make all of the disclosures.

(2) The disclosures shall be made to the consumer. If there is more than one consumer, the disclosures may be made to any one of the consumers who is primarily liable on the obligation. If a transaction is rescindable under § 226.13, however, the disclosures shall be made to each consumer who has the right to rescind.

(b) *What disclosures must be made.* (1) The creditor initially may make either the transactional disclosures under paragraph (f) or the alternate shopping disclosures under paragraph (h) of this section. For a residential mortgage transaction described in paragraph (g), however, the creditor shall make transactional disclosures in accordance with paragraphs (f) and (g) of this section.

(2) If the disclosures made are later rendered inaccurate, new disclosures may be required. The conditions for new disclosures are set forth in paragraph (e) of this section.

(c) *Timing and form of disclosures.* (1) Transactional disclosures shall be made before consummation of the transaction. In certain residential mortgage transactions, however, special timing requirements are set forth in paragraph (g) of this section. In certain transactions involving mail or telephone orders or a series of sales, the timing of the disclosures may be delayed in accordance with paragraphs (k) and (l) of this section.

(2) Alternate shopping disclosures shall be made at the time the consumer applies to the creditor for credit or as soon after application as reasonably possible, but never later than consummation.

(3) The disclosures shall be made clearly and conspicuously in writing in a form that the consumer may keep, either on the credit contract or on a separate document. Except for the disclosure of the creditor's identity under paragraph (f)(1) or (h)(2)(i) and any itemization of the amount financed under paragraph (f)(2)(ii) of this section, the disclosures shall be grouped together beginning on the front of the document and shall be segregated from everything else. The disclosures may include an acknowledgement of receipt, but shall not contain any other information not directly related to the disclosures required under this section.

(4) Where the words "annual percentage rate" and "finance charge" are required to be disclosed together with a corresponding amount or percentage rate, those words shall be

more conspicuous than any other disclosure. Information relating to the creditor's identity is not governed by this rule.

(d) *Basis of disclosures and use of estimates.* (1) Except for the alternate shopping disclosures, the creditor shall base the disclosures on the information known to it at the time disclosures are made. The disclosures shall be based on the assumption that the consumer will comply with the terms of the agreement. The disclosures shall reflect the repayment arrangement actually agreed upon (even if it differs from the written obligation), unless it involves payroll deductions that may be terminated voluntarily by the consumer without any adverse consequence, and the consumer thereafter may pay according to the terms of the written obligation.

(2) If any information necessary to make an accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available to it and shall state clearly that the disclosure is an estimate.

(3) The creditor may disregard the effects of the following in making calculations and disclosures:

(i) The fact that payments must be collected in whole cents.

(ii) The fact that dates of scheduled payments and advances must be changed because the scheduled date falls on a Saturday, Sunday, or holiday.

(iii) The fact that months have different numbers of days.

(iv) The occurrence of leap year.

(4)(i) The creditor may disregard an irregular final payment or portion of a final payment that results from an irregular first period within the limits described below and may treat the irregular first period as if it were regular:

(A) For transactions in which the term is less than one year, a first period not more than 6 days shorter or 13 days longer than a regular period.

(B) For transactions in which the term is at least one year and less than ten years, a first period not more than 11 days shorter or 21 days longer than a regular period.

(C) For transactions in which the term is at least ten years, a first period shorter than or not more than 32 days longer than a regular period.

(ii) For purposes of paragraph (d)(4)(i) of this section, the "first period" is the period from the date on which the finance charge begins to be earned to the date of the first payment; the "term" is the period from the date on which the finance charge begins to be earned to the date of the final payment; and the "regular period" is the most common interval between payments in the transaction. In transactions involving regular periods that are monthly, semi-monthly, or multiples of a month, the length of the irregular and regular periods may be calculated on the basis of either the actual number of elapsed days or an assumed 30-day month. In other transactions, the length of the periods shall be based on the actual number of days.

(5) If an obligation is payable on demand, the creditor shall make the disclosures based on an assumed maturity of one year. If, however, there is an alternate maturity date or principal reduction agreement, the disclosures shall be based on that feature.

(6) A single obligation shall not be disclosed as two or more transactions; two or more obligations shall not be disclosed as a single transaction. A credit sale transaction where the downpayment is financed separately may be treated as two transactions.

(e) *Effect of subsequent events.* (1) If a disclosure is rendered inaccurate as a result of an event that occurs after delivery of the disclosures, the resulting inaccuracy is not a violation of this regulation.

(2) If the event occurs prior to consummation and transactional disclosures were made, the creditor shall disclose the changed term before consummation. In certain residential mortgage transactions, an entire new set of transactional disclosures may be required, as described in paragraph (g) of this section.

(3) If the event occurs prior to consummation and alternate shopping disclosures were made, the determination of whether new transactional disclosures are required is governed by paragraph (h)(3) of this section.

(4) If the event occurs after consummation, the determination of whether new disclosures are required is governed by paragraph (i) of this section.

(f) *Transactional disclosures.* For each transaction, the creditor shall disclose the items in paragraphs (f)(1) through (f)(16) of this section, to the extent applicable.[56] The disclosure of each item shall include a brief identification and the amount where applicable.

(1) The identity of the creditor making the disclosures.

(2)(i) The "amount financed," using that term, accompanied by a descriptive explanation such as "the amount of credit provided to you or on your behalf," which shall be computed by:

(A) Taking the principal amount of the loan or the cash price less downpayment (which includes any trade-in);

(B) Adding any amounts that are not part of the finance charge or of the amount described in paragraph (f)(2)(i)(A) of this section and that are financed by the consumer, including the cost of any items excluded from the finance charge under § 226.4; and

(C) Deducting any prepaid finance charge (any finance charge paid before or at consummation or withheld from the proceeds of the credit).

(ii) A statement that the consumer has the right to receive a written itemization of the amount financed shall accompany the disclosure of the amount financed. The statement shall include spaces to be initialed by the consumer to indicate whether or not a written itemization is desired. If the consumer indicates a desire for the itemization, the creditor shall:

(A) Disclose by identity and amount, as applicable, the cash price, cash downpayment, trade-in, prepaid finance charge as defined in paragraph (f)(2)(i)(C) of this section, amount paid to the consumer, amount credited to the consumer's account with the creditor, and each amount paid to another person by the creditor on the consumer's behalf;

(B) Provide the itemization at the same time that the other disclosures required by this paragraph are made or as soon thereafter as practicable; and

(C) Furnish the itemization separately from the disclosures that are grouped together and segregated in accordance with paragraph (c)(3) of this section.

(3) The "finance charge," accompanied by the descriptive explanation "the dollar amount the credit will cost you," using those terms.

(4) The "annual percentage rate," accompanied by the descriptive explanation "the cost of your credit as a yearly rate," using those terms.

(5) If the annual percentage rate may increase,[57] the following three additional disclosures:

(i) The conditions under which the annual percentage rate may increase (including identification of any index to which the rate is tied).

(ii) The limitations,[58] if any, on the increase (which may be expressed as a percentage rate other than an annual percentage rate).

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[56] In some instances, certain disclosures are not required. See paragraph (f)(17) of this section.

[57] This provision does not apply to any rate increase due to delinquency (including late payment), default, assumption, or transfer of collateral.

[58] This need not include limitations prescribed under state usury or rate ceiling laws.

(iii) The manner in which any increase would occur (such as an increase in the amount or number of payments).

(6) The number amounts.[59] and timing of payments scheduled to repay the obligation.

(7) The "total of payments."[60] using that term, accompanied by a descriptive explanation such as "the amount you will pay when you make all payments as scheduled."

(8) If the obligation is payable on demand, that fact shall be disclosed. If the disclosures are based on an assumed maturity of one year as provided in paragraph (d)(5) of this section, that assumption also shall be disclosed.

(9) In a credit sale, the "total sale price," using that term, accompanied by a descriptive explanation that includes the amount of any downpayment such as "the total price of your purchase on credit, including your downpayment of $——." The total sale price is the sum of the cash price, the items described in paragraph (f)(2)(i)(B), and the finance charge disclosed under paragraph (f)(3) of this section.

(10)(i) If the obligation involves a precomputed finance charge, a statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full of the obligation, pursuant to acceleration or otherwise.

(ii) If the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance, a statement indicating if a penalty will be imposed in those same circumstances.

(iii) Both statements, if appropriate.

(11) Any dollar or percentage charge that may be imposed before maturity on account of a late payment, other than a deferral or extension charge.

(12) The fact that the creditor has or will acquire a security interest in either the property purchased as part of the transaction, or other property identified by item or type. If the security interest relates to after-acquired property, that fact also shall be disclosed.

(13) The disclosure required by § 226.4(d) in order to exclude certain insurance premiums from the finance charge

(14) The disclosure required by § 226.4(e) in order to exclude certain charges from the finance charge

(15) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment. default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties.

(16) In a residential mortgage transaction, a statement whether or not a subsequent purchaser or assignee of the consumer may assume the obligation on its original terms.

(17) In the following transactions, certain disclosures are not required:

(i) For any transaction involving an interim credit extension under a student credit guarantee program, the creditor need not disclose the finance charge under paragraph (f)(3), the schedule of payments under paragraph (f)(6), the total of payments under paragraph(f)(7), or the total sale price under paragraph (f)(9) of this section. Before the final obligation or repayment schedule is agreed upon, the creditor shall make all applicable disclosures, except for the total sale price and downpayment under paragraph (f)(9) of this section.

(ii) For any transaction involving a finance chart of $5 or less on an amount financed of $75 or less, or a finance charge of $7.50 or less on an amount financed of more than $75, the creditor need not disclose the annual percentage rate under paragraph (f)(4) of this section.

(iii) For any transaction involving a single payment, the creditor need not disclose the total of payments under paragraph (f)(7) of this section.

(g) *Special rule for certain residential mortgage transactions.* (1) In a residential mortgage transaction subject to the Real Estate Settlement Procedures Act (Title 12, §§ 2601 through 2617 of the United States Code), the transactional disclosures required under paragraph (f) of this section shall be made before consummation or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. The creditor shall make good faith estimates of the required disclosures.

(2) If the annual percentage rate in the consummated transaction is more than ⅛th of 1 percentage point above or below the annual percentage rate disclosed under paragraph (f)(4) of this section, a complete set of transactional disclosures shall be made not later than consummation or settlement.

(h) *Alternate shopping disclosures.* (1) Subject to the requirements of this paragraph, the creditor may make the disclosures listed in paragraph (h)(2) instead of the transactional disclosures described in paragraph (f) of this section In addition to making these disclosures to the consumer. the creditor shall make copies of the disclosures readily available to the public during normal business hours at each place of business open to the public where it accepts applications for closed-end credit.

(2) The creditor shall disclose the items in paragraphs (h)(2)(i) through (h)(2)(xiii), to the extent applicable.[61] The disclosure of each item shall include a brief identification and the amount where applicable. The creditor shall base its disclosures on representative amounts and terms of credit that it customarily offers.

(i) The identity of the creditor making the disclosures.

(ii) The "amount financed," using that term, accompanied by a descriptive explanation such as " the amount of credit provided to you or on your behalf," as well as a statement that the consumer has the right to receive a written itemization of the amount financed before consummation if it is requested in writing. The amount financed shall be computed by:

(A) Taking the principal amount of the loan or the cash price less downpayment (which includes any trade-in);

(B) Adding any amounts that are not part of the finance charge or of the amount described in paragraph (h)(2)(ii)(A) of this section and that are financed by the consumer, including the cost of any items excluded from the finance charge under § 226.4; and

(C) Deducting any prepaid finance charge (any finance charge to be paid before or at consummation or withheld from the proceeds of the credit).

(iii) The "finance charge," accompanied by the descriptive explanation "the dollar amount the credit will cost you," using those terms. In addition, the creditor shall state whether any portion of the finance charge is expected to be paid before or at consummation.

(iv) The "annual percentage rate," accompanied by the descriptive explanation "the cost of your credit as a yearly rate," using those terms.

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[59] If the amount of any payment in a series is not more than 5 percent larger than the smallest payment in that series, the creditor may treat all payments in the series as equal by disclosing the largest payment amount, labeled as an estimate. This rule governs only the disclosure of payment amounts; it does not affect the disclosure of the finance charge under paragraph (f)(3) of this section or the determination of the annual percentage rate under § 226.12.

[60] If the rule in footnote 59 is used, the total of payments shall reflect the payment amounts disclosed and shall be labeled as an estimate.

[61] In some instances, certain disclosures are not necessary. See paragraph (h)(2)(xiv) of this section.

(v) If the annual percentage rate may increase,[62] the following three additional disclosures:

(A) The conditions under which the annual percentage rate may increase (including identification of any index to which the rate is tied).

(B) The limitations,[63] if any, on the increase (which may be expressed as a percentage rate other than an annual percentage rate).

(C) The manner in which any increase would occur (such as an increase in the amount or number of payments).

(vi) The number, amounts,[64] and timing of payments scheduled to repay the obligation.

(vii) The "total of payments,"[65] using that term, accompanied by a descriptive explanation such as "the amount you will pay when you make all payments as scheduled."

(viii) If the obligation is payable on demand, that fact shall be disclosed. If the disclosures are based on an assumed maturity of one year as provided in paragraph (d)(5) of this section, that assumption shall also be disclosed.

(ix) In a credit sale, a statement that the "total sale price," using that term, equals the total of payments plus any downpayment and trade-in.

(x)(A) If the obligation involves a precomputed finance charge, a statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full of the obligation, pursuant to acceleration or otherwise.

(B) If the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance, a statement indicating if a penalty will be imposed in those same circumstances.

(C) Both statements, if appropriate.

(xi) Any dollar or percentage charge that may be imposed before maturity on account of a late payment, other than a deferral or extension charge.

(xii) The fact that the creditor will acquire a security interest in either the property to be purchased as part of the transaction, or other property identified by item or type. If the security interest will relate to after-acquired property, that fact shall be disclosed.

(xiii) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties.

(xiv) In the following transactions, certain disclosures are not required:

(A) For any transaction involving an interim credit extension under a student credit guarantee program, the creditor need not disclose the finance charge under paragraph (h)(2)(iii), the schedule of payments under paragraph (h)(2)(vi), the total of payments under paragraph (h)(2)(vii), or the total sale price under paragraph (h)(2)(ix) of this section. Before the final obligation or repayment schedule is agreed upon, the creditor shall make all applicable transactional disclosures.

(B) For any transaction involving a finance charge of $5 or less on an amount financed of $75 or less, or a finance charge of $7.50 or less on an amount financed of more than $75, the creditor need not disclose the annual percentage rate under paragraph (h)(2)(iv) of this section.

(C) For any transaction involving a single payment, the creditor need not disclose the total of payments under paragraph (h)(2)(vii) of this section.

(3) Unless each of the following conditions is met, the creditor shall make the transactional disclosures required by paragraph (f) of this section before consummation:

(i) The actual amount financed is within 10 percent of the disclosed amount financed.

(ii) The actual annual percentage rate is within ⅛ of 1 percent above or below the disclosed annual percentage rate.

(iii) The actual number and timing of payments are the same as the disclosed number and timing of the payments, disregarding any irregular first payment period.

(iv) The provisions of § 226.4(d) are complied with if credit life, accident, health, or loss of income insurance or property insurance is written in connection with the transaction and the premiums are excluded from the finance charge.

(v) A written itemization of the actual amount financed is provided to the customer, if a request in writing has been made. Such an itemization shall disclose by identity and amount, as applicable, the cash price, cash downpayment, trade-in, prepaid finance charge as defined in paragraph (h)(2)(ii)(C) of this section, amount paid to the consumer, amount credited to the consumer's account with the creditor, and each amount paid to another person by the creditor on the consumer's behalf.

(i) *Refinancing—new disclosures.* (1) Except as provided in this paragraph, a refinancing occurs when the creditor and the consumer agree to change the terms of an existing obligation previously disclosed under this section. A refinancing is a new transaction requiring new transactional disclosures under paragraph (f) of this section. The creditor shall include in the new finance charge any unearned portion of the old finance charge that is not credited to the existing obligation.

(2) The following changes in the terms of an existing obligation need not be treated as a refinancing:

(i) A reduction in the annual percentage rate with a corresponding reduction in payment amounts, number of payments, or length of maturity.

(ii) A deferral or extension of one payment or a portion of one payment.

(iii) A change in collateral requirements,[66] late payment charges, or prepayment provisions.

(iv) An agreement approved by a court.

(v) A renewal of a single payment obligation that meets the conditions set forth in paragraph (i)(3) of this section.

(vi) An increase in the amount of an existing transaction that meets the conditions set forth in paragraph (i)(4) of this section.

(vii) A change in the number, amounts, or timing of scheduled payments as a result of the consumer's default or delinquency, unless the annual percentage rate is increased or the new amount financed exceeds the unpaid balance plus earned finance charge and premiums for continuation of insurance of the types described in § 226.4(d).

(3) A renewal of a single payment obligation need not be treated as a refinancing if the following four conditions are met:

(i) All disclosures required by this subpart were made for the original transaction or a previous refinancing.

(ii) The new amount financed does not exceed the sum of the unpaid balance plus any earned finance charge and premiums for continuation of insurance of the types described in § 226.4(d).

(iii) The disclosed annual percentage rate is not increased.

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[62] This provision shall not apply to any rate increase due to delinquency (including late payment), default, assumption, or transfer of collateral.

[63] This need not include limitations prescribed under state usury or rate ceiling laws.

[64] If the amount of any payment in a series is not more than 5 percent larger than the smallest payment in that series, the creditor may treat all payments in the series as equal by disclosing the largest payment amount, labeled as an estimate. This rule governs only the disclosure of payment amounts; it does not affect the disclosure of the finance charge under paragraph (h)(2)(iii) of this section or the determination of the annual percentage rate under § 226.12.

[65] If the rule in footnote 64 is used, the total of payments shall reflect the payment amounts disclosed and shall be labeled as an estimate.

[66] The consumer may have the right under § 226.13, to rescind the addition of a security interest in the consumer's principal dwelling.

(iv) The term of the renewal period does not exceed the disclosed term by more than four days.

(4) An increase in the amount of an existing obligation need not be treated as a refinancing if it results from any of the following three occurrences:

(i) Reimbursement of the creditor for expenses incurred in performing the consumer's obligation to protect or preserve the collateral (such as maintaining insurance or paying taxes). No new disclosures are required whether the expense is incurred at the consumer's request or upon the consumer's failure to perform an obligation and whether or not an additional finance charge is assessed as a result of the increase.

(ii) The purchase of property or services under an agreement that provides for the addition of subsequent sales to an outstanding balance, if the creditor has complied with the series of sales requirements of paragraph (1) of this section.

(iii) The addition or renewal of optional insurance purchased by the consumer after consummation of the existing transaction. If the initial premium advance is secured by the consumer's principal dwelling, the insurance transaction may be rescindable under § 226.13.

(j) *Assumptions—new disclosures.* An assumption occurs if the creditor agrees with a subsequent consumer to accept that consumer as an obligor on an existing obligation with another consumer. The creditor shall make new transactional disclosures under paragraph (f) of this section based on the remaining obligation to the subsequent consumer before the assumption occurs.

(k) *Mail or telephone orders—delay in disclosures.* (1) A creditor that receives a purchase order or a request for an extension of credit by mail, telephone, or any other written or electronic communication without personal solicitation may make the transactional disclosures under paragraph (f) of this section no later than the date the first payment is due if the following information describing representative amounts or ranges of credit is made available in written form to the consumer or to the public generally in advance of the actual purchase order or request:

(i) The cash price or the principal amount of the loan.

(ii) The total sale price.

(iii) Any minimum downpayment.

(iv) The finance charge.

(v) The annual percentage rate.

(vi) The number, amounts, and timing of payments.

(vii) The total of payments.

(2) If the information specified in paragraph (k)(1) of this section is not available in the prescribed manner, transactional disclosures under paragraph (f) of this section shall be mde before consummation of the transaction. If the transaction is subject to rescission, see § 226.13.

(l) *Series of sales—delay in disclosures.* (1) If a credit sale is one of a series made under an agreement providing that subsequent sales are added to an outstanding balance, the transactional disclosures under paragraph (f) of this section may be made no later than the date the first payment for the current sale is due if the following two conditions are met:

(i) The consumer has approved in writing the annual percentage rate or rates, the range of balances to which they apply, if appropriate, and the method of treating any unearned finance charge.

(ii) The creditor retains no security interest in any property for which it has received payments equal to the cash price and any finance charge attributable to the sale of that property. For the purpose of this provision, in the case of items purchased on different dates, the first purchased shall be deemed the first paid for; in the case of items purchased on the same date, the lowest priced shall be deemed the first paid for.

(2) In the absence of an agreement that meets the conditions of paragraph (l)(1), the addition of a sale to an existing balance is a refinancing under paragraph (i) of this section.

(m) *Multiple advance transactions; series of single payment obligations.* (1) If a series of advances may be made under an agreement to extend credit up to a certain amount, the series shall be considered a single transaction.

(2) A credit extension involving a series of single payment obligations executed contemporaneously shall be considered a single transaction.

§ 226.1 Determination of annual percentage rate.

(a) *General rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, which relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method and shall be considered accurate if it is not more than ⅛ of 1 percentage point above or below the annual percentage rate determined in accordance with whichever method is used. Explanations, equations, and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in Supplement I of this regulation (§ 226.40).

(b) *Computation tools.* (1) The Regulation Z Annual Percentage Rate Tables produced by the Board may be used to determine the annual percentage rate, and any rate determined from those tables in accordance with the accompanying instructions complies with the requirements of this section. Volume I of the tables applies to single advance transactions involving up to 480 monthly payments or 104 weekly payments. It may be used for regular transactions and for transactions with any of the following irregularities: an irregular first period, an irregular first payment, and an irregular final payment. Volume II applies to transactions involving multiple advances and any type of payment or period irregularity.

(2) Creditors may use any other computation tool in determining the annual percentage rate if the annual percentage rate so determined equals the annual percentage rate determined in accordance with Supplement I, within the degree of accuracy set forth in paragraph (a) of this section.

(c) *Single add-on rate transactions.* If a single add-on rate is applied to transactions with maturities up to 60 months and if all payments are equal in amount and period, a single annual percentage rate may be disclosed for all those transactions if it is the highest annual percentage rate for any such transaction.

(d) *Certain transactions involving ranges of balances.* For purposes of disclosing the annual percentage rate referred to in §§ 226.11(k)(1)(v) (Mail or telephone orders—delay in disclosures) and 226.11(1)(1)(i) (Series of sales—delay in disclosures), if the same finance charge is imposed on all balances within a specified range of blances, the annual percentage rate computed for the median balance may be disclosed for all the balances. However, if the annual percentage rate computed for the median balance understates the annual percentage rate computed for the lowest balance by more than 8 percent of the latter rate, the annual percentage rate shall be computed on whatever lower balance will produce an annual percentage rate that does not result in an understatement of more than 8 percent of the rate determined on the lowest balance.

(e) *Payment schedule irregularities.* (1) In determining and disclosing the annual percentage rate, a creditor may

disregard an irregularity in the first period that falls within the limits described below and any payment schedule irregularity that results from the irregular first period:

(i) For transactions in which the term is less than 1 year, a first period not more than 6 days shorter or 13 days longer than a regular period.

(ii) For transactions in which the term is at least 1 year and less than 10 years, a first period not more than 11 days shorter or 21 days longer than a regular period.

(iii) For transactions in which the term is at least 10 years, a first period shorter than or not more than 32 days longer than a regular period.

(2) For purposes of paragraph (e)(1) of this section, the "first period" is the period from the date on which the finance charge begins to be earned to the date of the first payment; the "term" is the period from the date on which the finance charge begins to be earned to the date of the final payment; and the "regular period" is the most common interval between payments in the transaction. In transactions involving regular periods that are monthly, semimonthly, or multiples of a month, the length of the irregular and regular periods may be calculated on the basis of either the actual number of elapsed days or an assumed 30-day month. In all other transactions, the length of the periods shall be based on the actual number of elapsed days.

§ 226.13 Right of rescission.

(a) *Consumer's right to rescind.* (1) In a transaction where a security interest is retained or acquired in property used as a consumer's principal dwelling, each consumer whose ownership interest is subject to the security interest shall have the right to rescind the transaction,[67] except for the transactions described in paragraph (f) of this section.

(2) To exercise the right to rescind, the consumer shall give the creditor written notice of the rescission by mail, telegram, or other means of communication. Notice is considered given when mailed, when filed for telegraphic transmission, or, if sent otherwise, when delivered to the creditor's designated place of business.

(3) The consumer may exercise the right to rescind until midnight of the third business day following the later of either consummation or delivery of the notice required by paragraph (b) of this section and all other material disclosures.[68] If the required notice and material disclosures are not delivered, the right to rescind shall expire the earlier of three years after the date of consummation or the date of the transfer of the property. The rescission period shall be extended by one year in accordance with § 125(f) of the Truth in Lending Act (Title 15, § 1635(f) of the United States Code) if an administrative proceeding is instituted.

(b) *Notice of right to rescind.* In a rescindable transaction, a creditor shall clearly and conspicuously disclose on a separate document—

(1) That a security interest is being retained or acquired in property used as the consumer's principal dwelling;

(2) That the consumer has the right to rescind the transaction;

(3) How the right may be exercised, with a form for that purpose, designating the address of the creditor's place of business where the form may be sent; and

(4) The effects of rescission as described in paragraph (d) of this section.

(c) *Delay of creditor's performance.* Unless a consumer waives the right of rescission under paragraph (e) of this section, no money shall be disbursed other than in escrow, no services shall be performed, and no materials shall be delivered until after the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded the transaction.

(d) *Effects of rescission.* A consumer who rescinds a transaction shall not be liable for any amount, including any finance charge; and the security interest giving rise to the right of rescission becomes void. Within 20 days after receipt of a notice of rescission, the creditor shall return any money or property given to any party by the consumer (including any downpayment or other payment) and shall take any action necessary to reflect the termination of the security interest. If the creditor has delivered any money or property, the consumer may retain possession of it until the performance of the creditor's obligations under this paragraph. Upon performance of those obligations, the consumer shall offer to return the money or property; if return of the property in kind would be impracticable or inequitable, the consumer shall offer its reasonable value. At the consumer's option, the offer may be made at the location of the property or at the consumer's residence. If the creditor does not take possession of the money or property within 20 days after the consumer's offer to return it, the consumer may keep it without further obligation. These procedures may be modified by court order.

(e) *Consumer's waiver of right to rescind.* If a consumer determines that, because of a financial emergency, a delay of three business days in the creditor's performance would endanger the welfare, health, or safety of natural persons or risk damage to property that the consumer owns or for which the consumer is responsible, the consumer may modify or waive the right to rescind by giving the creditor a personal, written statement, dated and signed by all consumers entitled to rescind. The statement must describe the emergency and must modify or waive the right to rescind. The use of printed forms is prohibited.

(f) *Exempt transactions.* The right to rescind does not apply to the following:

(1) A residental mortgage transaction.

(2) A refinancing or consolidation by the same creditor of an existing extension of credit already secured by property used as the consumer's principal dwelling if the new amount financed does not exceed the amount of the unpaid principal balance plus any earned unpaid financed charge on the existing debt. If the new amount financed exceeds the unpaid principal balance plus any earned unpaid finance charge on the existing debt, the right of rescission applies only to that excess and not to the existing debt and its related security interest.

(3) A transaction in which a federal or state agency is the creditor.

(4) An advance in a series of advances or one in a series of single payment obligations that is treated as a single transaction under § 226.11(m) if the notice required by paragraph (b) of this section and all other material disclosures have been given previously to the consumer.

(5) Subordination of a security interest, whether or not the transaction in which the security interest was originally created was exempt from the right of rescission.

§ 226.14 Advertising.

(a) *Generally available terms; accuracy of advertising.* (1) If an advertisement for consumer credit states specific credit terms, it shall state only those terms that the creditor generally arranges or offers.

(2) No advertisement for consumer credit shall contain information that is inaccurate or misleading or that

[67] For purposes of this section, a "transaction" includes the addition to an existing obligation of a security interest in property used as a consumer's principal dwelling. The right of rescission applies, however, only to the addition of the security interest and does not apply to the existing obligation.

[68] The term "material disclosures" means the required disclosure of the annual percentage rate, the finance charge, the amount financed, the total of payments, and the number, amount and timing of payments scheduled to repay the obligation.

otherwise misrepresents the credit offered.

(b) *Advertisement of rate of finance charge.* If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term.[69] If the annual percentage rate may be increased after consummation, the advertisement shall state that fact. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(c) *Advertisement of terms that trigger additional disclosures.* (1) If any of the following terms is set forth in or otherwise determinable from, an advertisement, that advertisement shall meet the requirements of paragraph (c)(2) of this section:

(i) The amount or percentage of any downpayment or that no downpayment is required.

(ii) The number of payments or period of repayment.

(iii) The amount of any payment.

(iv) The amount of the finance charge.

(v) That there is no charge for credit.

(2) An advertisement stating any of the terms in paragraph (c)(1) of this section also shall state the following terms,[70] as applicable.

(i) The amount of the downpayment or that no downpayment is required.

(ii) the number, amounts, and timing of payments.

(iii) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

(d) *Transactions involving a dwelling.* In an advertisement for credit secured by a dwelling, where any series of payments varies because of the inclusion of mortgage insurance premiums, a creditor may comply with paragraph (c)(2)(ii) of this section by stating the number and timing of payments, the amounts of the largest and smallest of those payments, and the fact that other payments will vary between those amounts.

(e) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement gives information in a table or schedule of credit terms in sufficient detail to permit determination of the disclosures required by this section, it shall be considered a single advertisement if

(i) The table or schedule is clearly set forth; and

(ii) Any statement of credit terms, other than the cash price, appearing anywhere else in the catalog or advertisement clearly refers to the page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with paragraph (c)(2) of this section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

(f) *Use of annual percentage rate in oral disclosures.* In an oral response to an inquiry by a consumer about the cost of credit, the creditor shall state as a rate of finance charge only those rates permitted under paragraph (b) of this section.

Subpart D—Consumer Leasing

§ 226.15 Disclosures.

(a) *Who must make disclosures to whom.* (1) If a lease involves only one lessor, that lessor shall make the disclosures required by this section. If a lease involves more than one lessor, only one lessor involved in the lease shall make all the disclosures.

(2) The disclosures shall be made to the consumer; if there is more than one, they may be made to any one of the consumers who is primarily liable under the lease.

(b) *Timing and form of disclosures.* (1) The lessor shall make the disclosures before consummation of the lease.

(2) The disclosures shall be made clearly and accurately on a dated written statement that the consumer may keep, either on the lease contract document or separately. The disclosures shall be grouped together beginning on the front of the document and shall be segregated from other matters, except that, in any multiple-item lease, the description of the leased property required by paragraph (e)(3) of this section may be provided on a separate statement to which the disclosure statement refers. The document may, but need not, include an acknowledgement of receipt.

(c) *Basis of disclosures and use of estimates.* (1) The lessor shall base the disclosures on the information known to it at the time disclosures are made. All disclosures shall be based on the assumption that the consumer will comply with the terms of the lease contract.

(2) If any information necessary to make an accurate disclosure is unknown to the lessor, it shall make the disclosure based on the best information reasonable available to it and shall state clearly that the disclosure is an estimate, except that a lessor may understate the estimated value of the leased property at the end of the lease term when computing the total lease obligation as required by paragraph (f)(3)(i) of this section, if any excess of realized value over estimated value will be given to the consumer at the end of the lease term.

(3) In making calculations and disclosures the lessor need not take into account the effects of the following:

(i) The fact that payments must be collected in whole cents;

(ii) The fact that dates of scheduled lease payments may be changed if the date falls on a Saturday, Sunday, or holiday;

(iii) The fact that months have different numbers of days; and

(iv) The occurrence of leap year.

(d) *Effect of subsequent events.* If a disclosure is rendered inaccurate as a result of an event that occurs after delivery of the disclosures, the resulting inaccuracy is not a violation of this regulation. If the event occurs prior to consummation, the lessor shall disclose the changed terms before consummation. If the event occurs after consummation, the determination of whether new disclosures are required is made under paragraph (g) of this section.

(e) *Content of disclosures.* For each consumer lease, the following items, to the extent applicable, shall be disclosed:

(1) The identity of the consumer.

(2) The identity of the lessor making the disclosures.

(3) A brief description of the leased property, sufficient to identify it to the consumer.

(4) A brief description of every payment made or to be made by the consumer either at or prior to delivery of the leased property, and the total amount of all such payments.

(5) The number, amounts, and timing of periodic lease payments, and the total amount of such payments.[71]

(6) The total amount of charges payable by the consumer during the lease term for official fees, registration, certificate of title, licenses, or taxes, other than charges disclosed under paragraphs (e)(4) and (e)(5) of this section.

(7) All charges, other than those disclosed under paragraphs (e)(4), (e)(5),

[69] The phrase "the cost of your credit as a yearly rate" may, but need not, accompany that term.

[70] One or more examples of typical extensions of credit and any provisions available under § 226.11 may be used in complying with this requirement.

[71] If the amount of any payment in a series is not more than 5 percent larger than the smallest payment in that series, the lessor may treat all payments in the series as equal by disclosing the largest payment amount, labeled as an estimate. If this rule is used, the total of payments shall reflect the payment amounts disclosed and shall also be labeled as an estimate.

or (e)(6) of this section, that are payable by the consumer to the lessor but not included in the periodic lease payments, individually itemized, and the total of such charges.

(8) A brief description of the types and amounts of insurance required or paid for by, or obtained from, the lessor, other than insurance procured by the lessor for its own benefit. If the insurance is obtained from or paid for by the lessor, this description shall include the cost to the consumer.

(9) A statement identifying any express warranties or guarantees made by the lessor or manufacturer that are available to the consumer with respect to the leased property.

(10) A statement identifying the party responsible for maintaining or servicing the leased property and a brief description of the responsibility. If a maintenance or service contract is provided or paid for by the lessor, a brief description of that contract shall also be disclosed.

(11) A statement of reasonable standards for wear and use, if the lessor sets such standards.

(12) If the lessor has taken or will obtain a security interest in connection with the lease (other than a security deposit disclosed under paragraph (e)(4) of this section), a statement of that fact, including a brief description of the property to which it relates. If the security interest relates to after-acquired property, that fact shall also be disclosed.

(13) The amount or method of determining the amount of any penalty or other charge, other than a deferral or extension charge, for default, delinquency, excessive wear or use, or late payments.

(14) A statement of whether or not the consumer has the option to purchase the leased property and, if so, at what times and at what prices or the method of determining the prices.

(15) A statement of the conditions under which the consumer or the lessor may terminate the lease prior to the end of the lease term and the amount or method of determining the amount of any penalty or other charge for early termination.

(f) *Special disclosures concerning the consumer's liability on termination of a lease.* For any consumer lease in which the consumer's liability at early termination is affected by the realized value of the leased property, or at the end of the lease is based on the estimated value of the leased property, the following items shall be disclosed, as applicable, in addition to the disclosures under paragraph (e) of this section:

(1) A statement of how the consumer's liability at early termination is affected by the realized value of the leased property, or that the consumer shall be liable for the difference between the estimated value of the leased property and its realized value at the end of the lease term.

(2) A statement that the consumer may obtain, at the consumer's expense, a professional appraisal of the value which could be realized at sale of the leased property, and whether the appraisal will be based on the wholesale or retail value of the leased property. The statement shall indicate that the appraisal must be made by an independent third party agreed to by the consumer and the lessor, and that such an appraisal is final and binding on both parties if obtained within a reasonable time after early termination or the end of the lease term.

(3) Where the consumer's liability at the end of the lease term is based on the estimated value of the leased property:

(i) The value of the property at consummation of the lease, the itemized total lease obligation, and the difference between them;

(ii) A statement that

(A) The estimated value of the leased property is presumed to be unreasonable and not in good faith to the extent that it exceeds the realized value by more than three times the average lease payment allocable to a monthly period, and that the lessor cannot collect the excess except by rebutting this presumption of unreasonableness in a successful court action in which it pays the consumer's attorney's fees, and

(B) These rules concerning the presumption and attorney's fees do not apply to the extent that the excess of estimated value over realized value is due to unreasonable wear or use, or to excessive use.

(iii) A statement that the requirements of paragraph (f)(3)(ii) of this section do not preclude the right of a willing consumer to enter into any mutually agreeable final adjustment regarding excess liability, provided such agreement is reached after the end of the lease term.

(g) *Renegotiations—new disclosures.* (1) Except as provided in this paragraph, a renegotiation occurs when the lessor and the consumer agree to change any of the terms of an existing consumer lease that were previously disclosed under paragraphs (e) or (f) of this section. A renegotiation is a new lease requiring new disclosures.

(2) The following changes in terms of an existing consumer lease need not be treated as a renegotiation:

(i) In a multiple-item lease, the return of one or more leased items or the addition of one or more new items, if the average lease payment allocable to a monthly period is not changed by more than 25 percent;

(ii) A deferral of one periodic lease payment or a portion of a periodic lease payment;

(iii) The addition or renewal of optional insurance purchased by the consumer after consummation of the existing transaction, if the appropriate disclosures are provided for the insurance transaction itself; or

(iv) An extension of the lease term on a month-to-month or other basis with no other changed terms.

(3) A lessor that extends, or permits a consumer to extend, the duration of a consumer lease for more than one month shall, for the purposes of § 183(a) of the act, reclaculate the estimated value of the leased property to reflect the actual lease term.

§ 226.16 Advertising.

(a) *Generally available terms.* If an advertisement states specific consumer lease terms, it shall state only those terms that the lessor generally arranges or offers.

(b) *Advertisement of terms that require additional disclosures.* Except as provided in paragraph (c) of this section, if an advertisement states the amount of any payment, the number of required payments, or whether or not any payment is required to be made at consummation of the lease, it shall also state, at its option by using one or more examples of typical consumer leases, these terms:

(1) That the transaction advertised is a lease.

(2) The total amount of any payment required to be made at or prior to delivery of the leased property, or that no such payment is required.

(3) The number, amounts, and timing of periodic lease payments and the total of such payments.

(4) Whether or not the consumer has the option to purchase the leased property, and if so at what times, and at what prices or the method of determining the prices.

(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes on the consumer at the end of the lease term, including a statement that the consumer shall be liable for any difference between the estimated value of the property and its realized value at the end of the lease term, if such liability exists.

(c) *Multiple-item leases; merchandise tags.* A merchandise tag for an item

normally included in a multiple-item lease need not comply with paragraph (b) of this section if it clearly refers to a sign or display, prominently posted in the lessor's showroom, that contains a table or schedule or the items required to be disclosed under paragraph (b) of this section.

(d) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement gives information in a table or schedule of lease terms in sufficient detail to permit determination of the disclosures required by this section, it shall be considered a single advertisement, provided:

(i) The table or schedule is clearly set forth;

(ii) Any statement or lease terms appearing anywhere else in the catalog or advertisement clearly refers to the page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with paragraph (b) of this section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly leased higher priced properly offered.

Subpart E—Miscellaneous

§ 226.17 Record retention.

(a) *General rule.* A creditor or lessor shall retain evidence of compliance with the requirements of this regulation, including information sufficient to reconstruct the required disclosures, for a period of not less than two years after the date the disclosures are required to be made or an advertisement is first used. The administrative agencies responsible for enforcing the regulation may require creditors and lessors under their jurisdiction to retain records for a longer period where necessary in carrying out their enforcement responsibilities under § 108 of the Truth in Lending Act (Title 15, § 1607 of the United States Code).

(b) *Recordkeeping methods.* Evidence of compliance under this section may be retained by use of microfilm, microfiche, or any other method designed to reproduce business records accurately.

(c) *Inspection of records.* A creditor or lessor shall permit the agency responsible for enforcing this regulation with respect to that creditor or lessor to inspect its records for compliance.

§ 226.18 Spanish language disclosures.

(a) *General rule.* All required disclosures under this regulation shall be made in the English language except in the Commonwealth of Puerto Rico, where disclosures may be made, at the creditor's option, in the Spanish language.

(b) *Consumer request; advertising.* If Spanish disclosures are made under paragraph (a) of this section, English disclosures shall be provided upon the consumer's request, either in substitution for the Spanish disclosures or as additional information, except that this requirement shall not apply to advertisements of credit or lease transactions subject to this regulation.

§ 226.19 Effect on state laws.

(a) *Inconsistent disclosure requirements.* A state law that is inconsistent with this regulation is preempted to the extent of the inconsistency. In the case of paragraphs (b)(5), (3)(12), (e), (g), and (h) of § 226.5 (open-end credit disclosures), paragraphs (c) through (f) of § 226.6 (credit card transactions), § 226.7 (billing error resolution), and Subpart D (leasing), a state law is not inconsistent if it is more protective of consumers. A creditor or lessor shall not make any disclosure using a term or form determined by the Board to be inconsistent. A creditor, lessor, state, or other interested party may request the Board to determine whether a state law is inconsistent.

(b) *Equivalent disclosure requirements.* If the Board determines that a disclosure required by state law, other than a disclosure relating to the finance charge or annual percentage rate, is substantially the same in meaning as a disclosure required under the credit provisions of this regulation (Subparts B and C), creditors in that state may make the state law disclosure in lieu of the disclosure required by this regulation. A creditor, state, or other interested party may request the Board to determine whether a state-required disclosure is substantially the same in meaning as a disclosure required by this regulation.

(c) *Request for determination.* (1) A request for a determination that a state law is inconsistent with or substantially the same in meaning as a requirement of this regulation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(2) A request for determination shall include each of the following items, to the extent applicable:

(i) The full text of the state statute, regulation, or other document containing the provision that is the subject of the request.

(ii) Any other statute, regulation, or judicial or administrative opinion that implements, interprets or applies the relevant provision.

(iii) A comparison of the state law provision with the corresponding provision of this regulation, including a full discussion of the basis for the requesting party's belief that the state provision is either inconsistent or substantially the same; and

(iv) Any other information that the requesting party believes may assist the Board in its determination.

(3)(i) Any request for determination will be published, with an opportunity for public comment, in the *Federal Register*, unless the Board determines that the time required for prior notice and opportunity for comment would be contrary to the public interest and publishes its reasons for that determination.

(ii) Subject to the Board's rules regarding availability of information (Title 12, Part 261 of the Code of Federal Regulations), all requests made under this section, including any documents and other material submitted in support of the requests, will be made available for public inspection and copying.

§ 226.20 State exemptions.

(a) *General rule.* Any state may apply to the Board to exempt any class of transactions within the state from the requirements of Chapter 2 (Credit Transactions), Chapter 4 (Credit Billing), or Chapter 5 (Consumer Leases) of the Truth in Lending Act and the corresponding provisions of the regulation. The Board will grant an exemption if it determines that

(1) The state law is substantially similar to the requirements of the act and regulation or, in the case of Chapters 4 or 5, the consumer is afforded greater protection under state law than under the federal act and regulation; and

(2) There is adequate provision for enforcement.

(b) *Procedures.* (1) The procedures under which a state may apply for an exemption under paragraph (a) of this section are set forth as follows

(i) Disclosure and rescission requirements (§§ 121–131 of Chapter 2), Supplement II;

(ii) Issuance of unsolicited credit cards and liability for unauthorized use (§§ 132–133 of Chapter 2), Supplement IV;

(iii) Fair credit billing requirements (§§ 161–171of Chapter 4), Supplement V; and

(iv) Consumer leasing requirements (§§ 181–186 of Chapter 5), Supplement VI.

(2) Supplements II through VI may be obtained from any Federal Reserve

Bank or from the Board in Washington, D.C. 20551.

(c) *Civil liability. (1) No exemptions granted under this section shall extend to the civil liability provisions of §§ 130 and 131 of the Truth in Lending Act (Title 15, §§ 1640 and 1641 of the United States Code).*

(2) After an exemption has been granted, the disclosure requirements under the applicable state law (except any additional requirements not imposed by this regulation) shall consititue the disclosure requirements of federal law, and information required under that state law (except additional requirements not imposed by this regulation) shall constitute the information required under Chapters 2, 4 and 5 of the act for the purposes of § 130(a) of the Truth in Lending Act.

(d) *Exemptions granted.* Supplement III to Regulation Z sets forth the exemptions granted by the Board to particular classes of credit transactions within states.

226.21 Issuance of staff interpretations.

(a) *Offical staff interpretations.* Each official in the Board's Division of Consumer and Community Affairs is authorized, in that official's discretion, to issue an offical staff interpretation of this regulation. In accordance with § 130(f) of the Truth in Lending Act (Title 15, § 1640(f) of the United States Code), a creditor or lessor who acts in conformity with an official staff interpretation, whether the creditor or lessor actually knows of the interpretation or not, shall not be held liable in any court or administrative proceeding for its action.

(b) *Procedure for issuance of official staff interpretations.* (1) A request for an official staff interpretation shall be in writing and addressed to the Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall contain a complete statement of all relevant facts concerning the issue, including copies of all pertinent documents.

(2) If, in the opinion of an authorized official, issuance of an official staff interpretation is appropriate, it will be published in the **Federal Register** to become effective 30 days after the publication date. If a request for public comment is received and granted, the effective date will be suspended. The interpretation will then be republished in the **Federal Register** and the public given an opportunity to comment. An official staff interpretation issued after opportunity for public comment shall become effective upon republication in the **Federal Register.**

(3) A request for public comment on an official staff interpretation shall be in writing and addressed to the Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and postmarked or received by an authorized official within 30 days of the interpretations's publication in the **Federal Register.** The request shall contain a statement setting forth the reasons why the person making the request believes that public comment would be appropriate.

(c) *Unofficial staff interpretations. (1) If, in the judgment of the authorized officials, an official staff interpretation should not be issued, an unofficial staff interpretation may be issued. Although an unofficial staff interpretation does not provide the formal protection afforded under the law as mentioned in paragraph (a) of this section, it represents the view of the staff which has been empowered by the Board to express opinions on the requirements of the regulation.*

(2) A request for an unofficial staff interpretation should be in writing and addressed to the Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request should include all information and documents which, in the view of the requesting party, may be relevant to the interpretation.

(d) *Scope of interpretations.* No official or unofficial staff interpretation will be issued approving creditors' or lessors' forms, statements, calculation tools, or methods. This restriction need not apply to forms, statments, tools, or methods whose use is required or sanctioned by a government agency.[72]

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[72] For purposes of this paragraph, "government agency" includes any department or agency of the United States, of a state or of a political subdivision. The term also includes quasi-governmental entities such as the Government National Mortgage Corporation.

APPENDIX A—MODEL DISCLOSURE FORMS AND CLAUSES

SECTION A(1)—DISCLOSURES REGARDING BALANCE COMPUTATION METHODS (§§ 226.5(b)(1)(iii) and 226.5(c)(6))

(a) Adjusted balance method

The balance to which the periodic rate is applied in calculating the finance charges is the total amount you owe us at the end of one billing period [excluding any part of that amount that represents a finance charge], less all payments and credits we receive before the end of the next billing period.

(b) Previous balance method

The balance to which the periodic rate is applied in calculating the finance charges is the total amount you owe us at the end of each billing period [excluding any portion of that amount that represents a finance charge].

(c) Average daily balance method (excluding current transactions)

The balance to which the periodic rate is applied in calculating the finance charges is the sum of the actual amounts owing each day of the billing period, not including transactions first charged to your account during the period [and not including any portion of the actual amount that is a finance charge], divided by the total number of days in the billing period.

(d) Average daily balance method (including current transactions)

The balance to which the periodic rate is applied in calculating the finance charges is the sum of the actual amounts owing each day of the billing period, including transactions first charged to your account during the period [but not including any portion of the actual amount that is a finance charge], divided by the total number of days in the billing period.

SECTION A(2)—STATEMENT REGARDING BILLING ERROR RIGHTS (§ 226.5(b)(5))

IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR BILL

1. Send your question in writing [at the creditor's option: on a separate sheet] to the address listed on your bill after the words: "Send Inquiries To:" or similar wording. [Alternate: Write to us at (insert address)]. Write to us as soon as possible but, in any case, early enough so that your letter reaches us within 60 days after the bill was mailed to you. You can telephone, but doing so will not preserve your rights.

* Indicate your name and account number.

* Describe the error and explain, if you can, why you believe it is an error. If you need more information, describe the item you are not sure about.

* Indicate the dollar amount involved in the suspected error.

If you have a savings or checking account with us, and have authorized automatic payment of credit card bills from your account, you can stop or reverse payment on any amount you think is wrong. However, your letter must reach us within 16 days after the bill was sent to you. We still must investigate your inquiry even if you do not meet this 16-day deadline.

2. We must acknowledge your letter within 30 days, unless we have corrected the error by then. Otherwise, within 90 days we must either correct the error or explain why we believe the bill was correct.

3. After we have received your letter, we cannot try to collect any amount you are disputing, or report you to a credit bureau as delinquent. However, we can continue to bill you for the amount you are disputing, including any finance charges that would normally be imposed, and can apply any disputed amount that you have not paid against your credit limit. You remain obligated to pay the parts of your bill not in dispute.

4. If we determine that we made a mistake on your bill, you will not have to pay any finance charges on any disputed amount. If we haven't made a mistake, you may have to pay finance charges on any amount in dispute, and you will have to make up any missed required payments on the disputed amount. In either case we will send you a statement of the amount you owe, and when it is due.

5. If you fail to pay the amount that we conclude is owing, we may report you as delinquent to credit bureaus and other creditors. However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay, we must tell those credit bureaus and other creditors of your dispute and tell you specifically which credit bureaus and other creditors we have contacted. Once the matter has been settled between us, we must inform those to whom we reported you as delinquent.

6. If we don't follow these rules, we can't collect the first $50 of the disputed amount including finance charges, even if your bill was correct.

SPECIAL RULE FOR CREDIT CARDS

If you have a problem with the quality of property or services purchased with a credit card, you may have the right not to pay the remaining amount due on them, if you first try in good faith to correct the problem with the merchant. There are two limitations on this right:

a. You must have made the purchase in your home State or, if not within your home State, within 100 miles of your current mailing address; and

b. The purchase price must have been more than $50.

These limitations do not apply, however, if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

SECTION A(3)--ALTERNATIVE BILLING RIGHTS STATEMENT (§ 226.5(e)(2))

IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR BILL

1. Send your question in writing [at the creditor's option: on a separate sheet] to the address listed on your bill after the words: "Send Inquiries To:" or similar wording. [Alternate: Write your question to us at: (insert address.)] Write to us as soon as possible but, in any case, early enough so that your letter reaches us within 60 days after the bill was mailed to you. You can telephone, but doing so will not preserve your rights.

* Indicate your name and account number.

* Describe the error and explain, if you can, why you believe it is an error. If you need more information, describe the item you are not sure about.

* Indicate the dollar amount of the suspected error.

If you have a savings or checking account with us, and have authorized automatic payment of credit card bills from your account, you can stop or reverse payment on any amount you think is wrong. However, your letter must reach us within 16 days after the bill was sent to you.

You remain obligated to pay the parts of your bill not in dispute. However, you do not have to pay any amount in dispute while we are resolving the dispute, nor can we report disputed amounts as delinquent or take any action to collect those amounts.

If you have a problem with the quality of property or services purchased with a credit card, you do not have to pay the remaining amount due on them as long as you first try in good faith to resolve the problem with the merchant. The purchase must have occurred in your home State or within 100 miles of your mailing address and the purchase price must have been more than $50 (these two conditions do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or services).

This is a summary of your rights; a full statement of your rights and our responsibilities under the Federal Fair Credit Billing Act will be sent to you if you request it, and in response to a billing error notice.

SECTION A(4)--NOTICE REGARDING LIABILITY FOR UNAUTHORIZED USE (§ 226.6(b)(2))

You may be liable for the unauthorized use of your credit card [or other term that describes the credit device]. You will not be liable for unauthorized use that occurs after you notify [name of card issuer or its designee] at [address and telephone number] orally or in writing of loss, theft, or possible unauthorized use. In any case, your liability shall not exceed [insert $50 or any lesser amount under other applicable law or under any agreement with the cardholder.]

SECTION A(5)--NOTICE OF RIGHT TO RESCIND (§ 226.9(a)(1)(i))

NOTICE OF RIGHT TO CANCEL

You have entered into a transaction that may result in a security interest in your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days from whichever of the following three events occurs last:

(1) the date the transaction was entered into, which was _____

(2) the date you received your initial Truth in Lending disclosures.

(3) the date you received this notice of your right to cancel.

If you decide to cancel this transaction, you may do so by notifying us, in writing, at _____ (creditor's name and business address) _____. You may use any written statement that is signed and dated to cancel this transaction, or you may use this notice by dating and signing below. If you use this notice, you may want to make a copy for yourself since it contains important about your rights and it is proof of when you cancelled.

If you cancel by mail or telegram, the notice must be sent no later than midnight of the third business day after the latest of the three events listed above. If you use any other means to cancel, it must be delivered to the above address no later than that time.

If you cancel the transaction, the security interest is also cancelled. Within 20 days of receiving your notice, we must take the steps necessary to reflect the fact that the security interest in your home has been cancelled and we must return to you any money or property you have given to us or to anyone else in connection with this transaction. If we have given you any money or property, you may keep it until we have performed our obligations. You must then offer to return the money or property; if return of the property itself is impractical or unfair, you must offer its reasonable value. At your option, you may make the offer at your home or at the location of the property. If we do not take possession of the money or property within 20 days of your offer, you may keep it without further obligation.

I HEREBY CANCEL THIS TRANSACTION. _____

(consumer's signature) (date)

SECTION A(6)--NOTICE OF RIGHT TO RESCIND (§ 226.9(a)(1)(ii)(A))

NOTICE OF RIGHT TO CANCEL

You have agreed with us to establish an open-end credit account that is secured by your home. You have the right under federal law to cancel this account, without cost, within three business days from whichever of the following three events occurs last:

(1) the date the account was opened, which as _____.

(2) the date you received your initial Truth in Lending disclosures.

(3) the date you received this notice of your right to cancel.

You may cancel the account by notifying us, in writing, at (creditor's name and business address). You may use any written statement that is signed and dated to cancel this account, or you may use this notice by signing and dating below. If you use this notice, you may want to make a copy for yourself since it contains important about your rights, and it is proof of when you cancelled.

If you cancel by mail or telegram, the notice must be sent no later than midnight of the third business day after the latest of the three events listed above. If you use any other means to cancel, it must be delivered to the above address no later than that time.

If you cancel this account, the security interest is also cancelled. Within 20 days of receiving your notice, we must take the steps necessary to reflect the fact that the security interest in your home has been cancelled and we must return to you any money or property you have given to use or to anyone else in connection with this account. If we have given you any money or property, you may keep it until we have performed our obligations. You must then offer to return the money or property; if return of the property itself is impractical or unfair, you must offer its reasonable value. At you option, you may make the offer at your home or at the location of the property. If we do not take possession of the money or property within 20 days of your offer, you may keep it without further obligation.

I HEREBY CANCEL THIS ACCOUNT. _____
(consumer's signature) (date)

SECTION A(7)--MODEL FORM FOR TRANSACTIONAL DISCLOSURES
(§ 226.11(f))

_____
(Name of Creditor)

_____
(Address)

_____

FINANCE CHARGE (the dollar amount the credit will cost you) $_____

ANNUAL PERCENTAGE RATE (the cost of your credit as a yearly rate) _____%

Amount Financed (the amount of credit provided to you or on your behalf) $_____

You have the right to receive a written itemization of the Amount Financed at this time. Please initial the appropriate space.

___ Yes, I want a written itemization.

___ No, I do not want a written itemization.

Total of Payments (the amount you will pay when you make all payments as scheduled) $_____

The total of payments will be paid in _____[monthly] payments of $_____ starting on _____ and due on the _____ day of each [month].

* Total Sale Price (the total cost of your purchase on credit, including your downpayment of $_____) $_____

Insurance
Credit life and disability insurance is not required to obtain credit, and it will not be provided unless you sign and agree to pay the additional cost. The cost for such insurance is :

Credit Life [for ____ years] $_____ _____ I want credit life insurance

Credit Disability [for ____ years] $_____ _____ I want credit disability insurance

_____
(signature)

Property insurance may be provided by anyone you choose. [If you get the insurance from us, the cost will be $_____.]

Late Charge You will be charged [$_____] [____% of the payment] if a payment is not received within _____ days of its due date.

Security We are taking a security interest in [the goods being purchased.]
[_____.]
(other property)

Prepayment If you pay off early, [you are [not] entitled to a refund of some of the finance charge.] [you will pay a penalty.]

See your contract documents for additional information about nonpayment, default, our right to accelerate your debt, and prepayment rebates and penalties.

** A subsequent purchaser or assignee may [not] assume this obligation on its original terms.

[I have received a copy of this statement.]

[_____] [_____]
(name) (date)

*This disclosure is required only for credit sales. Otherwise, disclosures for sales and loans are identical.

**This disclosure is required only for residential mortgage transactions.

SECTION A(8)—ITEMIZATION OF AMOUNT FINANCED (§ 226.11(f)(2)(ii))

Itemization of Amount Financed of $_____

Cash price	$_____
Cash downpayment	$_____
Trade-in	$_____
Prepaid finance charge	$_____
Amount paid to you	$_____
Amount credited to your [account] [loan] with us	$_____
Amounts paid to others on your behalf	$_____
_____	$_____
_____	$_____
_____	$_____

SECTION A(9)--SAMPLE FORM FOR ALTERNATE SHOPPING DISCLOSURES (§ 226.11(h))

XYZ AUTO

New Car Financing

15% ANNUAL PERCENTAGE RATE (the cost of your credit expressed as a yearly rate)

Loan Term (in months)	Amount Financed*	Monthly Payment Amount	Total of Payments**	FINANCE CHARGE (the dollar amount the credit will cost you)
36	$5000	$ 173.33	$ 6239.76	$ 1239.76
	6000	207.99	7487.71	1487.71
	7000	242.66	8735.66	1735.66
48	5000	139.15	6679.38	1679.38
	6000	166.98	8015.26	2015.26
	7000	194.82	9351.13	2351.13

*The amount financed is the amount of credit provided to you or on your behalf, figured by taking the cash price of the car, subtracting the downpayment (including any trade-in) and any finance charge you must pay at the time of purchase, and adding other items you wish to finance, such as insurance.

You have the right to receive a written itemization of the amount financed before your purchase is completed, if you request it in writing.

**The total of payments is the amount you will pay when you make all payments as scheduled. The total of payments plus your downpayment and trade-in equals the total sale price of your car bought on credit.

Your new car will serve as security for repayment.

If any payment is more than 10 days late, you will have to pay a late charge of $5.

If you pay off early, you will be entitled to a refund of some of the finance charge.

For more information on the effects of early payment, default, nonpayment and our right to accelerate your debt, see the installment sales agreement.

SECTION A(10)—NOTICE OF RIGHT TO RESCIND (§ 226.13(b))

NOTICE OF RIGHT TO CANCEL

You have entered into a transaction that may result in a security interest in your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days from whichever of the following three events occurs last:

(1) the date the transaction was entered into, which was _____.

(2) the date you received your Truth in Lending disclosures.

(3) the date you received this notice of your right to cancel.

If you decide to cancel this transaction, you may do so by notifying us, in writing, at _____ (Creditor's name and business address) _____. You may use any written statement that is signed and dated to cancel this transaction, or you may use this notice by dating and signing below. If you use this notice, you may want to make a copy since it contains important information about your rights and it is proof of when you cancelled.

If you cancel by mail or telegram, the notice must be sent no later than midnight of the third business day after the latest of the three events listed above. If you use any other means to cancel, it must be delivered to the above address no later than that time.

If you cancel the transaction, the security interest is also cancelled. Within 20 days of receiving of your notice, we must take the steps necessary to reflect the fact that the security interest in your home has been cancelled and we must return to you any money or property you have given to us or to anyone else in connection with this transaction. If we have given you any money or property, you may keep it until we have performed our obligations. You must then offer to return the money or property; if return of the property itself is impractical or unfair, you must offer its reasonable value. At your option, you may make the offer at your home or at the location of the property. If we do not take possession of the money or property within 20 days of your offer, you may keep it without further obligation.

I HEREBY CANCEL THIS TRANSACTION. _____
(consumer's signature) (date)

SECTION A(11)—DISCLOSURES REGARDING VARIABLE RATES (§ 226.11(f)(5))

The annual percentage rate may increase during the term of this transaction under the following conditions:

[An increase in the prime interest rate of this lender]
[Your deposit accounts fail to maintain a balance of _____]
[You terminate your employment with _____]

An increase is limited in the following manner:

[The rate will not increase above _____%]
[The maximum increase at one time will be _____%]

Any increase will take the form of:

[Higher payment amounts]
[More payments of the same amount]
[A larger amount due at maturity]

SECTION A(12)—DISCLOSURES REGARDING DEMAND OBLIGATIONS (§ 226.11(f)(8))

This obligation is payable on demand.

[All disclosures are based on an assumed maturity of one year.]

APPENDIX B—ANNUAL PERCENTAGE RATE COMPUTATIONS (§ 226.8(c)(2)(iii)(B))

In determining the denominator of the fraction under § 226.8 (c)(2)(iii)(B), no amount will be used more than once when adding the sum of the balances */ to which periodic rates apply to the sum of the amounts financed to which specific transaction charges apply. In every case the full amount of transactions to which specific transaction charges apply shall be included in the denominator. Other balances or parts of balances shall be included according to the manner of determining the balance to which a periodic rate is applied, as illustrated in the following examples of accounts on monthly billing cycles:

1. Previous balance—none.

A specific transaction of $100 occurs on first day of the billing cycle. The average daily balance is $100. A specific transaction charge of 3% is applicable to the specific transaction. The periodic rate is 1 1/2% applicable to the average daily balance. The numerator is the amount of the finance charge, which is $4.50. The denominator is the amount of the transaction (which is $100), plus the amount by which the balance to which the periodic rate applies exceeds the amount of specific transactions (such excess in this case is 0), totaling $100.

The annual percentage rate is the quotient (which is 4 1/2%) multiplied by 12 (the number of months in a year), i.e., 54%.

2. Previous balance—$100.

A specific transaction of $100 occurs at midpoint of the billing cycle. The average daily balance is $150. A specific transaction charge of 3% is applicable to the specific transaction. The periodic rate is 1 1/2% applicable to the average daily balance. The numerator is the amount of finance charge which is $5.25. The denominator is the amount of the transaction (which is $100), plus the amount by which the balance to which the periodic rate applies exceeds the amounts of specific transactions (such excess in this case is $50), totaling $150.

As explained in example 1, the annual percentage rate is 3 1/2% x 12 = 42%.

3. If, in example 2, the periodic rate applies only to the previous balance, the numerator is $4.50 and the denominator is $200 (the amount of the transaction, $100, plus the balance to which only the periodic rate is applicable, the $100 previous balance). As explained in example 1, the annual percentage rate is 2 1/4% x 12 = 27%.

4. If, in example 2, the periodic rate applies only to an adjusted balance (previous balance less payments and credits) and the customer made a payment of $50 at midpoint of billing cycle, the numerator is $3.75 and the denominator is $150 (the amount of the transaction, $100, plus the balance to which the periodic rate is applicable, the $50 adjusted balance). As explained in example 1, the annual percentage rate is 2 1/2% x 12 = 30%.

5. Previous balance—$100.

A specific transaction (check) of $100 occurs at the midpoint of the billing cycle. The average daily balance is $150. The specific transaction charge is $.25 per check. The periodic rate is 1 1/2% applied to the average daily balance. The numerator is the amount of the finance charge, which is $2.50 and includes the $.25 check charge and the $2.25 resulting from the application of the periodic rate. The denominator is the full amount of the specific transaction (which is $100) plus the amount by which the average daily balance exceeds the amount of the specific transaction (which in this case is $50), totaling $150. As explained in example 1, the annual percentage rate would be 1 2/3% x 12 = 20%.

6. Previous balance—none.

A specific transaction of $100 occurs at the midpoint of the billing cycle. The average daily balance is $50. The specific transaction charge is 3% of the transaction amount of $3.00. The periodic rate is 1 1/2% per month applied to the average daily balance. The numerator is the amount of the finance charge, which is $3.75, including the $3.00 transaction charge and $.75 resulting from application of the periodic rate. The denominator is the full amount of the specific transaction ($100) plus the amount by which the balance to which the periodic rate is applied exceeds the amount of the transaction ($0). Note that in this situation, where the transaction amount exceeds the balance, the resulting number is considered to be zero rather than a negative number (50 - 100 = -50). The denominator is thus $100. The resulting annual percentage rate is 3 3/4% x 12 = 45%.

Board of Governors of the Federal Reserve System, April 28, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-13443 Filed 5-2-80; 8:45 am]

BILLING CODE 6210-01-C

*/ Where a portion of the finance charge is determined by application of one or more daily periodic rates, the phrase "sum of the balances" shall also mean the "average of daily balances."

federal register

Monday
May 5, 1980

Part III

Department of Energy

Procedures for Financial Assistance Appeals

DEPARTMENT OF ENERGY

10 CFR Part 1024

Procedures for Financial Assistance Appeals

AGENCY: Financial Assistance Appeals Board, DOE.

ACTION: Final rule; (Rules of Procedure).

SUMMARY: These regulations establish procedures for financial assistance recipients who desire to appeal from adverse decisions made by DOE financial assistance officers or contracting officers. The purpose is to provide a timely, just, and inexpensive resolution of disputes involving grants, cooperative agreements, loan guarantees, loan agreements, or other financial assistance instruments. The Financial Assistance Appeals Board has been delegated the responsibility and authority to consider and resolve such disputes and to issue the final Departmental decision thereon.

EFFECTIVE DATE: April 29, 1980.

FOR FURTHER INFORMATION CONTACT: John B. Farmakides, Chairman, Financial Assistance Appeals Board; Webb Building, Room 1006, 4040 North Fairfax Drive, Arlington, VA 22203. Telephone: (703) 235-2700.

SUPPLEMENTARY INFORMATION: These regulations provide rules and procedures for use by financial assistance recipients who desire to file appeals from decisions made by financial assistance officers or contracting officers. They do not provide a right of appeal—merely the "procedure" for handling an appeal. They shall apply where DOE program regulations provide financial assistance recipients a right to appeal "final" agency decisions issued by Department grants officers or contracting officers.

In the Department's view, based on the Federal Grants and Cooperative Agreement Act of 1977 (Pub. L. 95-224) and the OMB guidance thereon, the need for an orderly, informal, relatively inexpensive and timely process for resolution of financial assistance disputes is necessary. Accordingly, these rules are intended to provide such a process. For purposes of uniformity, and where their concepts coincide with this Board's policy, these regulations adopt specific methods and procedures of other Boards including: alternative methods for processing appeals depending on the speed and informality desired by appellant; an automatic "on the record" review for those appeals involving a minimum amount; and the opportunity for a "conference" type hearing or a full evidentiary hearing if needed. These rules also adopt portions of the procedural rules of the DOE Board of Contract Appeals, especially in those financial assistance appeals that involve complex fact situations. The Board's policy is to emphasize the informal resolution of the appeal, and the desirability of settlement whenever possible.

Comments submitted in response to the Board's request for comments as first proposed at 45 FR 8920 (Friday, February 8, 1980) were considered. Suggestions were incorporated where it was determined that they constituted an improvement over the proposed rules. For example: one point raised was that the proposed procedures were too informal and that they could not accommodate the relatively complex cases that may be expected (especially those involving cooperative agreements). This view was accepted in part and adopted by providing in these rules for the use of the more formal rules of the Board of Contract Appeals where this was found to be necessary. Other comments accepted included one which pointed out that even in cases involving an amount under $10,000, the opportunity to waive a written decision should not be left to the appellant alone—that the respondent may need a written decision for policy resolution and for future reference purposes. Likewise, the rules were clarified to provide for a Board determination where the parties disagree on the appeal method to be used.

Several comments, directed to provisions for the use of subpoenas; for clarifying the opportunity for submission of reply briefs; for the use of more definitions; for a more explicit statement on the availability of discovery; and for specific identification of sanctions for perjury, were found useful but were not directly adopted because the Board found the rules as proposed to be clear, and sufficient to provide the flexibility needed. In view of the relative informality of these procedures, and, in order to provide both parties with an equal opportunity to develop the record, the requirement for the appellant to prepare an "appeal" file as initially proposed was dropped. Instead, each party will develop its own case initially, with the Board exercising its discretion to require more documentation, if needed.

The Board considered every comment carefully and was impressed by the perspective and understanding displayed and deeply appreciative of the time and effort demonstrated.

DRAFTING INFORMATION: The principal persons involved in drafting these regulations are: John B. Farmakides, Chairman; Carlos R. Garza, Vice Chairman; and Beryl S. Gilmore, Member, Department of Energy, Financial Assistance Appeals Board.

Issued in Washington, D.C. on April 29, 1980.

John B. Farmakides,

Chairman, Financial Assistance Appeals Board.

Therefore, 10 CFR is hereby amended by adding Part 1024 thereto to read as follows:

PART 1024—PROCEDURES FOR FINANCIAL ASSISTANCE APPEALS

Sec.

1024.1 Scope and purpose.
1024.2 Authority.
1024.3 General.
1024.4 Rules of procedure.

Authority: Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 577 (42 U.S.C. 7101, et seq.); E.O. 10789; Pub. L. 95-224, 92 Stat. 3 (41 U.S.C. 501-509).

§ 1024.1 Scope and purpose.

These procedures establish a process permitting recipients of financial assistance to appeal adverse final decisions made by financial assistance officers or contracting officers. The objective is to provide a timely, just, and inexpensive resolution of disputes involving grants, cooperative agreements, loan guarantees, loan agreements, or other financial assistance instruments.

§ 1024.2 Authority.

The authority of the Board derives from direct delegation of the Secretary to hear and decide finally for the Department appeals from any decision brought before it on disputes arising under financial assistance agreements.

§ 1024.3 General.

(a) A recipient or party to a grant, cooperative agreement, loan guarantee or agreement, or other such financial assistance may have a right to appeal disputes with the Department. Such a right may be set forth in statutes, in Departmental regulations dealing with the type of financial assistance involved, or in the agreement itself.

(b) Appeals are decided by the Financial Assistance Appeals Board in Accordance with the procedures set forth in these regulations. Decisions will be by majority vote and will be the final disposition of the matter within the Department.

(1) The Board is located in the Washington, D.C. metropolitan area and its address is: Webb Building, Room

1006, 4040 North Fairfax Drive, Arlington, Virginia 22203.

(2) The Administrative Judge assigned to hear and develop the record on an appeal has authority to act for the Board with respect to such appeal within the limits assigned and as set forth in these rules.

(c) In order that a right to appeal may be exercised in a timely manner, a financial assistance recipient must appeal, in writing, within 60 days after a financial assistance officer, or contracting officer has issued a "final decision" on the matter.

(d) The appeal may take one of the following three alternative courses, depending on the amount of the claim and degree of formality desired or needed:

(1) The first method is to proceed on the basis of a written record, without any oral presentations. It is the quickest and simplest process available to an appellant. All appeals involving less than $10,000 will be decided on this basis, unless, on application made by the appellant, or the respondent, the Board rules otherwise. This method is also available for appeals where the amount in dispute is more than $10,000 if an election is made in accordance with Rule 2. (See § 1024.4)

(2) A second method is to use a conference-type hearing in which the written record is supplemented with an informal oral presentation. It is the second fastest process available to an appellant and is conducted in a relatively informal manner which may require little, if any, testimony, and may even be conducted by a telephone conference call where deemed appropriate.

(3) The third method, and the most time consuming is the use of an adversary evidentiary hearing. Because of the procedural and logistical aspects involved, this method is more expensive and time consuming than the other two methods for both the appellant and respondent. Generally, this method is used only if there are complex facts in dispute.

(e) All three methods are designed to be as informal as possible; nevertheless, it should be recognized that the Board must have an adequate record on which to base a sound decision. While an orderly presentation of evidence is required, the Board attempts to be as flexible as possible in the interests of arriving at an impartial, inexpensive and expeditious resolution of the matter.

(f) The services of an attorney are not necessarily required, especially as to the first method. The appellant should note, however, that the respondent is represented by an attorney. Hearings, if held, are transcribed, and witnesses are required to present information or evidence at such hearings under oath. In each case, the Board shall issue a written decision unless otherwise requested by a party and the request is approved.

§ 1024.4 Rules of procedure.

The following rules of procedure shall govern all financial assistance disputes appealed to the Board in accordance with this subpart:

Rule

1. Filing of an appeal; acknowledgment
2. Selection of an appeal method
3. Development of the record
4. Objections to evidence submitted
5. Alternative methods of appeal
6. Parties to the appeal
7. Representation before the Board
8. Dismissal for failure to meet deadlines and other requirements
9. The Board's powers, functions, and responsibilities
10. Ex parte communications (communications outside the record)
11. Notice and location of hearings
12. Calculation of time periods.

Rule 1. Filing of an appeal; acknowledgment

(a) A brief written notice of appeal, along with a copy of the final agency decision being appealed shall be submitted within 60 days after receipt of the decision. The notice must indicate that an appeal is intended, and must clearly state the issues in controversy, and the relief requested. This notice, if sufficiently detailed, may serve as the appellant's initial complaint. See Rule 3(a).

(b) The appeal notice shall be mailed or delivered to the financial Assistance Appeals Board (for address see 1024.3(b)(1)), with a copy to the official whose decision is being appealed, and a second copy to the General Counsel, Department of Energy, Washington D.C. 20585.

(c) upon receiving the appeal notice, the Board will promptly acknowledge receipt of the notice of appeal and will notify the parties of the date docketed.

Rule 2. Selection of an appeal method

Unless submitted earlier, within 20 days after the appellant receives the Board's notice of docketing, the appellant must submit to the Board, with copy to respondent, a letter electing one of the three methods available for processing the appeal. For disputes involving less than $10,000, method "1" (as set forth in Rule 5(a)) will automatically apply unless appellant specifically petitions and is granted the right to proceed under one of the other two methods. In exceptional circumstances, the respondent may likewise request the use of one of the other two methods. This election letter must identify the attorney or other person who will repesent the appellant, if the notice of appeal did not already do so. (See Rule 7(a)). In case the parties disagree as to the appeal method to be used, the Board will finally decide.

Rule 3. Development of the record

(a) Appellant; Complaint.

(1) Within 30 days after receiving the docketing notice from the Board, the appellant shall:

(i) submit a complaint, or

(ii) submit a specific request (for apporval by the Board), that the final decision as issued by the financial assistance officer or contracting officer, together with the notice of appeal, adequately describe the matter in dispute and will serve as the complaint.

(2) The complaint shall include: a copy of the decision appealed from; relevant portions of the applicable assistance agreements; a statement of the amount, if any, in dispute; and, if the appellant is proceeding under method 1 or 2, a copy of any documents supporting its claim. The documents must be organized chronologically and accompanied by an indexed list identifying each document by date, originator and addressee.

(3) to reduce the burden on the appellant, the appellant may specify, in an appropriate index, those relevant documents already in the possession of the respondent which the respondent will then add to those documents submitted in its answer.

(b) Respondent; Answer.

(1) Respondent shall submit an answer within 30 days after receipt of a complaint, or after receipt of a notice from the Board that the decision and notice of appeal shall serve as the complaint. The Board may enter a general denial on behalf of the respondent upon its failure to submit an answer within the time limitation.

(2) In its answer the respondent shall submit to the Board, with copy to appellant, two copies of any documents, other than those submitted by appellant in its complaint—which the respondent considers to be material. These should be organized and indexed as required under paragraph (a) of this Rule and shall include those documents already in the possession of the Department and identified and requested by the appellant in accordance with paragraph (a) of this Rule.

(c) The Board, on its own initiative, or in response to an appropriate request from a party to the dispute, may order a party to submit additional material

wherever the Board considers it useful in resolving the dispute.

Rule 4. Objections to evidence submitted

(a) Any objection to a document or other evidence submitted in the complaint or answer shall be raised as early as possible. The parties shall attempt to resolve such objections informally between themselves before asking the Board to intercede.

(b) For those appeals that are to be resolved on the basis of a written record under method 1, either party may object to inclusion of materials or documents at any point prior to conclusion of the briefing schedule.

(c) For those appeals that are submitted for resolution using method 2, either party may object to inclusion of materials or documents at any time prior to the conclusion of the hearing.

(d) For those appeals processed under method 3, any materials or documents submitted shall not be included in the record upon which the Board's decision will be based unless they are specifically offered and admitted into evidence.

(e) The Board will use the Federal Rules of Evidence as a guide in determining admissibility of evidence but may exercise its sound discretion where appropriate.

Rule 5. Alternative methods of appeal

(a) Method 1. Proceeding on the written record—(1) Within 20 days after the appellant receives the respondent's answer, the appellant may submit to the Board (with a copy to respondent) a brief or statement containing the appellant's argument in support of its claim. Within 20 days after receipt of the appellant's brief or statement, the respondent may submit to the Board (with a copy to the appellant) a brief or statement containing the agency's response. Appellant may submit a further reply, but must do so within 10 days after appellant's receipt of respondent's submission.

(2) *Accelerating the procedure.* The appellant may choose one or more of the following mechanisms to speed the process.

(i) The appellant may choose to submit a single brief or statement with, or as part of, its election letter, and may consolidate the election letter with its notice of appeal.

(ii) Where the appeal involves an amount in dispute of less that $10,000, the appellant may, upon specific request, have the Board issue a brief final order affirming or reversing the agency financial assistance officer or contracting officer decision, without a written decision.

(3) *Inadequate record.*

(i) If the Board decides that the written record presented is inadequate, the Board may present written questions to the parties; require further briefing on specified issues; require that oral testimony be presented; or take any other action that it considers necessary to develop a record upon which to base a sound decision.

(ii) One or both parties may sometimes believe that an issue on appeal requires more development than has been achieved on the written record. Therefore, on request of either or both parties, and if the Board agrees that it is appropriate to further develop the record, the Board may require the use of further appropriate procedures as applicable to hearings conducted pursuant to paragraphs (b) or (c) of this rule.

(4) *Record for decision.* The record upon which the decision will be based will consist of the complaint and answer (after disposition of all objections), the briefs or statements of the parties, and any other documents or material specifically allowed by the Board. A decision will be issued as soon as practicable (whenever possible within 30 days) after all submissions are filed or after the time for filing has expired.

(b) *Method 2: Conference hearing.* — (1) *Witness statement.* Within 20 days after the filing and receipt of respondent's answer, each party shall submit a witness statement to the Board, with a copy to the other party. The witness statement must contain a list of anticipated witnesses, with a brief summary of the expected testimony of each, and a description of the testimony's relevance to the specific issues and to the matter in dispute. The statement may also contain a list of questions which the presiding Board member may ask of the other party's witness, or an identification of issue areas in which inquiry by the presiding Board member would be appropriate. The Board may on its own initiative reject unduly repetitious, lengthy or otherwise burdensome questions, and may order a party to include additional witnesses, or to exclude multiple witnesses who would testify on the same matter.

(2) *Response to the witness statement.* Within 15 days after each party receives the other's witness statement, each party may respond by submitting a supplemental statement to the Board, with a copy to the other party. The supplemental statement may add to earlier information, or may present any written objections to the proposed questions or issue areas, or to the proposed witnesses.

(3) *The conference hearing.*

(i) As soon as preparations are concluded, the Board will set a date for a hearing, to be held at a time and place determined by the Board to best serve the interests of all concerned. On request by either party, and for good cause, the Board may, in its discretion, change the time and place of the hearing. The parties are responsible for producing witnesses specified in the witness statements at the time and place set for the hearing conference. A transcript or other recording will be made.

(ii) At the conference hearing, each party may make a brief opening statement. The witnesses will be questioned based on their statements; and the Board may inquire further of each witness for information which may or may not be included in the witness' statement. At the end of each witness' testimony, either party may suggest additional questions, which the Board may ask, if no objections thereto have been sustained. The Board may permit or require the parties or their representatives to comment further on issues of fact or law. Brief closing statements will be permitted.

(iii) Except for opening and closing statements, and any questions asked during direct testimony, or as otherwise specifically allowed by the Board, the only oral communications in the record will be those of the Board member and the witnesses. Generally, no documentary evidence will be received at a conference hearing. Although the conference hearing is informal, witnesses will be required to testify under oath.

(4) *Procedures after the hearing.* Upon request, post hearing briefs may be allowed to be submitted within an appropriate time as may be set by the Board. No rebuttal briefs shall be permitted.

(5) *Record for decision.* The record upon which the decision will be based will consist of the complaint and answer (after disposition of the objections), the hearing transcript, briefs of the parties, and any other such documents specifically admitted by the Board into the record. The Board will issue a decision as soon as practicable (whenever possible within 60 days) after all submissions are filed or after the time for filing has expired.

(c) *Method 3: Full evidentiary hearing.*—(1) *Special requirement.* If the appellant decides it is appropriate to seek a full evidentiary hearing, its election letter submitted under Rule 2 must specifically indicate this choice. This method may also be used where the disputed matter involves a complex

fact situation or would require extensive preparation. In such circumstances, the respondent my request, and the Board may approve, the use of this method. When this method is adopted, the Board may use the Rules of Procedure of the Board of Contract Appeals (10 CFR Part 1023) as may be needed to provide an orderly proceeding.

(2) *Informal conference before the hearing.* Generally, the Board will require the parties to appear at an early prehearing conference (which, at the option of the Board, may be conducted by telephone conference call), to consider any of the following: the possibility of settlement; simplifying and clarifying issues; stipulations and admissions of facts; limitations on evidence and witnesses that will be presented at the hearing; agreement on issues in dispute; and any other matter that may aid in disposing of the appeal. The Board, in its discretion, may record the results of the conference in a document which will be made part of the record, or may have the prehearing conference transcribed.

(3) *Record for decision.* The record upon which the decision will be based by the Board will consist of the complaint and answer, other pleadings, orders, stipulations that resulted from prehearing conferences, the transcript and testimony of any witness, any additional papers or exhibits introduced at the hearing, and the briefs of the parties. The Board will issue a decision as soon as practicable (whenever possible within 120 days) after all briefs are filed or after the time for filing briefs

Rule 6. Parties to the appeal

Generally, the only parties to the appeal are the financial assistance recipient which received the final agency decision on which the appeal is based, and the Department. However, upon request the Board may allow a third party to present the case on appeal or appear with a party in the case, when the Board determines that the third party is a real party in interest.

Rule 7. Representation before the Board

(a) *The appellant.* An appellant may appear before the Board in person or through a representative. The appellant's notice of appeal, or the appellant's election letter submitted pursuant to Rule 2 must specify the name, address and telephone number of the appellant's representative. An attorney representing appellant shall file a written notice of appearance. If represented by someone other than an attorney, appellant shall submit a declaration, signed by a responsible official of the appellant, that the person is authorized to act for the appellant.

(b) *The respondent.* As soon as practicable, and no more than 20 days after receiving the notice of appeal under Rule 1, the attorney representing the interest of the respondent shall file a notice of appearance and shall serve the notice on the appellant, or the appellant's attorney.

Rule 8. Dismissal for failure to meet deadlines and other requirements

(a) Whenever an appeal record discloses the failure of any party to file documents required by these rules, respond to notices or correspondence from the Board, or otherwise indicates an intention by that party not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be dismissed, or granted, as appropriate. If the offending party does not, or is not able to respond adequately, the Board may take such action as it deems reasonable and proper.

(b) If any party fails or refuses to obey an order issued by the Board, the Board may issue such orders as it considers necessary to permit the just and expeditious conduct of the appeal, including dismissal.

Rule 9. The Board's powers, functions, and responsibilities

The Board has been delegated all powers necessary for the performance of its duties, including but not limited to the authority to conduct hearings, call witnesses, dismiss appeals with or without prejudice, order the production of documents and other evidence, administer oaths and affirmations, issue subpoenas, order depositions to be taken, take official notice of facts within general knowledge, and decide all questions of fact and law. In discharging its functions, the Board shall provide an expeditious, just, and relatively inexpensive forum for resolving the dispute.

Rule 10. Ex parte communications (communications outside the record)

(a) Written or oral communications with a Board member by one party without the participation or notice to the other about the merits of the appeal is not permitted. No member of the Board, or the Board's staff, shall consider, nor shall any person directly or indirectly involved in an appeal, submit any off the record information, whether written or oral, relating to any matter at issue in an appeal.

(b) This rule does not apply to communications among members and staff, nor to communications concerning the Board's administrative functions or procedures.

Rule 11. Notice and location of hearings

Hearings will be held at such places and at such times determined by the Board to best serve the interests of the parties and the Board. In scheduling hearings, the Board will consider the desires of the parties and the requirement for just and inexpensive determination of appeals without unnecessary delay. The parties shall be given at least 15 days notice of time and place set for hearings.

Rule 12. Calculation of time periods

If a due date for the filing of any paper under these procedures falls on a Sunday, Saturday, or Federal holiday, then it shall be extended to the next calendar working day.

[FR Doc. 80-13743 Filed 5-2-80; 8:45 am]

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May 5, 1980

Part IV

Department of Energy

Economic Regulatory Administration

Crude Oil Supplier/Purchaser Rule

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-80-02]

Amendments to Crude Oil Supplier/ Purchaser Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing alternative amendments to the crude oil supplier/ purchaser rule (the "rule") set forth at 10 CFR 211.63. The proposed amendments would reduce to varying degrees the rule's application to crude oil sales transactions. While we are considering the elimination of the rule entirely, it is our tentative conclusion that continuation of the rule will be necessary to insure the competitive viability of small refiners. Therefore, the primary proposal would provide for the continued allocation to each small refiner of crude oil in volumes up to but not exceeding those volumes received by that small refiner pursuant to the supplier/purchaser rule in January 1980. However, since it may be that the allocation of price-decontrolled crude oil to small refiners is not a factor significantly affecting the competitive viability of those firms, we are proposing alternative amendments to the supplier/purchaser rule to provide only for the allocation of price-controlled crude oil to each small refiner in volumes up to but not exceeding those volumes of price-controlled crude oil received by that small refiner pursuant to the rule in January 1980. We are also requesting comments on an alternative amendment that would provide for the continued allocation of all price-controlled crude oil but would exempt all price-decontrolled oil from the scope of the supplier/purchaser rule.

We are also proposing several amendments to the supplier/purchaser termination provisions of § 211.63(d). In general, these proposals, which we may adopt independently of or in conjunction with any of the above-described proposals, concern higher bona fide offers, "waiver" and advance termination clauses, and terminations in anticipation of sales to a small refiner.

DATES: Proposed effective dates: Beginning of supplier-notification period: August 1, 1980; Other amendments: October 1, 1980; Comments by July 2, 1980, 4:30 p.m.; Requests to speak at a hearing by May 22, 1980, 4:30 p.m.; Hearing dates: San Francisco hearing, June 3, 1980, 9:30 a.m.; Washington hearing, May 29, 1980, 9:30 a.m.

ADDRESSES: All coments to Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-80-02, 2000 M Street, N.W., Washington, D.C. 20461. Requests to speak at San Francisco hearing to Department of Energy, 111 Pine Street, 3rd Floor, San Francisco, California 94111, Attn: Terry Osborne, (415) 556-4953; Requests to speak at Washington hearing to Economic Regulatory Administration, Office of Public Hearings Management, Room 2313, Docket No. ERA-R-80-02, 2000 M Street, N.W., Washington, D.C. 20461, Attn: Robert C. Gillette, (202) 653-3757.

HEARING LOCATIONS: San Francisco hearing: Ramada Inn, Fisherman's Wharf, Crocker-Hopkins Room, 590 Bay Street, San Francisco, CA 94133. Wahington hearing: Room 2105, 2000 M Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2222A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3757

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Room B110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055

Mary B. Jones or Margaret Carroll (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3254

Croft Grantham, Jr. (Office of Petroleum Operations), Economic Regulatory Administration, Room 6114, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3379

William Funk or Jack Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739

SUPPLEMENTARY INFORMATION:

I. *History of the Crude Oil Supplier/ Purchaser Rule*
II. *Operation of the Current Provisions of the Supplier/Purchaser Rule*
III. *Proposals*
A. *General Principles Underlying Consideration of the Proposals*
B. *Description of Proposals*
IV. *Specific Requests for Comments*
V. *Comment Procedures*
A. *Written Comments*
B. *Public Hearing*
VI. *Procedural Matters*

I. History of the Crude Oil Supplier/ Purchaser Rule

The crude oil supplier/purchaser rule was adopted in January 1974 (39 FR 1924, January 15, 1974). Its primary purpose was to maintain intact the national distribution system for domestic crude oil, which was threatening to disintegrate during the last quarter of 1973 in the face of the Arab oil embargo. The second major reason for the supplier/purchaser rule was that it established a floor upon which the crude oil Buy/Sell Program could be built. The Buy/Sell Program depended upon each refiner's being able to estimate its own crude oil availability for a three-month period. In order to make these estimates meaningful, it was necessary to stabilize as much of the existing crude oil flow as possible so that refiners would have a definite point of reference from which to measure their shortage.

The third principal reason for the supplier/purchaser rule was that it preserved access by independent and small refiners to price-controlled domestic crude oil. Without this rule, many small and independent refiners could have been supplanted or cut off by major integrated refiners. The rule was thus designed to meet the statutory objective of section 4(b)(1)(F) of the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended) to provide for "equitable distribution of crude oil . . . at equitable prices among all . . . sectors of the petroleum industry, including independent refiners [and] small refiners. . . ."

The rule was amended in February 1976 (41 FR 7386, February 18, 1976) to conform it to the new pricing provisions of the Energy Policy and Conservation Act (EPCA, 42 U.S.C. § 621 *et seq.*, Pub. L. 94-163, as amended) and to change the reference date from December 1, 1973 to January 1, 1976. The primary reason for continuation of the rule was that it remained an essential means of assuring an adequate supply of crude oil to small and independent refiners.

Although the rule served to further this objective, the ERA's predecessor, the Federal Energy Administration (FEA), became concerned over the possible anti-competitive effects of freezing supplier/purchaser relationships, particularly those between crude oil producers and resellers. In an effort to open up the crude oil distribution chain to competition, the FEA adopted certain amendments to the rule with respect to crude oil resellers.

The rule was first amended regarding resellers in November 1975 (40 FR 54422, November 24, 1975), to provide producers and refiners with the flexibility to obtain services normally performed by crude oil resellers on the most favorable terms available. Under that amendment, a supplier/purchaser relationship between a producer and a reseller could be terminated if the refiners who were receiving the crude oil involved consented. This amendment was intended to provide producers and refiners with flexibility to select the resellers with which they did business, while continuing to assure small and independent refiners that they would receive needed crude oil supplies.

In June 1976 (41 FR 24338, June 16, 1976) the FEA again amended the rule. Several of the termination provisions of the rule were modified with the intention of providing further flexibility to more accurately reflect industry conditions. In particular, the rule was revised to permit a supplier/purchaser relationship between a producer and a reseller to be terminated without the consent of the refiner receiving the crude oil involved, provided the new reseller offered to continue to supply the refiner with such crude oil at a price reflecting no higher handling and transportation charges than those of the previous reseller.

In September 1977 (42 FR 54261, October 5, 1977) the FEA amended the rule to its current form. In general, these amendments were designed primarily to allow producers greater flexibility in substituting resellers. As a result of these amendments, the substitution of resellers by producers can result in the termination of delivery of crude oil to refiners other than small refiners. Termination of a supplier/purchaser relationship with respect to crude oil being delivered to small refiners is also permitted, subject to the same conditions applicable to other terminations and provided also that the small refiner consents to the substitution. The FEA expressed the view that the reseller substitution method provided in the amendments ". . . is reasonably well adapted to accomplishing the goal of permitting greater flexibility on the part of producers to select the resellers with which they do business, while at the same time avoiding undue disruption in the crude oil supply system and protecting the crude oil supply of refiners." (42 FR at 54262).

II. Operation of the Current Provisions of the Supplier/Purchaser Rule

The current general rule under section 211.63 provides that all supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976 are required to remain in effect for the duration of the mandatory allocation program, except purchases and sales made to comply with the DOE's Buy/Sell Program or the Strategic Petroleum Reserves Program, sales of federal royalty oil and first sales of crude oil from the Naval Petroleum Reserves. As provided in the current rule, domestic crude oil produced and sold from a property from which domestic crude oil was not being produced and sold on January 1, 1976 may be sold to any person, but once that sale is made, a supplier/purchaser relationship under the rule is established. The rule further provides that the first sale of domestic crude oil made subsequent to a valid termination of the supplier/purchaser relationship under section 211.63(d) is frozen as if such relationship had been in effect on January 1, 1976.

Under the current provisions of the rule, increased production (over December 1975 levels) is required to flow to the purchaser, or proportionately to the purchasers, that were entitled to the balance of the property's production. Conversely, when in any given month production from a particular property declines below December 1975 levels, the rule provides for a proportionate volumetric reduction in supply obligations to each January 1, 1976 purchaser for that month. Thus, the supply obligations established by the rule as to a specified property in a given month do not exceed the actual production of that property for the month.

In the event that the ownership of or rights to the production of a property is transferred to a new person, the obligation under § 211.63 to supply the January 1, 1976 purchasers of that property's crude production attaches to the new owner, and new supplier/purchaser relationships would be established on that basis. In the event of a transfer to a new owner of a refinery to which crude oil subject to the rule is delivered, the rights to deliveries of that crude oil to the refinery transfer to the new owner.

Section 211.63(d)(1) provides that a supplier/purchaser relationship may be unilaterally terminated by the purchaser without the consent of the supplier, provided that the purchaser's subsequent purchasers also consent. A supplier/purchaser relationship for any stripper well production may be terminated by a producer if the stripper well production will immediately upon termination be sold to or sold for resale to a small refiner (as defined in § 211.62, i.e., with a refinery capacity not exceeding 175,000 barrels per day), for processing by that small refiner.

A supplier/purchaser relationship between a producer and a reseller may be terminated with respect to any crude oil being delivered to refiners other than small refiners if the new reseller offers to continue to supply there refiners with that crude oil which the refiners would otherwise lose as a result of the termination of the old reseller. Termination of a supplier/purchaser relationship with respect to crude oil being delivered to small refiners is also permitted if, in addition to satisfying the same conditions applicable to other terminations, the small refiner's consent is obtained. Prices charged in sales by the new reseller are subject to Subpart L of Part 212 of the Mandatory Petroleum Price Regulations.

Section 211.63(d)(1) also provides that a supplier/purchaser relationship may be terminated by a producer as to any crude oil, if the present purchaser refuses, within a fifteen-day period after written notice from the producer, to meet a bona fide written offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser.

III. Proposals

A. General Principles Underlying Consideration of the Proposals

In view of the scheduled expiration of our authority to regulate the allocation and prices of crude oil and refined petroleum products on September 30, 1981, we have taken several steps providing for the gradual deregulation of petroleum prices so as to permit the economy to adjust to deregulation in an orderly fashion. For this reason, we have also undertaken a general reassessment of our crude oil allocation programs to determine the extent to which the operation of allocation controls should be minimized in anticipation of total deregulation on September 30, 1981.*

*In conjunction with its rulemaking proceedings to provide for the phased deregulation of upper tier crude oil, the ERA issued on October 9, 1979 a notice of proposed rulemaking pertaining to the applicability of the supplier/purchaser rule to market level new crude oil (44 FR 59240, October 15, 1979). In the November 12, 1979 final rule exempting market level new crude oil from ceiling prices, the ERA announced that the rulemaking proceeding would be continued in order to give further consideration as to whether market level new crude oil should be exempted from the supplier/purchaser rule (44 FR 66186, November 19, 1979). As reflected by the nature of today's proposals, we have tentatively determined that the need to provide for the continued allocation of market level new crude

Footnotes continued on next page

Operation of the crude oil supplier/purchaser rule may have prevented changes in the distribution of domestic crude oil from the pattern existing in 1973 which might have otherwise occurred in response to the significant reductions in recent years in the total amount of domestic crude oil production and the large increase in the number of crude oil resellers and small refiners. Furthermore, while small refiners' crude oil supply requirements generally have not changed significantly in recent years, the rule may have hindered market changes in the disposition of crude oil supplies in response to changing demands by some other refiners for different types of crude oil.

It may be that most refiners, particularly the major integrated and large independent refiners, no longer depend on the supplier/purchaser rule to assure adequate supplies of crude oil. Furthermore, while certain major and large independent refiners may be less self-sufficient in domestic crude oil supplies (in terms of the ratio of owned production to refining capacity) than certain small refiners, major and large independent refiners generally have access to many diverse sources of crude oil supplies in both the foreign and domestic markets. Thus, large independent and major refiners would be able in most instances to replace particular supplies of domestic crude oil with crude oil from either foreign or other domestic sources. Small refiners, on the other hand, have more limited access than larger refiners to crude oil supplies in the domestic and foreign markets and more limited replacement capabilities. Consequently, small refiners as a group have been more vulnerable than the major and large independent refiners to the worldwide fluctuations in the supply and distribution of crude oil occurring in recent years.

In view of the above considerations, we believe that operation of the supplier/purchaser rule should be restricted prior to the expiration of our allocation authority on September 30, 1981 in order to impress upon all refiners their need to pursue diligently adequate supply arrangements. To that end, we have set forth below several proposals that would limit operation of the rule in varying degrees. We intend to adopt that proposal, or a modified version thereof, which we determine would permit greatest relaxation of the rule, consistent with the purposes of the Emergency Petroleum Allocation Act.

B. Description of Proposals

1. *Proposal to restrict applicability of supplier/purchaser rule to small refiners.*

Some refiners have indicated that the supplier/purchaser rule is not a factor significantly affecting the competitive viability of major and large independent refiners. Therefore, we are proposing to amend the rule so as to release suppliers from further supply obligations to these firms under the rule.

Because of the more limited replacement capabilities of small refiners generally, we believe it may be necessary to continue the supplier/purchaser rule for the benefit of small refiners. However, in view of the scheduled expiration of our allocation authority, we believe the rule should also be amended with respect to small refiners in order to prevent any increased supply dependence on the rule. Accordingly, we are proposing amendments that would provide for the continued allocation to each small refiner of crude oil volumes up to but not to exceed those volumes delivered to that small refiner in January 1980 pursuant to the supplier/purchaser rule. As described below, this proposal would provide separately for the allocation of lower tier, upper tier and price-decontrolled crude oil to small refiners to insure continued access by these firms to domestic crude oil remaining subject to the price regulations. Furthermore, since the amount of crude oil subject to the lower and upper tier ceiling price rules will steadily decrease each month, this proposal would also provide for small refiners to receive increasingly larger volumes of price-decontrolled oil so that the total volume of crude oil to which these firms would be entitled each month under the rule would be maintained at January 1980 levels.

One method of insuring that a small refiner would continue to receive volumes of crude oil equal to those it received under the supplier/purchaser rule in January 1980 would be to freeze all steps in the actual distribution chains through which the small refiner obtained domestic crude oil supplies in January 1980 pursuant to supplier/purchaser relationships. However, since many resellers gather crude oil from many different producers and commingle their supplies, we recognize that producers and resellers might have difficulty in identifying which relationships ultimately result in the delivery of specific crude oil supplies to small refiners. This would be particularly true where there are two or more resellers in the distribution chain between the producer and the ultimate small refiner purchaser.

a. *Supplier-Notification Period.* In order to minimize administrative complexity, while nevertheless ensuring a continuous distribution chain from producer to small refiner, we are proposing a 60-day supplier-notification period (beginning August 1, 1980) during which the current provisions of the rule would remain in effect. During this 60-day period, the following notifications would be required to be made.

First, a small refiner would be required to certify to each supplier from which it received domestic crude oil in January 1980 pursuant to a supplier/purchaser relationship the quality and volumes of lower tier, upper tier and price-decontrolled crude oil which the supplier supplied to the small refiner in that month. Any small refiner wishing to continue a supplier/purchaser relationship with any particular January 1980 supplier would be required to make the above certification to that supplier on or before August 15, 1980.

Second, the quality and volumes of lower tier, upper tier and price-decontrolled crude oil certified by a small refiner to a reseller would be required to be upwardly certified by that reseller (designating reseller) to those resellers and producers (designated suppliers) which supplied domestic crude oil to the designating reseller in January 1980 pursuant to supplier/purchaser relationships. A designating reseller required to make such certifications would be required to do so within 5 days after receiving the small refiner's certification.

When upwardly certifying, a designating reseller would be permitted to simply prorate among its January 1980 suppliers any volume of crude oil certified to that reseller by a small refiner. However, in some instances proration would result in the creation of supplier-purchaser relationships involving relatively small volumes of crude oil. Therefore, we are proposing that a designating reseller be allowed to certify to any January 1980 supplier any volume of lower tier crude oil, upper tier crude oil, or price-decontrolled crude oil needed by that reseller to satisfy its supply obligations to small refiners, so long as the volume thus certified did not exceed the volume of crude oil of each particular tier which the designated supplier supplied to the designating reseller in January 1980. Under this proposal, a designating reseller might

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Footnotes continued from last page
oil should be considered in this proceeding concerning the supplier/purchaser rule generally. However, since the scope of this proceeding is much broader, we have decided that generally it would be inappropriate to include in the record of this proceeding comments prepared in the context of an earlier proceeding regarding only market level new crude oil, unless requested to do so by the commenter.

have the discretion to completely relieve some of its January 1980 suppliers from any further supply obligations under the rule. Conversely, the designating reseller could require other suppliers to continue to supply crude oil in volumes up to those they supplied to the designating reseller under the rule in January 1980, even if some or all of the crude oil supplied by those suppliers in January 1980 was not in fact ultimately sold to small refiners.

Third, any designated supplier (other than a producer) that receives certification from a designating reseller would be subject to the same upward-certification requirements applying to the designating reseller that is the immediate supplier of the small refiner.

Each certification would be required to provide the names and addresses of all previously designating resellers and of the small refiner on whose behalf certifications have been made, as well as the volumes of lower tier crude oil, upper tier crude oil, and price-decontrolled crude oil the designated supplier supplied to the designating reseller or small refiner in January 1980 pursuant to a supplier/purchaser relationship. A designated supplier would be required to give notice to the small refiner named in any certification made to the designated supplier on behalf of that small refiner by sending to the small refiner a duplicate copy of the document of certification by certified mail within three days of the date certification is received. In those instances where the designated supplier is a producer, the producer would be required to also give notice to the ERA and all other designated suppliers in the chain by sending to ERA and each firm a duplicate copy of the document of certification by certified mail within three days of the date a certification is received by the producer.

In those instances where certification is being made to a producer, the certification would also be required to indicate the properties which produced the crude oil supplied by the producer to the designating reseller or directly to the small refiner in January 1980.

If any designated supplier questions the accuracy of any information set forth in any certification by a designating reseller or small refiner, the designated supplier could file an application for resolution of the dispute with the ERA. However, a designated supplier would be required to comply with any supply obligations arising from such certification until such time as the ERA resolved the dispute.

b. *Satisfaction of Producers' Obligations.* Generally, a designating purchaser (small refiner or reseller) would be entitled in any given month to receive from a designated producer on its own behalf or on behalf of a particular small refiner volumes of lower tier crude oil, upper tier crude oil, and price-decontrolled crude oil equal to, but not to exceed, those certified by the designating purchaser in accordance with the procedures described above. A designated producer would be required to satisfy its supply obligations to its designating purchasers with crude oil produced from those properties certified by the designating purchaser as the properties which produced the crude oil supplied by the designated producer to the designating purchaser pursuant to a supplier/purchaser relationship in January 1980.

Proposed method of prorating declining yield of a regulatory tier.

With phased deregulation, the volumes of lower tier and upper tier crude oil produced from a property will decline even if total production from the property does not decline. Because the proposed amendment to the supplier/purchaser rule would allocate by tier (that is, separately for lower tier, upper tier, and price-decontrolled crude oil), as opposed to the current rule that allocates all the crude oil from a property without regard to its tier or price-decontrolled status, the question arises how to deal with the declining yields of the price-controlled tiers of crude oil.

In order to maintain small refiners as closely as possible at January 1980 supply levels of price-controlled oil, we are proposing that designating purchasers will have first rights to a producer's production of each tier of crude oil (including uncontrolled crude oil) to the exclusion of other purchasers. Thus, a designating purchaser would always be entitled to purchase volumes of lower and upper tier crude they purchased in January 1980 as long as such volumes are available. Moreover, in any month that a property's production of a particular tier is inadequate to meet the volumes certified (e.g., because of phased deregulation), a producer would be required to supply all crude oil production of that controlled tier produced from that property in that month to its designating purchasers.

Where total production of a particular tier is less than the volumes certified for designated purchasers, the prorata share of any tier of crude oil to which a designating purchaser would be entitled with respect to a particular property on behalf of a particular small refiner would be determined by multiplying (A) the volume of crude oil of that regulatory tier produced from the property in that month by (B) a fraction, the numerator of which would be the volume of crude oil of that regulatory tier certified by the designating purchaser with respect to that property on behalf of that small refiner, and the denominator of which would be the total combined volume of crude oil of that regulatory tier certified by all designating purchasers with respect to that property on behalf of small refiners.

Example. In January 1980, production of lower tier crude oil from the Old Faithful property totalled 400 barrels, of which 100 barrels was purchased by Mighty Mouse (a small refiner) and 150 barrels was purchased by Little Giant (a small refiner). Mighty Mouse and Little Giant properly certify their January 1980 purchases of Old Faithful crude oil. The remaining lower tier production from Old Faithful in January 1980 (150 barrels) was purchased by Minor Major (a large, independent refiner), which would no longer be a protected purchaser under the supplier/purchaser rule.

In October 1980, Old Faithful's overall production of crude oil is equal to its January 1980 production. However, as the result of phased deregulation, only 280 barrels of Old Faithful's production in October 1980 is lower tier crude oil. Of this amount 100 barrels is obligated to Mighty Mouse, and 150 barrels is obligated to Little Giant. The remaining 30 barrels may be sold by Old Faithful to anyone. By April 1981, however, Old Faithful's lower tier production has been reduced to 210 barrels. Using the above formula, in April 1981 Mighty Mouse would be entitled to receive 84 barrels of Old Faithful's lower tier crude oil production

$$(210 \text{ barrels} \times \frac{100}{250} = 84 \text{ barrels}).$$

Little Giant would be entitled to receive 126 barrels of Old Faithful's lower tier crude oil production

$$(210 \text{ barrels} \times \frac{150}{250} = 126 \text{ barrels}).$$

The amount of lower tier obligated to Mighty Mouse and Little Giant now constitutes all of the lower tier production, and consequently no other purchaser will be able to acquire the lower tier from Old Faithful.

Proposed Alternative Method of Prorating Declining Yield of a Regulatory Tier

Under the above method of proration, designating purchasers acting on behalf of small refiners might in some months receive all or most of the crude oil

certified with respect to a particular property, while other purchasers—particularly other purchasers historically reliant on production from that property—might be foreclosed from receiving any supplies produced from that property, even though the producer would be willing to supply those other purchasers. Since we believe such a degree of supply protection for small refiners may not be necessary, we are proposing the following alternative method of proration which would provide, in those instances where a property's yield of a particular regulatory tier is declining, for a designating purchaser to receive only that percentage of the property's current production of crude oil of that regulatory tier which equals the percentage of that property's production of that regulatory tier in January 1980 which was purchased by that designating purchaser. Under this proposed alternative method of proration, the prorata share of any regulatory tier of crude oil to which a designating purchaser would be entitled with respect to a particular property on behalf of a particular small refiner would be determined by multiplying (A) the volume of crude oil of that particular tier produced from the property in that month by (B) a fraction, the numerator of which would be the volume of crude oil of that particular tier certified by the designating purchaser with respect to that property on behalf of that small refiner, and the denominator of which would be the total volume of crude oil of that tier produced from that property and sold in January 1980.

Example. Applying the same production and sales volumes for Old Faithful in the previous example, but utilizing the proposed alternative method of proration, in October 1980 Mighty Mouse would be entitled to receive 70 barrels of lower tier crude oil

$$(280 \text{ barrels} \times \frac{100}{400} = 70 \text{ barrels}).$$

Little Giant would be entitled to receive 105 barrels of lower tier crude oil

$$(280 \text{ barrels} \times \frac{150}{400} = 105 \text{ barrels}).$$

In April 1981, Mighty Mouse would be entitled to receive 52.5 barrels of lower tier oil

$$(210 \text{ barrels} \times \frac{100}{400} = 52.5 \text{ barrels}).$$

Little Giant would be entitled to 78.75 barrels

$$(210 \text{ barrels} \times \frac{150}{400} = 78.75 \text{ barrels}).$$

Since neither Mighty Mouse nor Little Giant would be entitled under the supplier/purchaser rule to receive a percentage of Old Faithful's current lower tier crude oil production greater than what it purchased in January 1980 (25 percent and 37.5 percent respectively), Old Faithful's producer would always have 62.5 percent of its lower tier production available for sale to whomever it wished.

Proposed Method of Prorating Increasing Yield of Price-Decontrolled Crude Oil

As illustrated in the above examples, phased deregulation generally will ensure that in some months the volume of lower tier crude oil or upper tier crude oil produced from a property will be less than the volume of crude oil of that tier certified by designating purchasers with respect to that property. However, such decreases in a property's lower tier and upper tier volumes will generally be accounted for as increases in that property's yield of price-decontrolled crude oil. Therefore, in any month that a producer finds it necessary to prorate lower tier or upper tier crude oil production from a property among its designating purchasers, that producer will probably have available price-decontrolled volumes in excess of the volume of price-decontrolled crude oil certified with respect to that property. We are proposing that a producer be required to prorate any such excess volumes of price-decontrolled crude oil among its designating purchasers, so long as the total volume of crude oil of all tiers (including uncontrolled oil) so allocated to any designating purchaser does not exceed the total volume certified by the purchaser for all tiers from that property. We are requesting comments as to whether the rule should further provide that in no event would a designating purchaser be entitled by reason of the rule to receive in any month a percentage of the price-decontrolled crude oil produced from a property in that month which exceeded that percentage of the property's production of price-decontrolled crude oil in January 1980 which was purchased by that designating purchaser.

Example. Mighty Mouse purchased 25 percent of Old Faithful's lower tier production in January 1980 (100 barrels). Mighty Mouse purchased ⅛ (4 barrels) of Old Faithful's price-decontrolled crude oil in January 1980. Little Giant purchased 37.5 percent of Old Faithful's lower tier production in January 1980. Little Giant purchased ½ (6 barrels) of Old Faithful's price-decontrolled production in January 1980. The remaining decontrolled production in January 1980. The remaining decontrolled production (2 barrels) was sold to Minor Major. Under the first proposed alternative above, in April 1981 Mighty Mouse's prorata of Old Faithful's lower tier production equals only 84 barrels; Little Giant receives only 126 barrels of lower tier crude oil. Accordingly, in April 1981 Mighty Mouse and Little Giant would be eligible to receive an additional 16 barrels and 24 barrels of Old Faithful's price-decontrolled crude oil, respectively, over the 4 barrels and 6 barrels they are otherwise entitled to, for a total of 20 barrels and 30 barrels, respectively.

If Old Faithful's volume of price-decontrolled crude oil has increased from 12 barrels in January 1980 to 50 barrels in April 1981, Mighty Mouse and Little Giant will be entitled to all the price-decontrolled production. If Old Faithful's production of price-decontrolled crude oil has only increased to 40 barrels by April 1981, however, there are insufficient volumes of price-decontrolled crude oil to make up all of Mighty Mouse and Little Giant's lower tier requirements. Old Faithful's price-decontrolled volumes must be prorated. Under the primary proposal, Mighty Mouse and Little Giant would first receive their initial 4 barrels and 6 barrels entitlements. The remaining 30 barrels of price-decontrolled crude oil would then be prorated, so that Mighty Mouse would receive an additional 12 barrels of price-decontrolled crude oil (4/10 x 30 barrels), and Little Giant would receive an additional 18 barrels of price-decontrolled crude oil (6/10 x 30 barrels). If Mighty Mouse and Little Giant were limited to those percentages of Old Faithful's price-decontrolled production in January 1980 was purchased by them, in April 1981 Mighty Mouse would receive only 14 barrels of price-decontrolled crude oil [4 barrels + (4/12 x 40 barrels)]. Little Giant would receive 21 barrels, and Old Faithful would retain 5 barrels BBs to sell to whom it pleased.

c. *Satisfaction of Resellers' Obligations.* Generally, a designating purchaser (small refiner or other reseller) would be entitled in any given month to receive from a designated reseller on its own behalf or on behalf of a small refiner volumes of lower tier crude oil, upper tier crude oil, and price-decontrolled crude oil equal to, but not to exceed, those certified by that designating purchaser to that designated reseller. In any month that the volume of lower tier crude oil, upper tier crude oil or price-decontrolled crude oil received by a reseller under the rule is less than the total volume of crude oil of the particular tier certified to that reseller by its designating purchasers, the reseller would be required to prorate among its designating purchasers the crude oil of that tier received by the reseller in that month under the rule.

The prorata share of any tier of crude oil to which a designating purchaser would be entitled with respect to a particular reseller/supplier would be determined by multiplying (A) the volume of crude oil of that particular tier received by the designated reseller from its designated suppliers in that month by (B) a fraction, the numerator of which would be the volume of crude oil of that tier certified to the designated reseller by the designating purchaser on behalf of that small refiner, and the denominator of which would be the total combined volume of crude oil of that tier certified to the reseller by its designating purchasers on behalf of small refiners.

In some months, a reseller might receive from a supplier an additional volume of price-decontrolled crude oil in order to compensate for any volumes of price-controlled crude oil to which the reseller would be entitled under the rule but which the supplier would be unable to supply. In such event, the reseller would be required to prorate the excess volume of price-decontrolled crude oil among its designating purchasers so as to minimize any shortfalls in the volumes of price-controlled crude oil certified by those purchasers.

2. *First alternative proposal.* It may be that the supplier/purchaser rule benefits small refiners by ensuring these firms continued access to price-controlled volumes of crude oil but that the allocation of price-decontrolled crude oil to these firms is not a factor significantly promoting their competitive viability. In the event we reach such a determination during this proceeding, we propose to amend the supplier/purchaser rule to provide only for the allocation of lower tier crude oil and upper tier crude oil supplies to small refiners, essentially as described in the primary proposal set forth above. Such action would promote our objective of easing the transition to a totally deregulated marketplace, since the volume of price-controlled crude oil will decrease each month as phased deregulation progresses and the operation of the supplier/purchaser rule would thereby diminish as well.

3. *Second alternative proposal.* The previous proposals have both provided for the elimination of the supplier/purchaser rule with respect to lower and upper tier crude oil, except where the ultimate purchaser is a small refiner. It is not altogether clear, however, how the market will allocate lower and upper tier crude oil in the absence of the supplier/purchaser rule, where price cannot be the allocating factor because of price controls. It may be that equitable distribution of lower tier and upper tier crude oil cannot be effectively achieved absent a regulatory allocation scheme. Furthermore, it is not entirely clear how eliminating the supplier/purchaser rule with respect to upper tier and lower tier crude oil will benefit the market or the industry. Finally, there is some fear that eliminating supplier/purchaser relationships with respect to price-controlled crude oil and leaving such crude oil to be allocated by the market would constitute an overwhelming incentive if not actual need to violate the price rules.

In light of the above uncertainties, with respect to which we request comments, we are proposing a second alternative proposal which would retain the existing supplier/purchaser rule for lower tier and upper tier crude oil but would exempt price-decontrolled crude oil from the scope of the rule altogether. In the event we decide to adopt this alternative proposal, implementation of the supplier-notification period and upstream notification provisions discussed above would be unnecessary to ensure that crude oil distribution chains would not be interrupted. Rather, implementation of this alternative proposal could be accomplished by limiting the scope of § 211.63 to lower tier crude oil and upper tier crude oil. This proposal to continue supplier/purchaser relationships with respect to price-controlled crude oil thus would entail less administrative burden while preserving the equitable distribution function of the supplier/purchaser rule. Moreover, since the volume of lower tier and upper tier crude oil is steadily diminishing as part of the gradual deregulation of crude oil prices, we believe this alternative proposal would also promote our objective to phase out the supplier/purchaser rule's operation, because the rule would affect only this steadily diminishing amount. In this regard, this alternative could utilize the declining yield proration system described in the primary proposal, or it could leave the treatment of declining yields to the proration system already in the existing supplier/purchaser rule.

4. *Third alternative proposal.* While it is our tentative determination that it will be necessary to continue the supplier/purchaser rule at least for the benefit of small refiners, we are requesting comments to aid us in reaching a final determination as to whether continuation of the rule is necessary to insure the competitive viability of this segment of the refining industry through September 1981. In the event we conclude after considering the comments submitted in the course of this proceeding that small refiners generally would not be adversely affected by removal of the rule's protection, we propose to eliminate § 211.63 entirely.

5. *Sales by small refiners.* In view of the more limited ability of small refiners to secure replacement supplies of crude oil relative to that of larger refiners, we are also proposing to adopt an amendment that would provide that the supplier/purchaser rule would no longer require a small refiner to supply to another firm any crude oil previously required by the rule to be supplied by the small refiner to the other firm. This proposal could be implemented by amending either the current provisions of § 211.63 or in conjunction with any of the other proposals set forth in this notice, especially the second alternative proposal.

6. *Proposed amendments to termination provisions.*—a. *Bona Fide Offer.* While we have tentatively determined that it will be necessary to continue the supplier/purchaser rule at least to a limited degree in order to protect the competitive viability of small refiners, we would nevertheless continue to permit termination by a producer of any relationship in which the purchaser fails to meet a permissible higher bona fide offer. However, in this regard, we are proposing to amend § 211.63(d)(1)(iii) to provide that a producer may not rely upon a higher offer as a bona fide offer for termination purposes, unless the higher offer extends to crude oil with respect to which the bona fide offer is made for a minimum period of ninety days. Furthermore, the higher offer will not be considered bona fide for termination purposes unless the supplier's current purchaser is provided with both the name of the offeror and the terms of the offer in writing and has been allowed fifteen days to meet the higher offer.

b. *Waiver and Advance Termination Clauses.* In Interpretation 1979–18, *Arizona Fuels Corporation,* (44 FR 60266, August 19, 1979), the DOE determined that current regulations allow consent to terminate a supplier/purchaser relationship to be given in advance only if a specific termination date is stipulated and the other requirements of section 211.63 (d)(1)(iii) are met. The DOE has also determined that in particular, limited circumstances a supplier may validly terminate a supplier/purchaser relationship in reliance on a purchaser's prior written, express and knowing waiver of its rights under § 211.63 if recognition of such waiver will not thwart the legislative policy which the supplier/purchaser rule was designed to effectuate.

(Interpretation 1977–7, *State of Alaska*, 42 FR 31143, June 20, 1977). However, in view of recent supply conditions and the progressing deregulation of crude oil prices, we believe that in some instances purchasers have been able to secure supplies only by complying with the supplier's demand that the purchaser give advance consent to termination or "waive" any rights under § 211.63.

In view of the above considerations, we are proposing to amend § 211.63(d) to provide that advance termination and "waiver" clauses in contracts entered into after such time as this proposal may be finalized will be of no effect and therefore provide no basis for termination of a supplier/purchaser relationship by the supplier. However, in view of the rapid progression of phased deregulation and the consequent increases in the volumes of crude oil reaching price-deregulated status, the higher bona fide offer termination provisions could have the result that any action on our part to abrogate advance termination and "waiver" clauses might not provide any significant benefit to purchasers. Therefore, in the interest of simplifying the regulations and removing regulatory constraints, we are also proposing in the alternative to remove any restrictions concerning the utilization of advance termination and "waiver" clauses.

c. *Higher Bona Fide Offer by Small Refiner.* In the event we adopt today's primary proposal or first alternative proposal so as to limit operation of the rule to benefit only small refiners, we are proposing to retain those provisions permitting termination of a supplier/purchaser relationship if the supplier receives a higher bona fide offer from another prospective purchaser. However, we are also proposing an alternative amendment to those provisions relating to higher bona fide offers to provide that any supplier which is in a small refiner's distribution chain would be permitted to terminate a supplier/purchaser relationship with respect to any volume of price-controlled crude oil in reliance on a higher bona fide offer only if the higher offer was made by another small refiner and the suppler's present small refiner purchaser fails to meet the higher offer.

d. *Elimination of Unnecessary Transactions.* We believe that the greatest economic efficiency and benefit to refiners occurs in those instances where the distribution chain includes only those transactions necessary to insure delivery of crude oil to the refiner. Therefore, we are also proposing that any final rule issued in this proceeding provide that any supplier and purchaser involved in any refiner's crude oil distribution chain may eliminate any intermediate suppliers and purchasers so long as such action would not result in the diversion of crude oil supplies required by the rule to be delivered to that refiner. We are further proposing that a refiner be permitted to substitute a new reseller for any reseller currently supplying the refiner, without the consent of the producer or other supplier which supplies the refiner's current reseller, if the new reseller offers to purchase crude oil from the current reseller's supplier on the same terms as the current reseller.

e. *Terminations in Anticipation of Sales to Small Refiner.* Section 211.63(d)(1)(ii) currently provides that a supplier/purchaser relationship may be terminated by a producer with respect to stripper crude oil, provided that after termination such crude oil will be sold or sold for resale to a small refiner which will process the stripper crude oil. Some small refiners have indicated that this provision generally is too restrictive to be of significant benefit to small refiners. We are requesting both comments as to the utility of this provision in its present form and suggestions as to how the provision might be appropriately modified. We specifically request comments as to whether the provision should be expanded to cover any category of price-decontrolled oil, as well as to whether the requirement that a small refiner process the crude oil should be continued. After reviewing the comments, we may eliminate this provision entirely or modify the provision to cover all categories of price-decontrolled crude oil and/or permit a small refiner to exchange or sell crude oil received pursuant to this provision.

IV. Specific Requests for Comments

Comments are requested on all aspects of the proposals set forth in this notice, as well as the tentative conclusions upon which they are based. Generally, you are encouraged to provide your own analysis of any regulatory problems which could develop if any of the proposals are adopted and to recommend other modifications to the supplier/purchaser rule that you believe would be appropriate. In addition, we would like to receive comments and views on the issues set forth below. You are requested to support your views with appropriate data.

1. The primary proposal would establish supplier/purchaser relationships for the benefit of small refiners with reference to crude oil transactions occurring in the month January 1980. If you believe some other month or other time period should be utilized as the reference period, please indicate that time period and your reasons for preferring that time period.

2. To what extent are refiners dependent upon the supplier/purchaser rule to protect a significant volume of their crude oil supplies? If refiners believe that elimination of the rule would have an adverse effect on their crude oil supplies, they should submit data showing the portion of their crude oil runs to stills for January 1979 and March 1979 (specifying the source and grade and quality of the crude oil) that is protected by the rule and the volume which they believe would be terminated if the rule is eliminated. Refiners should identify all alternative supply sources that are available to them and explain why they believe they would have difficulty in replacing any lost domestic crude oil.

3. In what respects would elimination or substantial reduction of the scope of the supplier/purchaser rule as contemplated by today's proposals result in more efficient distribution and use of domestic crude oil?

4. The argument is frequently made that many refiners, particularly small refiners, favor the retention of the rule primarily because it guarantees them crude oil supplies at favorable prices rather than for supply security reasons. We are interested in receiving your comments on this view.

5. Information available to us indicates that a significant number of supply relationships have been terminated, although we have received relatively few notices regarding such terminations or complaints about improper terminations. We welcome comments concerning supplier/purchaser volumes that were terminated during the last year. We also invite your general views as to the extent of compliance with the rule and whether general noncompliance should indicate that the rule has outlived its usefulness.

6. To what extent might elimination of the supplier/purchaser rule result in extensive reseller substitutions and the introduction of new firms in existing distribution chains? Are such changes likely to result in increased crude oil costs? If so, to what extent would such increased costs be offset by any increased efficiency in the distribution of domestic crude oil supplies which might occur as a result of the elimination of the rule?

7. If the primary proposal is adopted so that price-controlled crude oil is no longer subject to the supplier/purchaser rule (except with respect to distribution

to small refiners), how will the market allocate this crude oil that was previously allocated to large, independent and major refiners? Is it feasible to eliminate allocation of a price-controlled commodity? What benefit, if any, would accrue as the result of the removal of this price-controlled crude oil from the scope of the supplier/purchaser rule?

V. Written Comment and Public Hearing Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the proposals set forth in this notice of proposed rulemaking. Comments should be submitted by 4:30 p.m., July 2, 1980 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Amendments to the Crude Oil Supplier/Purchaser Rule". Fifteen copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The times and places for the hearings are indicated in the "Dates" and "Addresses" sections of this preamble. If necessary to present all testimony, a hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

If you have any interest in the proposals in this notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation at a hearing by 4:30 p.m., May 22, 1980. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., May 27, 1980. Any person making an oral presentation at the Washington, D.C. hearing will be required to bring one hundred copies of his statement to the address indicated in the "Addresses" section of this preamble for requests to speak at the Washington hearing before 4:30 p.m., May 28, 1980. Any person making an oral presentation at the San Francisco hearing will be required to bring one hundred copies of his statement to the address indicated in the "Addresses" section of this preamble for requests to speak at the San Francisco hearing before 4:30 p.m., June 2, 1980.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. They will not be judicial or evidentiary-type hearings. Questions may be adked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statement will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at a hearing to the address indicated above for requests to speak at that hearing before 4:30 p.m. on the day before the hearing. If you wish to ask a question at a hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of each of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of a hearing from the reporter.

VI. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91, as amended), we are referring this rule to the Federal Energy Regulatory Commission (FERC) for a determination as to whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. The Commission has until the close of the public comment period to make that determination.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of this notice was sent to the EPA Administrator. On February 1, 1980, the EPA Administrator informed the ERA that he does not foresee as the result of the implementation of today's proposed actions an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. National Environmental Policy Act

On February 17, 1980, the Assistant Secretary for Environment approved, after consultation with the Office of General Counsel, the ERA's recommendation that today's proposals if adopted would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*).

D. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires that a regulatory analysis be prepared for all significant regulations which are likely to have a major impact. The ERA has prepared a regulatory analysis in

conjunction with the proposals set forth in this notice.

Copies of the regulatory analysis are available for inspection in the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A summary of the ERA's regulatory analysis follows.

Summary of the Regulatory Analysis of Proposed Amendments to the Supplier/Purchaser Rule

As presently structured, the supplier/purchaser rule prevents significant changes in the distribution of price-controlled domestic crude oil from the pattern existing prior to December 1, 1973, despite major changes in the volumes and areas of production of domestically produced crude oil and a significant number of new entrants in both the marketing and small refiner segments of the industry. As a result, the rule may prevent the market from redirecting reduced domestic crude oil supplies in the most economically effective manner. Some instances where this might be true are those where the rule requires a small refiner to sell its production to other refiners or resellers, or where it prevents a small refiner from competing for volumes of crude oil located in proximity to its refinery. In addition, the rule may hinder market forces in the disposition of crude oil supplies in response to changing demand for particular types of crude oil.

The rule originated in January 1974 in response to the Arab oil embargo and the associated price increases in foreign oil. Its primary purpose was to maintain intact the existing distribution system for domestic crude oil, and thereby to assure all refiners, especially small and independent refiners, continued access to price-controlled domestic crude oil. In addition, by stabilizing the national crude oil distribution system, the rule laid the foundation for further allocation efforts through the Buy/Sell Program.

In general, the supplier/purchaser rule originally stated that all supplier/purchaser relationships in effect on December 1, 1973, for sales, purchases, and exchanges of domestic crude oil were to remain in effect for the duration of the program. Because price controls on domestic crude oil foreclosed price competition for existing supplies of domestic oil, allocation was required to stabilize the flow of crude oil as much as possible. However, because of the initiation of the President's program to decontrol crude oil prices, allocation is no longer required with respect to those volumes of crude oil being removed from price controls. As phased decontrol proceeds, ever greater volumes of crude oil will be subject to price competition under the bona fide offer provisions of the rule and thus removed from a mandatory supplier/purchaser relationship for all intents and purposes. The continuation of the rule in its present form therefore is inconsistent with the Administration's policy of moving the petroleum industry to a free market environment. Three of the alternatives for amending the rule being proposed by DOE are intended to introduce a greater degree of flexibility in the distribution and use of domestic crude oil supplies and thus provide a period of transition for the industry during which suppliers and purchasers may realign their relationships over time, prior to the completion of decontrol. These alternatives include proposals to eliminate the rule except as it applies to (1) all transactions in which the ultimate purchaser is a small refiner; (2) only transactions involving price-controlled crude oil in which the ultimate purchaser is a small refiner; or (3) all transactions involving price-controlled crude oil. A final alternative is the complete recision of the rule.

The regulatory analysis attempts to examine not only the degree of protection afforded various refiners by the supplier/purchaser rule, but also the degree to which the rule may prevent the market from redirecting reduced domestic crude oil supplies in the most economically effective manner.

The effect of the rule is examined in quantitative terms by displaying and analyzing data on crude oil receipts reported for entitlements program purposes as well as data on first purchases of crude oil. These factors are compared for large and small refiners and, within the category of small refiners, by various size classes. Refiners having runs of less than 100 MB/D are shown to be somewhat more reliant, in percentage terms, on domestic crude oil than refiners having runs greater than 100 MB/D. During the period examined, purchases of price-controlled crude oil accounted for between 42 and 47 percent of the total receipts of refiners under 100 MB/D. In contrast, refiners larger than 100 MB/D showed receipts of price-controlled oil between 32 and 35 percent of their total receipts. This data also show that refiners with runs over 100 MB/D process substantially larger volumes of imported oil than do other domestic refiners. The larger refiners show receipts of imported oil constituting between 46 and 55 percent of total receipts compared to smaller refiners' receipts of 28 to 38 percent imported oil. This suggests that the protection afforded by the supplier/purchaser rule may be relatively more important for the smaller refiners.

After examining the number of refiners in each category making purchases of lower tier, upper tier, and imported crude oil, small refiners having runs of less than 30 MB/D are also shown to be more dependent on individual sources of crude oil, rather than on a variety of sources, than refiners with runs greater than 30 MB/D.

Sources of crude oil are analyzed by examining first purchaser data and comparing those data with refinery receipts data to determine, both absolutely and relatively, the degree to which various categories of refiners are dependent for crude oil supplies on affiliated firms, independent producers, government production, resellers, small refiners, and large refiners, respectively. This topic is explored further by a distributional analysis of net first purchases of controlled oil to ascertain the degree to which various categories of refiners are affected by the net application of the rule, that is, by subtracting first sales from first purchases, and the number of refiners in each category whose net first purchases of price-controlled oil are positive or negative.

The two alternatives of eliminating the rule except as it applies to purchases of domestic crude oil by small refiners or, alternatively, except as it applies to purchases of price-controlled oil by small refiners are analyzed together because of the inability to quantify the effect of the bona fide offer rule on market tier domestic crude oil (The inability to quantify this factor, and the inability to determine the degree to which upper tier oil may be free of the provisions of the rule because of voluntary waivers of the rule by purchasers, are the two primary shortcomings in the quantitative analysis). The approximate number of refiners which may gain or lose supplies from either of these alternatives is estimated by modifying the assumptions in the distributional analysis outlined above. In a separate analysis an estimate is made of the volume of price-controlled oil that might be lost to current purchasers as a result of either of these alternatives. On the basis of April 1979 data, the analysis indicates that a total of 3,180 MB/D of lower tier, upper tier, and stripper oil would have been released for sale to other purchasers under these alternatives.

The alternative of complete elimination of the rule except as it applies to all relationships for price-

contolled oil for all refiners is analyzed by examining the volume of price-controlled oil that will be released to market levels as a result of the President's crude oil decontrol program.

Finally, the alternative of complete recision of the rule is examined by recalculation of the distributional analysis without the prior assumption that certain volumes will be frozen. The number of refiners in each size category which are likely to experience losses of crude oil are estimated.

The draft analysis is summarized by stating that only general indicators, rather than definite answers, are yielded from the analysis and that the alternatives will have to be further analyzed through public comment. However, we conclude that within various categories of refiner size, individual refiners' circumstances differ widely and that generalities about impacts on different refiner groups are difficult to derive with respect to the proposed alternative amendments.

In evaluating the potential impact of the various alternatives on the competitive viability of various segments of the industry, we have tentatively concluded that none of the proposed alternatives could be expected to alter significantly the relative competitive position of most refiners over 100 MB/D. This size group of refiners is already relatively less dependent on price-controlled crude oil and has access to larger shares of imported crude than do smaller refiners. We do not believe that any of the alternatives proposed would significantly alter this situation.

With respect to refiners with runs under 100 MB/D, the only alternative which would significantly change their current level of protection is the alternative of complete recision of the rule. While this would certainly remove immediately the preferential access of this group to price-controlled crude oil, it only does so somewhat more quickly than would otherwise occur under phased decontrol. Because of the existence of the bona fide offer provision, all volumes of crude oil transferred from price-controlled to price-decontrolled status will be subject to competitive bidding even under a continued supplier/purchaser freeze for small refiners. Therefore, the value of the continued existence of the rule for small refiners may lie almost entirely in its application to price-controlled oil. The recision of the rule, therefore, would have the effect of accelerating the process by which phased deregulaton is already rapidly diminishing the protection now afforded by the rule with respect to declining amounts of price-controlled oil. The potential impacts of accelerating this process are not possible to quantify in terms of changes in small refiners' relative competitive positions, but those impacts nevertheless will be increasingly felt in coming months even if the supplier/purchaser rule is not eliminated in its entirety.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., April 28, 1980.

Hazel R. Rollins,

Administrator, Exonomic Regulatory Administration.

1. Section 211.63 is revised to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationship.

(a) *Scope.* This section provides for the allocation to each small refiner of lower tier crude oil, upper tier crude oil, and crude oil not subject to a ceiling price under Part 212 of this Chapter in volumes in any month not to exceed the volume of crude oil purchased by that small refiner in January 1980 pursuant to the provisions of this section in effect in January 1980.

(b) *General rule.* (1) Any supplier/purchaser relationship in effect under a contract for sale, purchase or exchange of crude oil in January 1980 shall remain in effect for the duration of this program if the supplier has been designated by the purchaser to supply crude oil pursuant to paragraph (e) of this section; *provided,* that any such supplier/purchaser relationship to which this section is applicable may be terminated as provided in paragraph (d) of this section.

(2) The provisions of this paragraph (b) shall not (i) operate to validate any supplier/purchaser relationship in effect during January 1980 where the purchaser of the crude oil involved was not the lawful purchaser thereof under the provisions of this section as in effect at any time prior to February 1980, or (ii) impair any purchaser's rights under this section as in effect prior to October 1980, including a purchaser's right to continue to receive the volumes of crude oil flowing to it on December 1, 1973 or such later date at which its supplier/purchaser relationship was established under this section as in effect prior to October 1980.

(c) *Supply obligations and purchase rights.* (1) A producer of crude oil subject to paragraph (b)(1) of this section shall supply in each month to each January 1980 purchaser volumes of lower tier crude oil, upper tier crude oil and price-decontrolled crude oil equal to those volumes of such crude oil with respect to which the producer has been designated by that purchaser pursuant to paragraph (e) of this section.

(2) Where the volume of lower tier crude oil, upper tier crude oil, or price-decontrolled crude oil produced by a property in a given month is below the total volume of such crude oil designated with respect to that property pursuant to paragraph (e) of this section, the supply obligations of a producer under this section shall be reduced for that month on a prorata basis, based on the respective volumes of such crude oil thus designated by each purchaser.

(3) In any month that the volume of lower tier crude oil or upper tier crude oil produced from a property is less than the total volume of crude oil of that tier designated with respect to that property by all purchasers designating pursuant to paragraph (e) of this section, the producer shall prorate any volume of price-decontrolled crude oil produced from that property in that month, which is in excess of the total volume of price-decontrolled crude oil designated with respect to that property by all purchasers pursuant to paragraph (e) of this section, between such purchasers on the basis of each such purchaser's percentage share of total designated volumes of lower tier crude oil or upper tier crude oil, as appropriate, *Provided, however,* that the total volume of crude oil to which a designating purchaser is entitled in any month with respect to a particular property shall not exceed the total volume of crude oil purchased by that designating purchaser in January 1980 from that property pursuant to the provisions of this section in effect in January 1980.

(4) In the event that a property which produces crude oil subject to this section is transferred to a new owner, the obligation to supply designating purchasers of that property's crude oil production shall attach to the new owner and new supplier/purchaser relationships subject to this section shall be established on that basis.

(5) In each month a reseller of crude oil subject to paragraph (b)(1) of this section shall supply to each January 1980 purchaser designating pursuant to paragraph (e) of this section those volumes of lower tier crude oil, upper tier crude oil, and price-decontrolled crude oil thus designated by that purchaser. *Provided, however,* in the event that in any month the total volume of lower tier crude oil, upper tier crude oil, or price-decontrolled crude oil supplied to a reseller pursuant to this section is less than the total volume of crude oil of that regulatory tier designated to that reseller by all purchasers pursuant to paragraph (e) of this section, the reseller supply obligations with respect to that regulatory tier shall be reduced for that month on a prorata basis, based on the respective volumes of crude oil of that regulatory tier designated by each purchaser pursuant to paragraph (e) of this section.

(6) In any month that the volume of lower tier crude oil or upper tier crude oil supplied to a reseller pursuant to this section is less than the total volume of crude oil of that tier designated to that reseller by all purchasers designating pursuant to paragraph (e) of this section, the reseller shall prorate any volume of price-decontrolled crude oil required to be supplied pursuant to this section to that reseller in that month which is in excess of the total volume of price-decontrolled crude oil designated by all purchasers pursuant to paragraph (e) of this section. The reseller shall prorate such excess volumes of price-decontrolled crude oil on the basis of each such purchaser's percentage share of total designated volumes of lower tier crude oil or upper tier crude oil, as appropriate.

(7) In the event that the business of a purchaser who has made a designation pursuant to paragraph (e) of this section is transferred to a new owner, the rights to purchase crude oil so designated shall be transferred for purposes of this section to the new owner, and new supplier/purchaser relationship subject to this section shall be established on that basis.

(8) In the event new supply relationships are created in accordance with the provisions of paragraphs (d)(1)(iii) or (d)(1)(v) of this section, such relationships shall be considered for purposes of this section as having been in effect in January 1980.

(d) *Termination of supplier/purchaser relationships.* (1) Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(i) at the option of a small refiner with respect to any crude oil which the small refiner would otherwise be required to supply to any purchaser by reason of paragraph (b) of this section;

(ii) at the option of the purchaser, as evidenced by its written consent given to its supplier at the time of termination, provided all subsequent purchasers of the crude oil involved have also consented to such termination in writing;

(iii) by a producer with respect to any crude oil not subject to a ceiling price under Part 212 of this chapter; provided that such production is upon termination immediately sold or sold for resale to another small refiner and continuously thereafter supplied to that small refiner purchaser; and

(iv) by a producer (as defined in Part 212 of this chapter), if the present purchaser as to any crude oil subject to a supplier/purchaser relationship refuses, within a fifteen day period after receipt of written notice from the producer as to the terms of that offer and the name of the offeror, to meet any bona fide written offer made by another purchaser to purchase all such crude oil with respect to which the bona fide offer is made for a minimum period of ninety days and at a lawful price above the price paid by the present purchaser.

(v) by agreement between a supplier and any subsequent purchaser that the supplier will directly or by means of a substituted reseller supply to the subsequent purchaser those volumes of crude oil to which subsequent purchaser would be entitled to receive by reason of the supplier's supply obligations pursuant to paragraph (b) of this section, provided that the supplier and subsequent purchaser obtain the consent of the small refiner ultimately entitled to receive the crude oil concerned pursuant to this section.

(2) Nothing in this paragraph (d) shall be construed as authorizing a producer to terminate a supplier/purchaser relationship in breach of a contract or agreement it may have with another firm.

(3) A copy of any document required to be prepared under this paragraph of this section prior to terminating a supplier/purchaser relationship shall be sent by the preparer of the document to the Branch of Crude Oil Production, Office of Petroleum Operations, Washington, D.C. 20461.

(e)(1) By August 15, 1980, each small refiner shall certify to each of its January 1980 suppliers those volumes of lower tier crude oil, upper tier crude oil and price-decontrolled crude oil which it received from that supplier in January 1980 and may designate that supplier to supply such volumes pursuant to paragraph (b) of this section.

(2) By the fifth day after a reseller receives a certification pursuant to paragraph (e)(1) of this section, the reseller shall certify to one or more of its January 1980 suppliers those volumes of lower tier crude oil, upper tier crude oil, and price-decontrolled oil that it is designating that supplier to supply in order to meet its obligations on behalf of a small refiner.

(3) Within five days of receiving a certification pursuant to paragraph (e)(2) of this section or this paragraph (e)(3), a reseller shall certify to one or more of its January 1980 suppliers those volumes of lower tier crude oil, upper tier crude oil, and price-decontrolled crude oil that it is designating that supplier to supply in order to meet its obligations arising from certifications of crude oil volumes to that reseller.

(4) Notwithstanding paragraphs (e)(2) and (e)(3) of this section, a reseller may not certify to a particular supplier a volume of lower tier crude oil, upper tier crude oil, or price-decontrolled crude oil greater than that volume of such crude oil supplied by that supplier to that reseller in January 1980 pursuant to the provisions of this section then in effect.

(5) Any certification required pursuant to paragraph (e)(2) or (e)(3) of this section shall set forth the names and addresses of any firms which shall be subsequent purchasers of the crude oil being certified.

(6) Any supplier other than a producer that receives a certification pursuant to paragraph (e)(2) or (e)(3) of this section shall inform the small refiner which shall be the ultimate purchaser of the crude oil concerned as to the supplier's receipt of such certification within 5 days of such receipt.

(7) Any producer that receives a certification pursuant to paragraph (e)(2) or (e)(3) of this section shall inform ERA and each firm that shall be a subsequent purchaser of the crude oil being certified as to the names and addresses of all other firms which shall be subsequent purchasers.

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Federal Register

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DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

List of Public Laws

Last Listing April 29, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 7140 / Pub. L. 96-239 To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for two months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans. (Apr. 30, 1980; 94 Stat. 341) $1.00.

Rules Going Into Effect Today

ENDANGERED SPECIES COMMITTEE

23354 4-4-80 / Final provisions for Endangered Species Review Board and Endangered Species Review Committee

FEDERAL COMMUNICATIONS COMMISSION

21637 4-2-80 / FM broadcast stations in Coffeyville, Kans. and Nowata, Okla.; changes made in table of assignments

21638 4-2-80 / FM broadcast station in Freeport, Tex.; changes in table of assignments

21636 4-2-80 / FM broadcast stations in Poplar Bluff and Thayer, Mo.; changes made in table of assignments

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

22901 4-4-80 / Addition of two products to list of products containing a chlorothiorocarbon for an essential use

22914 4-4-80 / Affirmation of GRAS status for ethyl formate, formic acid, and sodium formate as direct and indirect human food ingredients

22921 4-4-80 / Changes in pyrogen test for certain penicillin drugs

Health Care Financing Administration—

22933 4-4-80 / Medicare provides agreements policies

JUSTICE DEPARTMENT

Prisons Bureau—

23364 4-4-80 / Control, custody, care, treatment, and instruction of inmates

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

22402 4-3-80 / Hours of service of drivers; 100-mile exemption for drivers' logs

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: May 30; June 13 and 27; July 11 and 25; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235. Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

NEW ORLEANS, LA.

WHEN: May 8 and 9; at 9 a.m. (identical sessions.)

WHERE: Room 125, Hale Boggs Federal Bldg. (identical sessions.) 500 Camp Street, New Orleans, La.

RESERVATIONS: Call Mary Malouse, 504-589-6601.

SALT LAKE CITY, UTAH

WHEN: May 19 and 20; at 9 a.m. (identical sessions.)
WHERE: Room 3421, Federal Bldg., 125 S. State St., Salt Lake City, Utah.
RESERVATIONS: Call Helen Ferderber, Salt Lake City, Federal Information Center, 801–524–5353.

SEATTLE, WASH.

WHEN: May 23; 9 a.m.
WHERE: North Auditorium, Federal Bldg., 915 2nd Avenue, Seattle, Wash.
RESERVATIONS: Call the Seattle Federal Information Center, 206–442–0570.

CHICAGO, ILL.

WHEN: May 28 and 29; at 9 a.m. (identical sessions.)
WHERE: Room 204A, Dirksen Federal Bldg., Chicago, Ill.
RESERVATIONS: Call Ardean Merrifield, 312–353–0339.

ST. LOUIS, MO.

WHEN: June 24 and 25; at 9:00 a.m. (identical sessions.)
WHERE: Room 3720, Federal Office Bldg. 1520 Market Street, St. Louis, Mo.
RESERVATIONS: Call Evelyn Wiebusch, Federal Information Center, 314–425–4106.

PITTSBURGH, PA.

WHEN: June 4 at 1:30 p.m. and June 5 at 9 a.m. (identical sessions.)
WHERE: Rooms 2212 and 2214 (both days), Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa.
RESERVATIONS: Call Mary Silipo, Pittsburgh Federal Information Center, 412–644–3456.

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