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Tuesday,
April 7, 1981

FEDERAL REGISTER LIBRARY

Highlights

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

20848 **Federal Agencies: Consumer Credit Forms** FRS issues final rules governing credit disclosures. (Part II of this issue)

20848 **Truth in Lending** FRS adopts complete revision of its Regulation Z—Truth in Lending. (Part II of this issue)

20949 **Consumer Leasing** FRS adopts final form Regulation M, which implements the consumer leasing provisions of the Truth in Lending Act. (Part II of this issue)

20698 **Gasoline** EPA proposes to amend testing procedures for the determination of lead content in gasoline by adding optional automated method to standard method.

20811 **Nuclear Power** NRC is developing limited number of internationally acceptable codes of practice and safety guides for powerplants.

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

Highlights

20672 **Veterans** VA amends regulations to liberalize criteria in determining whether a veteran or eligible person may receive educational assistance allowance during an interval which precedes or follows a summer term.

20707 **Clean Water** EPA extends comment period and gives notice of availability of new data on proposed regulation regarding pollutant discharges from steel mills.

20688 **Mines** Interior/SMREO proposes a change requiring the Director to reallocate to the States funds collected for fiscal years 1978 and 1979 for an additional three years from the date of allocation.

20717 **Steel** Commerce/ITA publishes notice regarding monitoring of specialty steel imports.

20972 **Grant Programs—Energy** USDA/SEA will award project grants for research on production and utilization of renewable energy sources. The amount expected to be available for these programs is $5,803,000. (Part III of this issue)

20814 **Securities** Treasury/Sec'y announces interest rate on notes of Series D–1988.

20667 **Hops** USDA/AMS establishes the quantity of hops that may be freely marketed from the 1981 crop.

20815 **Sunshine Act Meetings**

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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 991

Hops of Domestic Production; Final Salable Quantity and Allotment Percentage for the 1981–82 Marketing Year

AGENCY: Agricultural Marketing Service USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the quantity of hops that may be freely marketed from the 1981 crop. The action is taken under the marketing order for domestic hops to promote orderly marketing conditions.

EFFECTIVE DATE: August 1, 1981.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697. The Final Impact Statement describing the options considered in developing this action and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures and Executive Order 12291 and has been classified "not significant" and not a major rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 12 handlers.

Notice was publishd in the January 15, 1981, issue of the **Federal Register** (46 FR 3541) of a proposal to establish for the 1981–82 marketing year, beginning August 1, 1981, a salable quantity of 78,279,375 pounds and an allotment percentage of 130 percent. This action was based on the recommendation of the Hop Administrative Committee in accordance with provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The salable quantity for the ensuing marketing year is based upon a recommendation of the Committee and the following estimates for the marketing year beginning August 1, 1981.

(1) Total domestic consumption of 47,500,000 pounds of hops;

(2) Minus imports of 16,500,000 pounds of hops to result in domestic consumption of U.S. hops of 31,000,000;

(3) Plus total exports of 41,000,000 pounds of hops to equal 72,000,000 pounds total usage of U.S. hops;

(4) Plus 1,500,000 pounds to adjust for weight loss of hops processed into pellets and extract;

(5) Plus 3,000,000 pounds as an inventory adjustment; and

(6) Plus an adjustment of 1,779,375 pounds to provide for adequate supplies should some producer allotments not be fully produced.

Therefore, the salable quantity for the 1980–81 marketing year will be 78,279,375 pounds.

The salable percentage of 130 percent is computed by subtracting from this salable quantity 1,228,535 pounds for additional allotment bases for hops of the Fuggle variety pursuant to §§ 991.38(b) and 991.138(c) and dividing the remainder by 59,270,000 pounds, the total of all allotment bases less the 1,228,535 pounds of additional allotment bases for Fuggle variety hops.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee, and other available information, it is found that to establish a salable quantity and allotment percentage as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the salable quantity and allotment percentage to be applicable to the 1981–82 marketing year (August 1, 1981–July 31, 1982) are established as follows:

§ 991.219 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1981.

The allotment percentage during the marketing year beginning August 1, 1981, shall be 130 percent, and the salable quantity shall be 78,279,375 pounds.

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

Dated: April 2, 1981.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81-10456 Filed 4-6-81; 8:45 am]
BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Computer Software Costs

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to provide for the issuance of a supplement to REA Bulletin 181–3, Interpretations for Rural Electric Borrowers. As investments in computer software packages grew, the need for uniform accounting procedures arose. The revision includes an accounting interpretation specifying the computer software costs which may be capitalized and those which require expensing.

This amendment also includes a pen and ink change in the subject matter classification of REA Bulletin 181–3. The 400–499 interpretations are reclassified from "Deferred Charge and Credit Accounting" to "General Accounting Interpretations."

EFFECTIVE DATE: March 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, Washington, D.C. 20250, telephone number (202) 447–7221. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION:

Accounting for Computer Software Costs

I. General:

Computer software consists of computer programs and routines (sets of computer instructions) which direct the operation of the computer. Software can refer to generalized routines useful in computer operations or to programs for specific applications such as payroll.

The distinction between generalized software and application software is important. Generalized software provides operating support for individual applications. This would include programs for such tasks as making printouts of machine-readable records, sorting records, organizing and maintaining files, translating programs written in a symbolic language into machine-language instructions, and scheduling jobs through the computer. These programs are generally furnished by the manufacturer.

Application software consists of a set of instructions for performing a particular data processing task. Application programs are generally written by the user installation but are frequently obtained as prewritten packages from software vendors. Application software includes programs such as payroll, billing, general ledger, as well as engineering and managerial applications.

II. Questions and Answers:

1. *Question:* What is the proper accounting for the cost of computer software?

Answer: Costs incurred with the purchase and/or development of computer software should be accounted for as follows:

Capitalize in a subaccount of Account 391, Office Furniture and Equipment, all costs for generalized software. Depreciate the cost over the service life (or remaining life) of the main hardware (i.e., containing central processor). If the purchase invoice does not split out or assign a cost to the "generalized software" then it is appropriate to include the full amount in the hardware costs. Defer in Account 186, Miscellaneous Deferred Debits, the cost for all applications software determined to have a service life of over one year. Amortize this cost over the estimated useful life of the program. This amortization period should not exceed five (5) years. We realize, however, that there may be circumstances that justify a longer useful life than five years. When this is the case and it is management's intent to utilize these programs over an extended period, written justification should be submitted to REA for approval.

Expense, in the period incurred, all costs associated with the maintenance, updating, conversion of files or revision of all software, and all costs for software with a useful life of less than one year. Also, expense the unamortized cost of all software determined, during the year, to be no longer used by or useful to the cooperative.

In determining the total cost of purchased or internally developed software the following items should be included:

1. Costs incurred for feasibility studies if they result in the purchase or development of software;

2. All cost related to the actual purchase or development of the software. These costs must be specifically identifiable with the software and be properly supported by time cards, invoices, or other documents; and

3. All costs incurred in "testing and debugging" the software.

All costs related to training personnel in the use of the software should be expensed as incurred.

Software packages are sometimes purchased for use with special purpose computer hardware that is dedicated for use in load control and load dispatch operations. Accounting Interpretation No. 111 provides that the hardware (control equipment) is to be included in the appropriate functional plant account. For purposes of Accounting Interpretation No. 111, software packages dedicated for use in load control are to be considered a part of the control equipment and included in the appropriate functional plant account.

This proposed rule will not change the meaning of Accounting Interpretation No. 111, however, reference to accounting for computer software will be cross-referenced in Interpretation No. 111.

This interpretation is not intended to apply to immaterial amounts. When it is deemed that the cost of the recordkeeping necessary to amortize these costs outweighs the benefits to the patrons, then software costs may be expensed in the year incurred.

This final rule has been issued in conformance with Executive Order 12291, Federal Regulation, and has been determined to be "not major." This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: March 20, 1981.

Joe. S. Zoller,

Acting Administrator.

[FR Doc. 81-10068 Filed 4-6-81; 8:45 am]

BILLING CODE 3410-15-M

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7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Legal Expenses

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins to provide for the issuance of a supplement to REA Bulletin 181–3, Interpretations for Rural Electric Borrowers. Increasing expenditures for legal services created a need for uniform accounting procedures. This revision includes an accounting interpretation specifying those legal fees which may be capitalized or deferred and those which must be expensed.

EFFECTIVE DATE: March 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, Washington, D.C. 20250, telephone number (202) 447-7221. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: Many borrowers have incurred substantial legal fees for a variety of legal services. A problem arose when borrowers began capitalizing the entire legal fee, or a portion thereof, when the fee did not pertain to construction activities. In order to remedy this situation, we are issuing this accounting interpretation outlining the proper accounting treatment of fees which may be capitalized or deferred and those fees that require being expensed.

Accounting for Legal Expenses

I. General:

Borrowers may incur legal expenses which pertain to construction activities, loan activities, or general services.

II. Questions and Answers:

1. *Question:* What is the proper accounting treatment for legal expenses?

Answer: a. Legal fees incurred in connection with a construction project, including the court costs directly related thereto, which can be identified and supported as such, shall be capitalized

in Account 107, Construction-Work-in-Progress as a cost of construction.

b. Legal fees specifically identified and properly supported as resulting from activities designed to obtain long-term debt shall be deferred in Account 181, Unamortized Debt Expense.

c. Legal fees for all other services and fees which cannot be properly identified and supported will require expensing to either Account 417.1, Expenses of Nonutility Operations, or Account 923, Outside Services Employed, as appropriate.

2. *Question:* What type of identification and support is required in order to capitalize or defer legal fees?

Answer: The attorney should provide the borrowers with an itemization of his services performed and the corresponding costs. Only those costs specifically identified by the attorney as being related to construction or loan activities may be capitalized or deferred as described above.

This final rule has been issued in conformance with Executive Order 12291, Federal Regulation, and has been determined to be "not major." This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: March 20, 1981.

Joe S. Zoller,

Acting Administrator.

[FR Doc. 81-10308 Filed 4-6-81; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM 79-76 (New Mexico-2)]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: March 30, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the New Mexico Oil Conservation Commission that the Atoka Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307, or Victor Zabel, (202) 357-8559.

Order No. 138

The Commission hereby amends § 271.703(d) of its regulations to include the Atoka Formation in New Mexico as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by Director, OPPR, issued January 28, 1981 [46 FR 9962, January 30, 1981) based on a recommendation by the New Mexico Oil Conservation Commission (New Mexico), in accordance with § 271.703(c), that the Atoka Formation be designated as a tight formation.

Evidence submitted by New Mexico supports its assertion that the Atoka Formation meets the guidelines contained in § 271.703(c)(2).[1] The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective March 30, 1981.

By the Commission.

Lois D. Cashell,

Acting Secretary.

Section 271.703 is amended by adding new paragraph (d)(19) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(19) *The Atoka Formation in New Mexico.* RM79-76 (New Mexico—2).

(i) *Delineation of formation.* The Atoka Formation is found in Lea County, New Mexico, and underlies an area located approximately 9 miles north of Lovington, New Mexico, 3 miles southwest of Tatum, New Mexico, and 15 miles west of the Texas state border.

(ii) *Depth.* The Atoka Formation is defined as that formation the depth to the top of which ranges from 11,500 to 12,450 feet, and averages 12,200 feet, and the base of which is defined by the top of the Morrow Formation.

[FR Doc. 81-10401 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

18 CFR Part 271

[Docket No. RM79-76 (Colorado-3)]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: March 30, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Niobrara Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lamer, (202) 357-8307, or Victor Zabel, (202) 357-8559.

[1] Comments on the proposed rule were invited and received. No party requested a public hearing in this matter and no hearing was held.

Order No. 137

The Commission hereby amends § 271.703(d) of its regulations to include the Niobrara Formation in Colorado as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by Director, OPPR, issued September 23, 1980 (45 FR 65606, October 3, 1980) [1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703(c) that the Niobrara Formation should be designated as a tight formation.

Evidence submitted by Colorado supports its assertion that the Niobrara Formation meets the guidelines contained in § 271.703(c)(2). The Commission generally adopts the Colorado recommendation, with the modification discussed below.

Section 271.703(c)(2)(i)(D) of the Commission's regulations provides that in making recommendations for designations of tight formation areas to the Commission, a jurisdictional agency shall not include any formation or portion thereof

[i]f the formation or any portion thereof was authorized to be developed by infill drilling prior to the date of recommendation and the jurisdictional agency has information which in its judgment indicates that such formation or portion subject to infill drilling can be developed absent the incentive price established in paragraph (a) of this section. . . .

In reviewing Colorado's recommendation, the Commission found evidence indicating that ten fields within the recommended formation had been authorized to be developed by infill drilling prior to the date the recommendation was made.[2] Three of the ten fields had been substantially developed before the infill drilling orders for those fields were issued. They are the Beecher Island Field (Order No. 300–5), the Mildred Field (Order No. 327–3), and Waverly Field (Order No. 328–3). The Beecher Island Field was comprised of forty 640-acre units and wells had been drilled in 28 of the units at the time of issuance of the infill drilling order; the Mildred and Waverly Fields were 100% developed on the 640-acre units at the time their infill drilling orders were issued.[3] Accordingly, the Commission is excluding the 45 sections which make up the entire Mildred and Waverly Fields, and the 28 units in the Beecher Island Field, on which wells were drilled at the time of issuance of the infill drilling orders, from the designation of the Niobrara Formation as a tight formation.[4] The exclusion of these three fields at this time does not preclude them from future designation if economic data should demonstrate that all or part of the excluded area cannot be further developed absent the incentive price.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately established good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 533)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective March 30, 1981.

By the Commission.

Lois D. Cashell,

Acting Secretary.

Section 271.703 is amended by adding new paragraph (d)(20) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(20) *The Niobrara Formation in Colorado.* RM79–76 (Colorado—3)

(1) *Delineation of formation.* The Niobrara Formation is located in north and east of Denver, Colorado, on the eastern flank of the Denver-Julesberg Basin, underlying all lands in Cheyenne, Kit Carson, Lincoln, Logan, Phillips, Sedgwick, Washington, and Yuma Counties, Colorado. The designated formation does not include the Mildred and Waverly Fields, or that portion of the Beecher Island Field on which wells were drilled prior to the issuance of the infill drilling order of Colorado, No. 300–5.

(ii) *Depth.* The depth of the Niobrara Formation ranges from 1300 feet to approximately 3000 feet.

[FR Doc. 81–10400 Filed 4–6–81; 8:45 am]

BILLING CODE 6450–85–M

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18 CFR Part 271

[Docket No. RM79–76 (Ohio—1)]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: March 30, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Ohio Division of Oil and Gas, Department of Natural Resources, as modified, that the Clinton Sandstone Formation, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: March 30, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8307, or John Roy Johnson, (202) 357–8732.

Order No. 136

The Commission hereby amends § 271.703(d) of its regulations to include the Clinton Sandstone Formation in

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[1] Comments were invited and none were received. No party requested a public hearing in this matter and no hearing was held.

[2] Colorado reduced well spacing from 640 acres to 160 acres on August 22, 1978.

[3] The applicable infill drilling orders, cited above, contain a finding made by Colorado that the data available indicates that "one well will efficiently and *economically* drain an area of not more than 160 acres * * *" [emphasis added]. This economic finding in addition to substantial development also indicates that the incentive price set under section 107(c)(5) is not necessary to encourage drilling in these fields, as the wells were found to be economical at prices already available.

[4] The excluded sections are found in Yuma County, Colorado, as follows: T3N, R46W, Sec. 6; T4N, R46W, Sec. 8, 16, 17, 20, 21, 29–32; T2S, R46W, Sec. 12–18, 23, 24; T2S, R44W, Sec. 12, 13, 24; T2S, R43W, Sec. 3–5, 7–10, 15–22, 27–34; T3S, R43W, Sec. 5, 6.

Ohio as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by Director, OPPR, issued December 22, 1980 (46 FR 941, January 5, 1981) based on a recommendation by the Ohio Division of Oil and Gas, Department of Natural Resources (Ohio) in accordance with § 271.703(c), that the Clinton Sandstone Formation be designated as a tight formation.

Evidence submitted by Ohio and the commenters supports Ohio's assertion that the Clinton Sandstone Formation meets the guidelines contained in § 271.703(c)(2).[1] One commenter, Columbia Gas Transmission Corporation (Columbia), noted in its comment that although Ohio indicated in a public hearing that it would exclude all gas storage field areas from its recommendation, certain portions of the recommended area were located in Columbia's designated gas storage fields. These areas should be excluded, according to Columbia, because they fail to meet the guidelines for tight formations found in § 271.703(c)(2)(i), and further, because designation as a tight formation should cause problems for storage field operators in protecting the reservoir integrity of storage fields. Ohio agreed with Columbia's comment and, on February 9, 1981, amended its recommendation accordingly. The amendment removed from the recommendation portions of Lot 7, Chatham Township, Lots 46 and 47, Litchfield Township, Lots 20 and 21, York Township, in Medina County, and Section 21 Plain Township, in Wayne County. The amendment further stipulated that "any well drilled in the designated tight formation, that is completed within a gas storage reservoir or 'reservoir protective area,' as defined by maps on file with Ohio on February 1, 1981, shall be excluded from the tight formation designation." The Commission adopts the Ohio recommendation, as modified by Ohio on February 9, 1981, to exclude the above-named areas in Medina and Wayne Counties, and to exclude designated gas storage reservoirs and reservoir protective areas from the designated tight formation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective March 30, 1981.

By the Commission.

Lois D. Cashell,

Acting Secretary.

Section § 271.703 is amended by adding new paragraph (d)(21) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(21) *The Clinton Sandstone Formation in Ohio.* RM79–76 (Ohio—1)

(i) *Delineation of formation.* The Clinton Sandstone Formation is found in eastern Ohio, and extends from Lake Erie on the north, to the Kentucky border on the south, and from Licking County in central Ohio on the west to the Pennsylvania and West Virginia borders on the east. The designated tight formation does not include any areas which are gas storage reservoirs or reservoir protective areas, as defined by maps on file with the Ohio Oil and Gas Division, Department of Resources and the Commission.

(ii) *Depth.* The Clinton Sandstone Formation occurs within the Silurian Cataract System, between the Dayton Limestone and the Queenston Shale, found at approximately 2,500 feet in the updip areas near its pinch out, dipping to the southeast approximately 50 feet per mile.

[FR Doc. 81-10402 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[1] Comments on the proposed rule were invited and received. No party requested a public hearing in this matter, and no hearing was held.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Temazepam in Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This is a final rule placing the drug temazepam into Schedule IV of the Controlled Substances Act. As a result of this rule, temazepam will be subject to the manufacturing, distribution, dispensing, importation and exportation controls of Schedule IV.

EFFECTIVE DATE OF CONTROL: April 7, 1981.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Washington, D.C. 20537; Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on Monday, January 5, 1981 (45 FR 943), proposing that temazepam be placed into Scehdule IV of the Controlled Substances Act. All interested persons were given until March 6, 1981 to submit any comments or objections in writing regarding this proposal. One comment was received from the American Society of Hospital Pharmacists (ASHP), which supported the proposed placement of temazepam in Schedule IV. No other comments or objections were received in response to this proposal, nor were there any requests for a hearing.

Based on the scientific and medical evaluation and recommendation of the Secretary of Health and Human Services, received in accordance with section 201(f) of the Controlled Substances Act (21 U.S.C. 811(f)), the Administrator of the Drug Enforcement Administration, pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) Based on information now available, temazepam has a low potential for abuse relative to the drugs or other substances currently listed in Schedule III;

(2) Temazepam has a currently accepted medical use in treatment in the United States; and,

(3) Abuse of temazepam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

The above findings are consistent with the placement of temazepam in Schedule IV of the Controlled Substances Act. All regulations applicable to Schedule IV substances are effective on the date of publication.

1. *Registration.* Any person who manufactures, distributes, imports or exports temazepam or who engages in research or conducts instructional activities with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Temazepam must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(b)–(d), 1301.73, 1301.74(a)–(f), 1301.75(b)–(c) and 1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of temazepam must comply with the requirements of §§ 1302.03–1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of temazepam must take inventories pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of these substances on hand.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on temazepam.

6. *Prescriptions.* All prescriptions for products containing temazepam shall comply with § 1306.01–1306.06 and §§ 1306.21–1306.25 of Title 21 of the Code of Federal Regulations.

7. *Importation and Exportation.* All importation and exportation of temazepam shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal Liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to temazepam not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful.

Under the authority vested in the Attorney General by section 201(a) of the Act (21 U.S.C. 811(a)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Administrator hereby orders that § 1308.14(c) of Title 21 of the Code of Federal Regulations be amended by adding (c)(21) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(21) Temazepam	2925

* * * * *

The Food and Drug Administration issued a letter approving the New Drug Application for temazepam on February 27, 1981. Approval of the New Drug Application is conditional upon the announcement of the scheduling decision of temazepam by the Drug Enforcement Administration in the Federal Register.

Pursuant to Title 5, United States Code, Section 605(b), the Administrator certifies that control of temazepam, as ordered herein, will have no significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act. This action involves initial control of a substance not previously approved for marketing in the United States.

In accordance with the provisions of Section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such, have been exempted from the consultation requirements of Executive Order 12291 and from the postponement of pending regulations under the President's memorandum of January 30, 1981.

Dated: March 27, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-10398 Filed 4-6-81; 8:45 am]

BILLING CODE 4410-09-M

VETERANS ADMINISTRATION

38 CFR Part 21

Educational Benefits; Payment for Intervals Between Terms

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is amending its regulations to liberalize the criteria used in determining whether a veteran or eligible person may receive educational assistance allowance during an interval which precedes or follows a summer term. The Veterans Administration has been criticized in this area. The critics claim that the criteria are too strict. This regulatory amendment will satisfy this criticism.

EFFECTIVE DATE: April 1, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.4138, Title 38, Code of Federal Regulations is amended to provide that if a summer term is at least 8 weeks long, a veteran or eligible person may be paid educational assistance allowance for the interval that precedes or follows the summer term if the interval does not exceed a full calendar month. Previously, the regulation would not allow a payment for an interval if the interval exceeded 30 days.

The agency has determined that the amendment to this regulation is nonmajor in accordance with the requirements of Executive Order 12291, Federal Regulation. It has also been determined as required by the Regulatory Flexibility Act (Pub. L. 96–354) that it poses no compliance cost or reporting burdens upon the public and has no effect on businesses or State or local governments.

I, Rufus H. Wilson, have declared this to be an emergency regulation. Therefore, we are processing it outside of the procedures contained in Executive Order 12291.

This regulation pertains to the payment of educational benefits and would impact upon the payments to be made for the break periods at affected schools between the spring and summer terms of this year. Since those periods are only a few weeks away for many such schools, it is imperative that we quickly establish the new rule, so that the schools, the veteran-students and Veterans Administration personnel have the new procedures in time to adjust awards for proper payment. Any delay would result in nonpayment of benefits to some students who would otherwise receive them, thus defeating the very intent of the change, which is to alleviate the problem that has arisen in some States. The name of the official responsible for making this decision is Rufus H. Wilson, Acting Administrator, Veterans Administration.

The changes to § 21.4138 are deemed proper and are hereby approved.

Approved: April 1, 1981.

Rufus H. Wilson,

Acting Administrator.

In § 21.4138, paragraph (f) is revised to read as follows:

§ 21.4138 Certifications and release of payments.

* * * * *

(f) *Payment for intervals between terms.* A certification such as described by this section may result in payment for intervals between individual terms, quarters or semesters. In determining whether a veteran or eligible person will be paid for such an interval the Veterans Administration will first determine whether any of the provisions of paragraph (f)(1) of this section apply. If any do, the Veterans Administration will make no payment for the interval. If none of the provisions of paragraph (f)(1) of this section apply the Veterans Administration will examine the appropriate provisions of paragraph (f)(2) and (4) of this section to determine if payments may be made for the interval.

(1) The Veterans Administration will make no payment for an interval described in paragraph (f)(2) of this section if—

(i) The student is training at less than the half-time rate on the last date of his or her training during the term, quarter, semester or summer term preceding the interval;

(ii) The student is on active duty;

(iii) The student requests, prior to authorization of an award or prior to negotiating the check, that no benefits be paid for the interval period;

(iv) The student will exhaust his or her entitlement by receipt of such payment, and it is to the advantage of the individual not to receive payment;

(v) The interval occurs between school years at a school which is not organized on a term, quarter or semester basis; or

(vi) The veteran or eligible person withdraws from all his or her courses in the term, quarter, or semester or summer session preceding the interval, or discontinues training before the scheduled start of an interval in a school not organized on a term, quarter or semester basis.

(2) If none of the provisions of paragraph (f)(1) of this section apply, the Veterans Administration will use the provisions of this subdivision to determine if an interval payment should be made. In determining the length of a summer term the Veterans Administration will disregard a fraction of a week consisting of 3 days or less, and will consider 4 days or more to be a full week.

(i) The Veterans Administration may make payments when a school is closed temporarily under an established policy based upon an Executive Order of the President or due to an emergency situation.

(ii) If a veteran or eligible person transfers from one approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution, the Veterans Administration may make payments for any intervals which do not exceed 30 days and which occur between consecutive terms, quarters or semesters. If the veteran or eligible person does not enroll in a similar course at the second institution, the Veterans Administration shall not make payments for the interval.

(iii) If the veteran or eligible person remains enrolled at the same educational institution, the Veterans Administration may make payment for an interval which does not exceed 1 full calendar month and which occurs between—

(A) Semesters or quarters as defined by § 21.4200(b),

(B) Semesters or quarters and a term,

(C) Semesters or quarters and a summer term which is at least 8 weeks long,

(D) Consecutive terms other than semesters or quarters as defined by § 21.4200(b), or

(E) A term and a summer term which is at least 8 weeks long.

(iv) If the veteran or eligible person remains enrolled at the same educational institution the Veterans Administration may make payment for an interval which does not exceed 30 days and which occurs between—

(A) Terms, quarters or semesters and a summer term which is less than 8 weeks long,

(B) Terms, quarters or semesters and a summer session which is less than 8 weeks longs, or

(C) Summer sessions within a summer term.

(3) The days for which the interval payment is made shall not count as absences for the purpose of § 21.4205 if the school is closed due to an Executive Order of the President, or due to an emergency situtation. In all other cases the days for which the interval payment is made shall count as absences for the purpose of § 21.4205. (38 U.S.C. 1780)

(4) If a veteran is enrolled in overlapping enrollment periods whether before or after an interval (either at the same or different schools), the Veterans Administration will determine whether the veteran or eligibile person is entitled to a payment during an interval as follows:

(i) The Veterans Administration will treat the ending date of each enrollment period as though it were the veteran's or eligible person's last date of training before the interval.

(ii) The Veterans Administration will treat the beginning date of each enrollment period as though it were the veteran's or eligible person's first date of training after the interval.

(iii) The Veterans Administration will examine the interval payment which would be made to the veteran or eligibile person on the basis of the various combinations of beginning and ending dates. The ending date and beginning date of the enrollment periods which will result in payment for the interval at the highest rate will be chosen as the start and finish of the interval for Veterans Administration measurement purposes.

(iv) Payment for the interval will be made at the rate determined in paragraph (f)(4)(iii) of this section. The Veterans Administration shall not reduce the rate as the result of training the veteran or eligible person may take during the interval, but it shall increase the rate if warranted by such training. (38 U.S.C. 1780(a))

[FR Doc. 81-10409 Filed 4-6-81; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 540

[General Order 20]

Approval of Reporting Requirements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Rules providing for the establishment of proof of financial responsibility of owners, operators or charterers of passenger vessels are amended to reflect current General Accounting Office clearance for the reporting requirements contained therein. The amendment is necessary to comply with GAO regulations.

EFFECTIVE DATE: April 7, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Acting Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: 44 U.S.C. 3512 requires the General Accounting Office to review certain collections of information from 10 or more persons undertaken by independent Federal regulatory agencies.

This Commission has received clearance from the U.S. General

Accounting Office for a recent amendment to General Order 20 contained in 46 CFR 540. Title 4 CFR 10.12, Notification of General Accounting Office Action, requires that notices of such clearance appear in the agency's regulations.

The clearance information is presently included in General Order 20; however, it must be amended to incorporate the more specific wording of GAO's latest clearance language. Accordingly, the clearance information statement presently appearing as the "Note:" immediately following the appendices to 46 CFR Part 540 is hereby revised.

PART 540, NOTE [REVISED]

Note.—The reporting requirements contained in 46 CFR 540.4(c); 540.5 (a)(1) and (d); 540.9 (e), (h), and (k); 540.23(c); 540.24 (a)(1) and (c); and 540.27 (e), (f), and (h) have been approved by the U.S. General Accounting Office under number B-160233 (R0316).

Effective Date. Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective on April 7, 1981.

By the Commission, March 18, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-10494 Filed 4-6-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket Nos. 80-172 and 80-236; RM-3353, RM-3481, RM-3737]

Radio Broadcast Services; FM Broadcast Stations in Stephenville, Texas, Cameron, Temple, and Killeen, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C FM Channel 289 to Stephenville, Texas, and modifies the license of Station KWWM-FM to specify operation on Channel 289, as requested by Dixie Broadcasters. This action also assigns FM Channel 288A to Killeen, Texas; Channel 269A to Temple, Texas; and substitutes Channel 276A for Channel 269A at Cameron, Texas, as proposed by Pyle Communications, Inc.; Bruce Lawson Enterprises d.b.a. Cameron-Rockdale Broadcasting and by KTEM Radio, Inc.

DATE: Effective May 25, 1981.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Stephenville, Texas), BC Docket No. 80-172, RM-3352; Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cameron, Temple, and Killeen[1] Texas), BC Docket No. 80-236, RM-3481, RM-3737; Report and Order *(Proceeding Terminated).*

Adopted: March 24, 1981.

Released: April 2, 1981.

By the Chief, Policy and Rules Division.

1. Before the Commission is a *Notice of Proposed Rule Making,* 45 Fed. Reg. 29871, published May 6, 1980, proposing the assignment of Class C FM Channel 289 to Stephenville, Texas, at the request of Dixie Broadcasters ("Dixie"), licensee of Station KWWM-FM at Stephenville, and a *Notice of Proposed Rule Making,* 45 Fed. Reg. 37244, published June 2, 1980, proposing the assignment of Channel 269A to Temple, Texas, and the substitution of Channel 288A for Channel 269A at Cameron, Texas, at the request of Pyle Communications, Inc. ("Pyle"). A counterproposal was submitted in the Temple/Cameron proceeding by Bruce Lawson Enterprises d.b.a. Cameron-Rockdale Broadcasting, an applicant for Channel 269A at Cameron, and by KTEM Radio, Inc., licensee of Stations KTEM(AM) and KPLE(FM) in Temple, Texas (Lawson/KTEM).[2] This counterproposal seeks the assignment of Channel 288A to both Franklin and Killeen, Texas, and the reassignment of Channel 269A from Cameron to Cameron-Rockdale.[3] The assignment of Channel 288A to Franklin and Killeen is mutually exclusive with the assignment of that channel as a substitute at Cameron. Also, the assignment of Channel 288A to Killeen conflicts with the assignment of Channel 289 to Stephenville. The distance between Stephenville and Killeen is approximately 130 kilometers (81 miles). However, a separation of 168 kilometers (105 miles) is required between a Class C and a first adjacent Class A channel. Because the Lawson/KTEM counterproposal affects both the Stephenville and the Cameron/Temple proceedings, the two dockets have been consolidated for final action.

2. *Docket 80-172*—In its comments, Dixie requests that the Commission assign Channel 289 to Stephenville and modify its license for Channel 252A to specify operation on the new channel. According to Dixie, the Commission's policy of not modifying a license, if another interest has been expressed in a new channel, would not be violated in this situation. See *Cheyenne, Wyoming,* 62 FCC 2d 63 (1976). Dixie asserts that the other party initially expressing an interest in the Class C channel at Stephenville, Crockett County Broadcasters, is no longer interested in the assignment. Dixie concludes that because no other party has expressed any interest, its license can be modified immediately. If another interest is later expressed and the Commission refuses to modify its license, Dixie wishes to withdraw its petition.[4]

3. *Docket 80-236*—In its comments supporting the Temple assignment, Pyle restates its intent to apply for Channel 269A at Temple, if assigned. Pyle submits that its proposal would permit a first competitive service to Temple. The Cameron area would not suffer significant preclusion, according to Pyle, since Channel 232A would be available for assignment to Rosebud, Hearne, Calvert or Goldthwaite, Texas. Supporting comments were also filed by Andy Shaw, who states that he will file an application for use of Channel 269A at Temple, if assigned.

4. Lawson/KTEM advances two main arguments in opposing the assignments proposed by Pyle. First, the necessary substitution of channels at Cameron would cause a substantial reduction in the proposed Cameron station's coverage to currently unserved areas. This will occur because much of the unserved area lies to the south of Cameron. Lawson's proposed transmitter site for Channel 269A is located south of Cameron and covers a large segment of this unserved area.

[1] This community has been added to the caption.

[2] Lawson initially filed an opposition to the rule making. This opposition has been superseded by the joint opposition and counterproposal filed by Lawson/KTEM.

[3] *Public Notice* of the counterproposal was given on September 2, 1980, Report No. 1246.

[4] An informal comment was submitted by John B. McCrary. McCrary states that if Channel 289 is assigned to Stephenville, he would be interested in seeking the use of Channel 252A (currently assigned to Stephenville) at Cisco, Texas. Because the reassignment of Channel 252A was not proposed in the *Notice,* and Channel 252A cannot be used at Cisco under the 10-mile rule, § 73.203(b) of the Commission's Rules, no action concerning that channel will be taken at this time. However, a letter is being sent to Mr. McCrary explaining the procedures to be used in petitioning the Commission for an amendment to the Table of Assignments.

According to Lawson/KTEM, site restrictions for Channel 288A at Cameron would prohibit a transmitter location to the south of the city. Therefore, a smaller portion of the presently unserved areas would be covered. Second, Lawson/KTEM argues that the assignment of Channel 288A to Cameron would preclude that channel's use at the presently underserved areas of Killeen/Fort Hood. In support of its counterproposal to assign Channel 288A to Killeen, Lawson/KTEM states that the combined population of the Killeen/Fort Hood area exceeds 100,000 people, and that this population's need for a second local nighttime facility is much greater than Temple's need for additional service.[5] Following the submission of the Lawson/KTEM counterproposal, Lawrence M. Jones, President of L.J. & C.K. Enterprises, Inc., filed an informal comment stating that his company would be interested in applying for Channel 288A at Killeen, if assigned.

5. In its reply comments, Pyle asserts that the Lawson/KTEM counterproposal is merely a "not too subtle attempt to prevent the first competitive aural service" at Temple. Regarding the merits of the counterproposal, Pyle states that Killeen already has three aural services (an AM station, an FM station, and a noncommercial FM station), and is also served by the FM station in the adjacent community of Copperas Cove. Pyle further states that assigning Channel 288A to Killeen would result in intermixture with the Class C station already operating in Killeen.[6] With regard to the assignment of Channel 288A to Franklin, Pyle notes that no party has expressed an interest in such an assignment. Concerning Lawson/KTEM's proposal to reassign Channel 269A to Cameron-Rockdale, Pyle states that no technical showing has been made proving that any site can be found from which a city grade signal can be placed over both communities. Pyle opines that, due to terrain limitations, such a site may be nonexistent. Finally, Pyle argues that its assignment plan is most efficient because it allows the use of Channel 269A in the Texas counties of Burleson, Lee, Fayette, and Washington. Pyle avers that the use of Channel 269A at Giddings in Lee County would provide substantial first and second FM service to that area.

6. In its reply comments, Lawson/KTEM reiterates previous arguments concerning the site restriction problems that the assignment of Channel 288A to Cameron would cause. According to Lawson/KTEM, a currently unserved area of approximately 300.7 square kilometers (116.1 square miles) and a population of 1,196 would be served by Lawson's Channel 269A transmitter site. These areas would not receive service if Channel 288A is substituted. Lawson/KTEM also states that site locations do exist from which a city grade signal on Channel 269A could cover both Cameron and Rockdale. With regard to the conflict with the Stephenville assignment, Lawson/KTEM states that there is a considerable area to the northwest of Stephenville where, with the use of 100 kW power and a height of from 500–750 feet, a transmitter site could be located which would provide a city-grade signal to Stephenville. With a 25 mile site restriction, Lawson/KTEM asserts that substantially all of the FM white and gray areas which would be served under Dixie's original proposal would still be covered. Lawson/KTEM contends that these showings effectively eliminate the conflict between the Killeen and the Stephenville proposals. On September 30, 1980, Lawson/KTEM filed "Supplemental Comments"[7] in which the parties discount the importance of Pyle's assertions regarding the possibility of using Channel 269A at Giddings.[8]

Discussion

7. In our opinion, the equities in favor of the alternative assignment plans discussed herein are very nearly balanced. As stated in the *Notice* in Docket 80–172, the assignment of Channel 289 to Stephenville would serve a significant portion of the surrounding area currently without service or receiving limited service. Providing a first FM service tops the list of the Commission's FM assignment priorities. This priority equally applies in Docket 80–236 with regard to the white areas which Lawson/KTEM states would be lost if Channel 269A is deleted from Cameron. The parties to the proceeding have also submitted convincing evidence that both Temple and Killeen should receive an additional FM assignment. After carefully studying the comments and engaging the staff in several exhaustive engineering studies, we believe that the Commission's statutory mandate to make channel assignments in a fair, equitable, and efficient manner can best be met by satisfying, to some extent, all of the various interests expressed in this proceeding. This can be done by assigning Channel 269A to Temple, Channel 288A to Killeen, Channel 289 to Stephenville with a site restriction, and Channel 276A to Cameron, also with a site restriction.

8. The assignments to Temple and Killeen require little discussion. Because the existing AM and FM stations in Temple are under common ownership, the public would benefit from additional full-time service which would provide an alternative voice on local matters, *cf. Quincy, Florida*, 43 R.R. 2d 639 (Broadcast Bureau 1978). The assignment to Killeen, as Lawson/KTEM points out, will present an opportunity for expanded service to a sizable population. We recognize that by assigning a Class A channel to Killeen, an intermixture situation is created. However, the Commission has permitted intermixture in situations such as this where no Class C channels are available for assignment and the proponent of the Class A channel is willing to compete under such circumstances. *Ada, Oklahoma*, 43 R.R. 2d 248 (Broadcast Bureau, 1978). We further note that this assignment permits the concurrent use of Channel 288A in the Franklin/Calvert/Hearne area of Robertson County. However, because no party has expressed any interest in applying for a channel in those communities, no assignment will be made to that area at this time.

9. As stated in the *Notice* and discussed extensively in the comments, the assignment of Channel 269A to Temple requires its deletion from Cameron. Lawson/KTEM opposes the substitution of Channel 288A for Channel 269A at Cameron because the site restrictions for Channel 288A would

[5] In a separate pleading, Lawson/KTEM notes that the assignment of Channel 288A to Killeen violates the mileage separation requirements with regard to the assignment of Channel 289 at Stephenville. Because of this conflict, Lawson/KTEM requested that the two proceedings be consolidated so that all interests could be simultaneously considered. A copy of the Lawson/KTEM "Motion to Consolidate" was served on the proponent of the Stephenville assignment.

[6] Pyle also contends that the Killeen assignment should not be made because no party has expressed an interest in the channel. The interest of L.J. & C.K. Enterprises was apparently not made known to Pyle due to L.K. & C.K.'s failure to serve Pyle with a copy of its comments.

[7] There is no provision in the Commission's Rules for submitting supplemental comments unless the Commission specifically so requests. See, § 1.415(d) of the Commission's Rules. In this instance, no party has objected to Lawson/KTEM's filing and we believe that no party will be prejudiced by our acceptance and consideration of the comments.

[8] Lawson/KTEM also avers that Pyle's discussion in reply comments of alternative uses of Channel 269A should not be allowed because § 1.45(b) of the rules limits replies to matters raised in initial comments and § 1.420(d) precludes consideration of counterproposals in reply comments. Because Pyle's discussion treated the efficiency of the alternative plans, we do not find § 1.45(b) of the rules to be applicable. Likewise, Pyle's discussion of alternative available assignments did not amount to a counterproposal. Therefore, § 1.420(d) is inapposite.

cause a loss of planned service to previously unserved areas.[9] Our decision to assign Channel 288A to Killeen prevents its assignment as a substitute to Cameron. However, staff studies indicate that Channel 276A can also be assigned to Cameron with a site restriction of 11 kilometers (6.8 miles) east. Our studies indicate that a station transmitting from such a site would provide city-grade coverage to Cameron and provide substantially equivalent, if not greater service than the Channel 269A proposal. The white area to be served by Channel 276A is more to the east and southeast of Cameron than the white area which would have been served by Channel 269A, although a large portion of the white areas overlap.[10] Thus, the assignment of Channel 276A to Cameron allows for a needed first service at Cameron while providing at least equivalent first FM service.[11] The current applicant for Channel 269A at Cameron, Cameron-Rockdale Broadcasting Company, will retain its "cut-off" status and be permitted to amend its application to specify operation on Channel 276A. With regard to the related issue of assigning a channel to Cameron-Rockdale on a hyphenated basis, Lawson/KTEM has provided no evidence to suggest that Cameron or Rockdale alone would be unable to support a station or that the communities are regarded as a single entity.[12] Without such a showing, the Commission does not generally assign a channel to multiple communities. See, *e.g., Covington, Indiana,* 46 R.R. 2d 1111 (Broadcast Bureau 1979).

10. The remaining issues in this proceeding concerns the assignment of Channel 289 to Stephenville. A separation of 168 kilometers (105 miles) is required between a Class C and a first adjacent Class A channel. The distance between Stephenville and Killeen is approximately 130 kilometers (81 miles); therefore, the assignment of Channel 289 to Stephenville could be accomplished only with a site restriction of approximately 39 kilometers (24.4 miles) northwest. According to the engineering studies submitted by Lawson/KTEM, a transmitter located at such a site would place a city-grade signal over Stephenville and also serve a large FM white area. Our review of Lawson/KTEM's data reveals that the white area served from the restricted transmitter site is smaller than the white area which would be served from a site nearer Stephenville. Our perusal of area maps, however, indicates that no cities or towns are located in the deleted white areas. Accordingly, absent some indication that these excluded areas are populous, we do not find that decreasing the amount of white areas to be served is so significant as to deny making the assignment. In this regard, we note that the Stephenville proponent, Dixie, was served with copies of the Lawson/KTEM pleadings, including the motion to consolidate, and has not responded to any of the assertions made by Lawson/KTEM, and in particular the need for a site restriction of this magnitude. Furthermore, Dixie stated in its original petition for rule making that it desired to relocate its existing transmitter site if it were authorized to operate on Channel 289. Given this information plus the absence of any objections on the part of Dixie, we find that assigning Channel 289 to Stephenville with the above-stated site restrictions would serve the public interest. Finally, in the absence of any continuing competing interest in the Stephenville assignment, we will delete Channel 252A from Stephenville and grant Dixie's request to modify its license to specify operation on Channel 289. See, *Cheyenne, Wyoming,* 62 FCC 2d 63 (1976).

11. Accordingly, it is ordered, That effective May 25, 1981, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, *is amended* with respect to the listed communities as follows:

City	Channel Number
Cameron, Texas	276A.
Killeen, Texas	227, 288A.
Stephenville, Texas	289.
Temple, Texas	269A, 285A.

12. It is further ordered, pursuant to the authority contained in § 316 of the Communications Act of 1934, as amended, the license of Station KWWM-FM Stephenville, Texas, is modified, to specify operation on Channel 289. In addition:

(a) At least 30 days before operating on Channel 289, the licensee shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 289; and

(b) At least 10 days prior to cammencing operation on Channel 289, the licensee shall submit the measurement data required of an applicant for an FM broadcast station license; and,

The licensee shall not commence operation on Channel 289 without prior Commission authorization. Furthermore, nothing contained herein shall be construed to authorize a major change in transmitter location or avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's rules.

13. *It is further ordered,* That the Secretary of the Commission *shall send* a copy of this *Order* by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to Dixie Broadcasters, P.O. Box 102, Stephenville, Texas 76401; and to Bruce Lawson Enterprises d/b/a Cameron-Rockdale, Texas 76567.

14. Authority for the actions taken herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

15. *It is further ordered,* That this proceeding is terminated.

16. For further information concerning this proceeding, contact Michael A McGregor, Broadcast Bureau, (202) 632-7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 81-10502 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[9] Lawson also argues that any site restriction would diminish service to the city of Rockdale and the populous areas south of Rockdale. We note that should Lawson or any other party wish to provide primary service to these areas, Channels 257A and 296A are available for assignment to Rockdale with certain site restrictions.

[10] According to Lawson/KTEM, Lawson's proposed Channel 269A transmitter site would provide a first service to 300.7 square kilometers (116.1 miles) with a population of 1,196. See, paragraph 6, *supra.* These population figures were computed by overlaying 1970 Minor Civil Division Maps onto the proposed station coverage maps. The Minor Civil Division maps were not included in Lawson/KTEM's pleadings so we could not calculate the population of the white area which will be served using the required Channel 276A transmitter site. However, a newspaper article appended to Lawson/KTEM's pleading states that, according to preliminary 1980 Census data, the area around Milano and Gause showed a significant increase in population. Our engineering study indicates that the white area which would be covered by Channel 276A with a 6.8 mile east site restriction surrounds the Milano and Gause area and would not be covered using Lawson's proposed Channel 269A transmitter site.

[11] Our engineering studies also indicate that Channel 232A could be assigned to Cameron with a site restriction of 6 kilometers (3.8 miles) north. This channel was not chosen for assignment to Cameron, however, because its service area would not include as great a portion of the presently unserved areas to the east-southeast of Cameron.

[12] See footnote 9, *supra.*

47 CFR Part 73

[BC Docket No. 80-244; RM-2650; FCC 81-80]

Radio Broadcast Services; Presunrise Operation of Certain Class II Stations

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Action taken herein amends Section 73.99 of the Commission's Rules to permit certain Class II stations situated between co-channel Class I-B clear channel stations to commence presunrise operation at 6:00 a.m., local time.

EFFECTIVE DATE: April 17, 1981.

ADDRESS: Federal Communications Commission, 1919 "M" Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Broadcast Bureau, (202) 632-6485.

SUPPLEMENTARY INFORMATION: In re matter of amendment of § 73.99 of the Commission's Rules; report and order.

Adopted: February 25, 1918.

Released: March 9, 1981.

1. On June 10, 1980, we released a *Notice of Proposed Rulemaking* in the above-captioned matter. 45 FR 40626. In that action we proposed a uniform 6:00 a.m. presunrise sign-on time for certain Class II stations situated outside the respective 0.5 mV/m-50 percent contours of co-channel U.S. Class 1-B clear channel stations. Interested parties were invited to file comments on or before July 14, 1980 and reply comments on or before August 8, 1980.

2. That *Notice* proposed amendment of § 73.99(b)(1) of the Rules to permit certain Class II stations to commence presunrise operation at 6:00 a.m., local time, with a sufficient power reduction to protect the 0.5 mV/m-50 percent contour of *both* co-channel U.S. Class I-B clear channel stations. Presently, § 73.99(b)(1) of the Rules, in effect, only permits such a Class II station to commence presunrise operation at sunrise at the co-channel Class I-B station located to the *east* with power reduced to protect the 0.5 mV/m-50 percent contour of the co-channel Class I-B station located to the *west*. At local sunrise, the Class II station would then commence operation with its daytime mode.

3. As discussed in the earlier *Notice*, the presunrise operating privileges of the Class II stations assigned to Class I-B clear channels were not a major thrust of the extensive 1967 presunrise rulemaking proceeding. *Operation by Standard Broadcast Stations*, 8 FCC 2d 698 (1967). Underlying that rulemaking proceeding was our concern of potentially substantial cumulative skywave interference to the early morning service of fulltime AM stations. In buttressing this concern, we were cognizant that substantial interference would already result by our action permitting nearly all Class III (regional) stations to operate with 500 watts commencing at 6:00 a.m. local time. As a consequence, this reinforced our decision, at that time, to take a relatively conservative approach in regard to further compromising early morning clear channel service to remote areas and populations.

Based upon our experience with Class III stations, it appears that early morning PSA broadcast service has not, in fact, caused the substantial early morning interference to fulltime stations originally feared but, rather, has benefited the listeners of the approximately 2500 stations now holding PSA's. Similarly it also appears that the presently authorized PSA operations by Class II stations have not caused detrimental cumulative skywave interference to clear channel service to remote areas and populations. Therefore, we proposed an expansion of PSA service by authorizing a uniform 6:00 a.m. sign-on time for certain Class II stations.

4. In veiw of the relatively limited nature of this proceeding, we did not receive a volume of comments comparable to the earlier presunrise rulemaking proceeding. The comments we received from daytime AM stations as well as the Daytime Broadcasters Association were uniformly favorable. Moreover, the Daytime Broadcasters Association questioned the advisability of protecting the 0.5 mV/m-50 percent contour of the Class I-B station as required by § 73.99(c)(2) of the Rules. In a similar context, the licensees of Class I-B stations have not opposed this proposed rulemaking. In this regard, Jefferson-Pilot Broadcasting Company, licensee of Class I-B Station WBT, Charlottee, North Carolina has filed specific comments not opposing this rule change. On the other hand, Jefferson-Pilot Broadcasting Company along with several other licensees of Class I-B stations have strongly objected to the suggestion by the Daytime Broadcasters Association and certain daytime licensees that the Commission revise the 0.5 mV/m-50 percent protection contour for Class I-B stations. As correctly observed by these parties, such a proposal is clearly outside the scope of this proceeding and will not now be considered. In addition, it should be noted that the Association for Broadcasting Engineering Standards, Inc. has filed an engineering statement challenging the engineering assertions upon which the Daytime Broadcasters Association based their suggested revision of the 0.5 mV/m-50 percent protection contour.

5. Authority for the adoption of this *Report and Order* is contained in Sections 4(i), 303(c), 303(e), 303(r) and 307(b) of the Communications Act of 1934, as amended.

6. Accordingly, it is ordered That, effective April 17, 1981, § 73.99 of the Rules is amended as set forth in the Appendix.[1]

7. It is further ordered, That proceedings in BC Docket No. 80-244 are hereby terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Willaim J. Tricarico,

Secretary.

Appendix

In § 73.99 of the Commission's Rules, subparagraphs (b) (1) and (2) and paragraph (c) are revised to read as follows:

§ 73.99 Presunrise service authorizations (PSA).

* * * * *

(b)* * *

(1) Class II stations operating on Mexican and Bahamian I-A clear channels may commence PSA operation with their daytime antenna systems at 6 a.m. local time, and continue this operation until the sunrise times specified in their basic instruments of authorization. Class II stations situated outside the respective 0.5 mV/m-50 percent contours of co-channel domestic Class I-B Clear Channel stations, may commence PSA operation at 6 a.m. local time, and continue this operation until the sunrise times specified in their basic instruments of authorizations. Other Class II stations, where eligible under paragraph (a)(1) of this section, may commence PSA operation either at 6 a.m. local time, or at the time of sunrise at the nearest Class I station located east of the Class II station (whichever is later), and continue this operation until the sunrise time specified in their basic instruments of authorization. The permissible PSA power shall not exceed 500 watts (or the authorized daytime or critical hours power, if less than 500

[1] In the interest of clarity, we are also making certain nonsubstantive changes in § 73.99 (b) and (c).

watts), or such lesser power as may be determined by computations made pursuant to paragraph (c) of this section.

(2) Class III stations may commence operations with their daytime antenna systems at 6 a.m. local time, and continue this operation until local sunrise. The permissible PSA power shall not exceed 500 watts or such lesser power as may be determined on the basis of calculations made pursuant to paragraph (c) of this section.

* * * * *

(c) PSA requests shall be treated as proposals for minor changes in existing facilities and, as such, are not subject to the procedural requirements or remedies applicable to applications for new facilities and major changes. PSA requests shall be submitted by letter, signed in the manner specified in section 1.1513 with the following information:

(1) Name, call letters, and station location.

(2) Class II stations operating on clear channels other than Class I–A clear channels, must show the objectionable interference as determined by the AM Technical Standards (§§ 73.182 to 73.190), or by the engineering standards of the NARBA (whichever is controlling), will not be caused within the 0.5 mV/m-50 percent skywave contour of any domestic Class I–B stations, or of a Class I–B station in any country signatory to the NARBA. Both Class II stations operating on Mexican Class I–A clear channels and Class II stations located east of co-hannel Mexican Class I–B stations must show that under the engineering standards of the United States/Mexican Agreement that the Class II station does not produce a signal in excess of 25 μV/m-10 percent skywave at any point on the co-channel Mexican Class I station's 0.5 mV/m-50 percent skywave contour which falls on Mexican territory, or more than 50 μV/m-10 percent skywave at any point on the Mexican border where the signal of the Mexican Class I station exceeds 0.5 mV/m-50 percent skywave in strength. In addition, the applicant must show that foreign Class II stations (if any) assigned to the same channel as the U.S. Class II station will receive full protection under the standards for nighttime operation set forth in the applicable agreement. If the foregoing protections cannot be achieved by the Class II station while operating with 500 watts, a showing may be submitted to establish the level to which power must be limited to preclude objectionable interference, provided: That, in relation to Canadian Class II stations, the permissible power level may be established in the manner described in paragraph (c)(3) of this section by the use of Figure 12 of § 73.190.

Note.—PSA applicants for the Bahamian I–A clear channel (1540 kHz) need not submit the nighttime interference study required of other PSA applicants under this subparagraph.

Instead, the FCC will assign a power and time of commencement of presunrise operation consistent with the provisions of the U.S.-Bahamian presunrise agreement (1974) and the protection requirements of U.S. I–B and foreign Class II full-time station assignments on this frequency.

(3) Class III stations must show that co-channel stations in foreign countries will receive full treaty protection. If such protection cannot be achieved on the basis of 500-watt operation, calculations may be submitted to establish the level to which power must be reduced to preclude objectionable interference, provided: That, with respect to Canadian Class II stations, such power level may be established by a showing that the radiation at the pertinent vertical angle toward co-channel Canadian stations does not exceed that defined in Figure 12 of § 73.190. If the latter showing cannot be made on the basis of 500-watt operation, calculations may be submitted to establish the level to which power must be reduced in order to limit radiation at the pertinent vertical angle to the values specified in Figure 12 of § 73.190.

* * * * *

[FR Doc. 81-9758 Filed 4-6-81; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1109

[Ex Parte No. 393]

Standards for Railroad Revenue Adequacy

AGENCY: Interstate Commerce Commission.

ACTION: Final Rule.

SUMMARY: The Commission has repealed its existing rules for determining railroad revenue adequacy which appear at 49 CFR 1109.25. No new rules were adopted. However, in a decision served on March 30, 1981, the Commission established as the primary standard for rail revenue adequacy a rate of return on investment equal to the cost of capital.

EFFECTIVE DATE: The rules will be repealed 30 days after publication in the **Federal Register.**

ADDRESS: Copies of the decision may be obtained from the Office of the Secretary, Room 2227, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Richard Felder, (202) 275–7693
Barry Harris, (202) 275–0810

SUPPLEMENTARY INFORMATION: The revenue adequacy rules at 49 CFR 1109.25 are removed. Further information is contained in the decision in this proceeding served March 30, 1981.

(49 U.S.C. 10704)

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-10491 Filed 4-6-81; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 46, No. 66
Tuesday, April 7, 1981

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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 140

Proficiency Examinations for Associated Persons; Delegation of Authority; Proposed Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to adopt a rule which, in essence, would require every individual who is registered as an associated person ("AP") following the effective date of the rule to have taken and passed at the minimum competency level a specified written proficiency examination within two years preceding the date of his filing an application to be registered as such. The proposed rule would not apply, however, to an applicant who at any time within the two years preceding the date of his filing an application was a registered AP. Thus, under the proposed rule, a currently registered AP would not be subject to the examination requirement unless his registration lapsed for a period of two years or more and he thereafter applied for registration. The examination program would be developed and administered by such person or persons as the Commission selects or, if the Commission so directs, as a futures association registered under Section 17 of the Act ("Title III organization") selects, subject to supervision by the Commission or, if the Commission so directs, by a Title III organization. The Commission or, if the Commission so directs, a Title III organization would select an independent testing organization to develop and administer the examination program. The testing organization would establish and collect a reasonable examination fee, approved by the Commission or, if the Commission so directs, by a Title III organization, based upon the cost of developing and administering the examination program.

The trading of futures contracts requires substantial knowledge; margin, delivery, and other requirements are highly complicated. In addition, individuals who solicit or accept customers' orders are subject to the rules of self-regulatory organizations and the Commission. To protect the interests of customers of futures commission merchants ("FCMs") and of agents of FCMs, the Commission believes it is essential that applicants for AP registration demonstrate minimum competency in these areas. The proposed examination requirement is intended to ensure that such minimum competency is demonstrated prior to the grant of registration to APs.

DATES: Comments on the proposed rules should be submitted by June 8, 1981.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: David S. Mitchell, Esq., or Robert P. Shiner, Assistant Director for Registration, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955 or 254–9703.

SUPPLEMENTARY INFORMATION:

A. Introduction

Section 4p of the Commodity Exchange Act, as amended ("Act")[1], specifically provides that "* * * the Commission may prescribe by rules and regulations the adoption of written proficiency examinations to be given to applicants for registration as * * * persons associated with futures commission merchants * * *." Section 4p was enacted as part of the Commodity Futures Trading Commission Act of 1974. Prior to the adoption of the 1974 Act, a subcommittee of the House of Representatives had found that the absence of federal regulation or fitness standards for those who worked for FCMs created the real danger that customer accounts would be handled by unqualified invidiuals.[2] Significantly, Mr. Michael Weinberg, Jr., then-chairman of the Chicago Mercantile Exchange, suggested in testimony before the subcommittee that all persons who solicited customer business be required to pass an examination.[3] The Chairman of the Board of Trade of the City of Chicago advanced a similar proposal.[4] The Report concluded that "[i]n order to adequately protect the investing public, * * * registration requirements and fitness tests should be imposed on commodity solicitors, advisors, and all other individuals who are involved either directly or indirectly in influencing or advising the investment of customers' funds.[5]"

The Commission's Advisory Committee on Commodity Futures Trading Professionals ("Martin Committee"), which was composed of industry representatives, made a similar recommendation in 1976: "*The level of competence among associated persons is clearly in need of being upgraded. Accordingly, by the earliest feasible date, all new applicants for registration as associated person must be required to pass a proficience examination as a condition of registration.*"[6]

On March 20, 1980, the Commission proposed substantial revisions in its registration regulations and in connection with that proposed rulemaking, it also announced that it was actively considering "the development and implementation of a standardized proficiency examination which would be administered to applicants for registration * * *"[7] The Commission invited interested persons to submit comments on this proposal.[8] While the commenters expressed differing views concerning the most effective manner in which to develop and implement such an examination requirement, they *all* supported the concept of a standardized proficiency

[1] 7 U.S.C. 6p.

[2] Subcommittee on Special Small Business Problems of the House Permanent Select Committee on Small Business. *Small Business Problems Involved in the Marketing of Grain and Other Commodities*. H.R. Rep. No. 93–963, 93rd Cong., 2d Sess. at 36–37 (1974).

[3] *Id.* at 37.

[4] *Id.*

[5] *Id.*

[6] *Report of the Commodity Futures Trading Commission Advisory Committee on Commodity Futures Trading Professionals*, Comm. Fut. L. Rep. (CCH), No. 29, Part II (August 20, 1976), at 16 (emphasis in original).

[7] 45 FR 18356, 18357 (March 20, 1980).

[8] *Id.*

examination for applicants for registration as APs.

Several exchanges now require APs of their member FCMs to pass a written proficiency examination, namely, the National Commodity Futures Examination ("NCFE").[9] The fact that these exchanges which account for approximately 75% of the volume of all futures trading in the United States have this requirement attests to the industry's recognition of the desirability of testing. Moreover, approximately 86% of the 31,638 APs who were registered and affiliated with firms as of October 1, 1980 were employed by firms which are members of at least one of the exchanges which require testing and therefore, were required to have taken and passed the NCFE. However, 4,445 APs who either worked for firms which are members of exchanges without an examination requirement or for non-member firms did not have to take and pass a written proficiency examination.

The proposed rule is intended to remedy this by requiring all applicants for registration as APs, whether or not they will ultimately work for a firm which is a member of an exchange which has an examination requirement to pass a standardized, industry-wide proficiency examination at the minimum competency level.

The required examination, which would be developed and administered by the selected testing organization, would replace the NCFE. The Commission expects that the NCFE would be extensively reviewed and, to the extent feasible, would be used as a basis or starting point in the development and administration of the required examination. The establishment of a standardized, industry-wide proficiency examination would, of course, not preclude FCMs and agents of FCMs from imposing additional testing requirements for APs as a condition of employment.

Section 4p of the Act also provides, in pertinent part, that "the Commission may prescribe by rules and regulations * * * the establishment of reasonable fees to be charged to such applicants to cover the administration of such examinations." It further provides that "[I]n lieu of examinations administered by the Commission, futures associations registered under Section 17 of this Act * * * may adopt written proficiency examinations to be given to applicants for registration as * * * persons associated with futures commission merchants * * * and charge reasonable fees to such applicants to cover the administration of such examinations." Accordingly, the Commission is proposing to implement this provision by utilizing the selected testing organization and providing that such organization may establish a reasonable examination fee, subject to Commission approval or, if the Commission so directs, to approval by a Title III organization, based upon the cost of developing and administering the examination program.[10]

B. Section-by-Section Analysis

1. *The Examination Requirement.* Proposed § 3.5(a) would require every individual who is registered as an AP following the effective date of the rule to have taken and passed at the minimum competency level a written proficiency examination within two years preceding the date of his filing an application to be registered as such. Proposed § 3.5(a) would, however, exempt from the examination requirement an individual who at any time within the two years preceding the date of his filing an application was a registered AP. For example, under the proposed rule, a currently registered AP would not be subject to the examination requirement unless his registration lapsed for a period of two years or more and he subsequently applied for registration as an AP.[11]

2. *The Development and Administration of the Examination Program.* Proposed § 3.5(b) would provide that the person or persons whom the Commission selects or, if the Commission so directs, whom a Title III organization selects, would develop and administer the required written proficiency examination, subject to supervision by the Commission or, if the Commission so directs, by a Title III organization. The Commission is proposing a rule which would permit it to direct that an appropriate Title III organization take over responsibility for any or all phases of the examination program, including selection of a testing organization as well as the supervision of the development and administration of the required examination.[12]

In the event, however, that an appropriate Title III organization is not available for these purposes, the Commission would select an independent testing organization to develop and administer the required written proficiency examination. In that case, Federal government contracting procedures require that a vendor providing services be selected on a competitive basis by means of a document known as a "Request for a Proposal" ("RFP").[13] The Commission envisions that the RFP would include specific criteria for the development and administration of the examination and provide that the selected testing organization would be assisted in developing the examination by an advisory panel consisting of five to ten individuals of demonstrated knowledge and experience in the area of commodities trading and the regulation thereof and, further, anticipates that the panel would in turn be assisted in this process by interested persons throughout the industry.

The testing organization would establish the advisory panel and select the members of the panel, subject to Commission approval. Since the panel would be established by the testing organization and provide advice to that organization, not the Commission, it would not be an advisory committee within the meaning of the Federal Advisory Committee Act,[14] and therefore, the requirements of that statute would not be applicable.

The RFP would specify that the examination to be developed would test entry-level knowledge, that is, the minimum knowledge that an AP needs to function in a manner that protects the interests of customers of FCMs and of customers of agents of FCMs.[15] Consequently, the Commission expects that the examination would cover two areas: (1) Basic knowledge of the commodities industry, and (2) pertinent laws, rules and and regulations. The advisory panel would recommend to the testing organization what should constitute entry-level knowledge in these two areas.

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[9] The exchanges which currently require APs of their member FCMs to take and pass the NCFE are the Board of Trade of the City of Chicago (CBT), the Chicago Mercantile Futures Exchange (CME), the Minneapolis Grain Exchange (MGE), and the New York Futures Exchange, Inc. (NYFE). The NCFE is a 125-question examination which has been developed by the Inter-Exchange Examination Committee, a consortium of exchanges.

[10] *See* Section 8a(5) of the Act, 7 U.S.C. 12a(5).

[11] Section 4p of the Act authorizes the Commission to exempt from any written proficiency examination requirement individuals "who have demonstrated, through training and experience, the degree of proficiency and skill necessary to protect the interests of the customers of futures commission merchants * * *." The Commission specifically invites comments as to whether the two-year period should be longer or shorter.

[12] *See* discussion above.

[13] The preparation of the RFP and the selection process generally would be governed by the federal procurement requirements contained in Chapter 4 of Title 41 of the United States Code, 41 U.S.C. 251 *et seq.* and in regulations of the General Services Administration contained in 41 CFR Chapter 1.

[14] 5 U.S.C. App. I.

[15] *Report of the Commodity Futures Trading Commission Advisory Committee on Commodity Futures Trading Professionals*, Comm. Fut. L. Rep. (CCH), No. 29, Part II (August 20, 1976), at 47.

Since the Commission is committed to the development of an examination that is valid and reliable, the RFP would provide that the testing organization would have to develop an examination that is consistent with the "Uniform Guidelines on Employee Selection Procedures" [16] and with generally accepted testing procedures, such as those of the American Psychological Association. While the Commission is not in any way challenging the propriety or adequacy of the NCFE, recent discussions with officials responsible for administering this examination have indicated that important questions of test security, content validity and compliance with federal equal opportunity guidelines must be addressed. A uniform examination would deal appropriately with these issues. In addition, a uniform examination is more desirable than several separate examinations because of the difficulty of equating the results of independently developed and administered examinations.

The RFP would further require the testing organization to employ the "content validation" approach to the development of an examination [17] since the Commission believes that this technique is best suited to the development of an examination that will accomplish its objectives. The testing organization, assisted by the advisory panel, would be responsible for developing a pool of examination questions to be used in formulating a sufficient number of versions of the examination to ensure that the examination questions and the correct answers thereto did not become common knowledge and that each version of the examination would cover the same subject matter at an equivalent level of difficulty. As noted previously, the Commission expects that the testing organization would utilize, to the extent feasible, the pool of questions developed for the NCFE. The contribution of the members of the advisory panel would be particularly important to ensure that the questions developed would be job-relevant and that they dealt with basic knowledge of the commodities industry and pertinent laws, rules and regulations.

The RFP would be drafted to take into account the fact that the development of examination questions is a continuing, not a static, process. It follows that the testing organization would be responsible, with continuing advice from the advisory panel, for periodically upgrading the examination to test new and relevant subject matter. As part of this process, the RFP would require the testing organization to conduct systematic, regular computer data analyses of the examination results. Such a review would be designed to assess the examination's reliability, evaluate the performance of tested individuals, identify changes in performance based on varying content, and most importantly, to evaluate the performance of individual examination questions to ensure that they effectively separate fit individuals from those who are unfit. The Commission is aware that such analyses are regularly performed for many national certification and licensing programs as an added check on the soundness of the examination being used. The Commission would expect that the testing organization would make available summary statistical data to the Commission staff, the industry and the public. [18]

The RFP would specify that the testing organization would be responsible for all aspects of administration, including printing and distributing outlines of what the examination would cover, disseminating information on the procedures for registering to take the examination as well as any other relevant information needed to assist applicants and training groups in preparing for the examination, and notifying the Commission of examination results. In developing the RFP, the Commission is aware that the testing organization might well administer the examination through a computer terminal in a manner similar to the way in which the NCFE is presently administered, except where efficient administration would require that a written examination be administered. [19] The RFP would also provide that the testing organization be responsible for security, that is, for minimizing the opportunity for cheating, collusion, impersonation, etc.

Proposed § 3.5(b) would enable the testing organization to establish and collect a reasonable examination fee, subject to approval by the Commission or, if the Commission so directs, by a Title III organization, based upon the cost of developing and administering the examination program. The RFP would request each prospective testing organization to stipulate the fee it proposes to establish, and selection of a testing organization would be based partly, but not solely, on the reasonableness of the proposed fee. The Commission notes that the fee for the NCFE is approximately $40 per tested individual. In this connection, the proposed rule would either permit the individual applicant or his prospective employer to pay the examination fee. As a result of conversations between exchange officials and its staff, the Commission understands that firms usually either pay the fee for their prospective employees to take the NCFE or later defray the cost of the examination for APs whom they hire.

The Commission wishes to emphasize that if a Title III organization is directed to take over responsibility for the examination program, the Commission would require, where relevant, that all of the preceding standards and principles be followed by such organization.

Proposed § 140.94(a) would delegate to the Director of the Division of Trading and Markets and to such members of the Commission's staff acting under his direction as he may designate from time to time, the functions reserved to the Commission in proposed § 3.5 until such time as it ordered otherwise. The Commission anticipates that the functions specified in proposed § 3.5, except for the selection of a person or persons to develop and administer the required written proficiency examination, would be conducted by its staff pursuant to delegated authority and subject to Commission oversight.

Proposed § 140.94(b) merely provides that the Director of the Division of Trading and Markets may submit any matter which has been delegated to him pursuant to § 140.94(a) to the Commission for its consideration.

Proposed §140.94 pertains solely to agency procedure and practice. Accordingly, the requirements of notice and opportunity for participation by the public under the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply. Nontheless, the maximize public

[16] 43 FR 38290 (August 25, 1978). These guidelines were jointly developed by four federal agencies: the Equal Employment Opportunity Commission, the Department of Labor, the Department of Justice and the Civil Service Commission (now the Office of Personnel Management).

[17] See the "Uniform Guidelines on Employee Selection Procedures," Section 14C, 43 FR 38302.

[18] The proficiency examination and the transmission of test scores of AP applicants to the Commission raise various issues under the Privacy Act of 1974, 5 U.S.C. 552a. The Commission intends to address fully the Privacy Act considerations in conjunction with the development of the proficiency examination. These considerations include notice to those taking the examination of the kinds of disclosures which will be made of the test scores and appropriate safeguards to ensure that such personal information is properly treated. The Commission specifically invites comments on the privacy aspects of this proposal.

[19] For exmaple, in cases where an FCM presented a large class of trainees, sufficient computer terminals might not be available to test the entire group in a short period of time. To avoid disrupting the training program, the testing organization would be expected to provide written examinations and appropriate facilities and proctors.

participation in the rulemaking process, the Commission has determined to publish this proposed rule for public comment.

C. Regulatory Flexibility Act Certification

Proposed § 3.5(b) would authorize the testing organization to establish and collect a reasonable examination fee, subject to Commission approval or, if the Commission so directs, to approval by a Title III organization, based upon the cost of developing and administering the examination program. The Commission expects that the fee for the required examination would be comparable to the fee for the NCFE, which is approximately $40 per tested individual. As previously indicated, the Commission is aware that currently, FCMs usually absorb the $40 examination fee, either by direct payment or by reimbursement of their APs.[20] Assuming that this current industry practice will continue, the Commission expects that the impact of the proposed rule on affected FCMs would be approximately $40 per tested individual.

As of October 1, 1980, there were 179 FCMs which were not members of the CBT, CME, MGE, or NYFE and which therefore would be subject to increased costs if the Commission promulgated the proposed rule.[21] Of these 179 FCMs, there were 140 which employed 0–19 APs, with an average of 4 APs per FCM; there were 36 which employed 20–249 APs with an average of 72 APs per FCM; and there were 3 which employed 250–499 APs, with an average of 440 APs per FCM. During fiscal year 1980 (October 1, 1979–September 30, 1980), there were 11,207 newly-registered APs. The 179 FCMs referred to above employed a total of 4,445 APs, or approximately 14% of the 31,638 affiliated, registered APs. Assuming that the 11,207 newly-registered APs will go to work for these 179 FCMs in numbers equal to the proportion of affiliated, registered APs that these 179 FCMs employed as of October 1, 1980, the Commission estimates that 14% of the 11,207 newly-registered APs, or approximately 1,569 newly-registered APs will become affiliated with these 179 FCMs. Of the 179 FCMs, the 140 FCMs which employed 0–19 APs, accounted for about 12% of the 4,445 APs employed by the group, and allocating 12% of the 1,569 newly-registered APs to them yields 188 APs, or approximately 1 newly-registered AP per FCM. The 36 FCMs which employed 20–249 APs, accounted for about 58% of the 4,445 APs employed by the group, and allocating 58% of the 1,569 newly-registered APs to them yields 910 APs, or approximately 25 newly-registered APs per FCM. Finally, the 3 FCMs which employed 250–499 APs, accounted for about 30% of the 4,445 APs employed by the group, and allocating 30% of the 1,569 newly-registered APs to them yields 470 APs, or approximately 157 newly-registered APs per FCM. Consequently, the Commission estimates that if these patterns continue, the costs for the 179 FCMs which would be affected by the proposed rule would be as follows:

(1) For the 140 FCMs which would each hire on average an estimated 1 newly-registered AP per year, the cost would be $40 per FCM.

(2) For the 36 FCMs which would each hire on average an estimated 25 newly-registered APs per year, the cost would be $1,000 per FCM.

(3) For the 3 FCMs which would each hire on average an estimated 157 newly-registered APs per year, the cost would be $6,280 per FCM.

Accordingly, pursuant to Section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1168, (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comment from any small firms which believe that promulgation of this rule will have a significant economic impact on them.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act, as amended, and in particular, Sections 4k, 4p, and 8a thereof, 7 U.S.C. 6k, 6p and 12a, the Commission hereby proposes to revise Chapter I of Title 17 of the Code of Federal Regulations by adding a new § 3.5 and a new § 140.94 as follows:

PART 3—REGISTRATION

1. Section 3.5 is proposed to be added and, as added, would read as follows:

§ 3.5 Proficiency examinations for associated persons.

(a) No individual who applies for registration as an associated person may be registered as such unless, within the two years preceding the date of his filing an application, such individual has taken and passed at the minimum competency level the written proficiency examination required by the Commission and designed to measure basic knowledge of the commodities industry and pertinent laws, rules and regulations. This examination requirement will not apply to any individual who at any time within the two years preceding the date of such filing was a registered associated person.

(b) The required written proficiency examination will be developed and administered by such person or persons as the Commission selects or, if the Commission so directs, as a futures association registered under Section 17 of the Act, selects. The development and administration of the required written proficiency examination will be subject to supervision by the Commission or, if the Commission so directs, by a futures association registered under Section 17 of the Act. The person or persons who develop and administer the required written proficiency examination may establish and collect a reasonable fee, subject to approval by the Commission or, if the Commission so directs, by a futures association registered under Section 17 of the Act, based upon the cost of developing and administering the examination.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

2. Section 140.94 is proposed to be added and, as added, would read as follows:

§ 140.94 Delegation of authority respecting proficiency examinations for associated persons to the Director of the Division of Trading and Markets.

(a) The Commission hereby delegates, until such time as the Commission orders otherwise, all functions reserved

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[20] The Commission anticipates that its required proficiency examination would be used in place of the NCFE. Consequently, the proposed rule should not impose any additional costs on an FCM which is a member of an exchange that currently has an examination requirement for APs, (CBT, CME, MGE, and NYFE) and which is presently paying $40 per AP applicant tested. Of course, if an AP pays his own examination fee, there is no economic impact on the small entity with which he would be associating, and the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, would therefore not be applicable.

[21] The existing regulations of the Small Business Administration ("SBA") do not contain a definition of "small business" which is appropriate for FCMs or for similar entities that the Commission regulates. However, on March 10, 1980, the SBA issued an advance notice of a proposed rulemaking, in which it set forth amendments to its size standard regulations for small businesses (45 FR 15442). Under proposed § 121.2, a service firm which employed 25 or fewer employees would be deemed a "small business." In defining small business, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, essentially adopts the SBA definition of this term. 5 U.S.C. 601(3). Under this proposed standard, therefore, many of the 179 FCMs would not be small entities, since its is evident that they employ more than 25 employees in total, and the requirements of the Regulatory Flexibility Act would thus not be applicable. Nevertheless, the Commission has analyzed the impact of the proposed rule on all the affected FCMs.

to the Commission in § 3.5 of these regulations, to the Director of the Division of Trading and Markets and to such members of the Commission's staff acting under his direction as he may designate from time to time.

(b) The Director of the Division of Trading and Markets may submit any matter which has been delegated to him under paragraph (a) of this section to the Commission for its consideration.

Issued in Washington, D.C. on April 2, 1981, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-10485 Filed 4-6-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Mississippi—1)]

High-Cost Gas Produced From Tight Formations

Issued: April 1, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by Section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendation of the State Oil and Gas Board of Mississippi that the Upper Hosston Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on May 1, 1981.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 16, 1981

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Leslie Lawner, (202) 357-8307 or John Bassett/Ting Chin, (202) 357-8589/8595.

SUPPLEMENTARY INFORMATION:

I. Background

On March 5, 1981, the State Oil and Gas Board of Mississippi (Mississippi) submitted to the Commission a recommedation in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Upper Hosston Formation in Jefferson Davis County, Mississippi, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Mississippi's recommendation that the Upper Hosston Formation be designated a tight formation should be adopted. Mississippi's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of the Recommendation

Mississippi recommends that the Upper Hosston Formation found in the south half of Township 9 North, Range 19 West, Jefferson Davis County, Mississippi, be designated as a tight formation.

The top of the recommended formation varies from 14,000 to 14,700 feet, with the bottom of the formation at approximately 15,900 feet. The only producing well in the Upper Hosston Formation in the recommended area is completed in an interval of 14,460 feet to 14,570 feet. The Upper Hosston Formation lies immediately below the James Formation.

III. Discussion of Recommendation

Mississippi claims in its submission that evidence gathered and presented at a public hearing in support of this recommedation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommeded formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Mississippi further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are, or are expected to be, used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Mississippi that the Upper Hosston Formation, as described and delineated in Mississippi's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 1, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Mississippi-1), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than April 16, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Mississippi's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding new paragraph (d)(40) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(40) *Upper Hosston Formation in Mississippi.* RM79-76 (Mississippi-1).

(i) *Delineation of Formation.* The Upper Hosston Formation is found in the south half of Township 9 North, Range 19 West, Jefferson Davis County, Mississppi

(ii) *Depth.* The top of the Upper Hosston Formation varies from 14,000 feet to 14,700 feet and the base of the formation is at approximately 15,900 feet.

* * * * *

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18 CFR Part 271

[Docket No. RM79-76 (Texas—8)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

Issued: April 1, 1981.

AGENCY: [Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendation of the Railroad Commission of Texas that the Geopressured Wilcox Lobo Sandstone Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on May 1, 1981.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 16, 1981.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307 or John Bassett/Ting Chin, (202) 357-8589/8595.

SUPPLEMENTARY INFORMATION:

I. Background

On March 2, 1981, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Geopressured Wilcox Lobo Sandstone Formation, located in the southern part of the State of Texas, in Webb and Zapata Counties, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Geopressured Wilcox Lobo Sandstone Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Geopressured Wilcox Lobo Sandstone Formation (hereinafter referred to as the "Geopressured Wilcox Lobo"), located in Webb and Zapata Counties of Texas Railroad Commission District 4, be designated as a tight formation. Within the aforementioned two-county area, a portion of the formation is not included in the recommendation. The portion not being recommended at this notice time is a part of southwest Webb County and a part of northwest Zapata County. (See Appendix B contained in the recommendation on file with the Commission). The Geopressured Wilcox Lobo is located below the Lower Wilcox Group and above the Wills Point Formation which is a part of the Midway Group. The principal correlative members of the formation are the Upper Lobo, Lobo 1, Lobo 3 and Lobo 6 with the Lobo 1 and Lobo 6 members being the major gas producing reservoirs. The Texas recommendation includes only those reservoirs that are geopressured (pressure greater than 0.465 psi per foot of true vertical depth). The approximate thickness of the Geopressured Wilcox Lobo varies from 1,175 feet in the north to 3,130 feet in the south. The highest portion of the recommended formation appears at 5,840 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are, or are expected to be, used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued August 1, 1980, in Docket No. RM80-68 (45 F.R. 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Geopressured Wilcox Lobo Sandstone Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 1, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Texas-8), and should give reasons, including supporting data, for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's

Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than April 16, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. § 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding new paragraph (d)(41) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's file in Docket No. RM79–76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(41) *Geopressured Wilcox Lobo Sandstone Formation in Texas.* RM79–76 (Texas–8)

(i) *Delineation of formation.* The Geopressured Wilcox Lobo Sandstone Formation is found in the southern part of Texas in Webb and Zapata Counties, Railroad District 4, and is located below the Lower Wilcox Group and above the Wills Point Formation which is part of the Midway Group.

(ii) *Depth.* The highest portion of the Geopressured Wilcox Lobo Sandstone Formation appears at 5,840 feet. The approximate thickness varies from 1,175 feet in the north to 3,130 feet in the south.

* * * * *

[FR Doc. 81–10373 Filed 4–6–81; 8:45 am]

BILLING CODE 6450–85–M

18 CFR Part 271

[Docket No. RM79–76 (Texas—9)]

Issued: April 1, 1981.

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Travis Peak Formation in the Sym-Jac, West (Hosston) Field be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on May 1, 1981.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 16, 1981.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner; (202) 357–8307, or Ting Chin, (202) 357–8595/John Bassett (202) 357–8589.

SUPPLEMENTARY INFORMATION:

I. Background

On March 16, 1981, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Travis Peak Formation in the Sym-Jac, West (Hosston) Field, located in the eastern part of the State of Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the Travis Peak Formation in the Sym-Jac, West (Hosston) Field be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Travis Peak Formation in the Sym-Jac, West (Hosston) Field, encountered in Cherokee County, Texas, Railroad Commission District 6, be designated as a tight formation. The particular area being recommended is located about 5 miles south of the city of Rusk, county seat of Cherokee County, Texas. The Travis Peak Formation is the basal formation of the Lower Cretaceous series and overlies the Jurassic Cotton Valley Sands and is below the Pettit Formation.

The total formation thickness is approximately 2,200 feet in the only well in the field which penetrated the entire Travis Peak Formation. The approximate top and base of the formation in the recommended area are 9,850 feet and 12,050 feet, respectively. Most of the gas production is from the upper 500 feet of the formation.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that

the Travis Peak Formation in the Sym-Jac West (Hosston) Field, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 1, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Texas-9), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commisssion's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than April 16, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding new paragraph (d)(42) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(42) *Travis Peak Formation in the Sym-Jac, West (Hosston) Field in Texas.* RM79-76 (Texas-9)

(i) *Delineation of formation.* The Travis Peak Formation in the Sym-Jac, West (Hosston) Field is found in Cherokee County, Texas, Railroad Commission District 6.

(ii) *Depth.* The top and base of the Travis Peak Formation are found at approximately 9,850 feet and 12,050 feet, respectively, giving a thickness of aproximately 2,200 feet.

* * * * *

[FR Doc. 81-10374 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 271

[Docket No. RM79-76 (Louisiana—4)]

High-Cost Gas Produced From Tight Formations

Issued: April 1, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking contains the recommendation of the State of Louisiana Office of Conservation that the Gray Sand, Reservoir A, be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on May 1, 1981.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 16, 1981.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8307, or Ting Chin, (202) 357-8595/John Bassett (202) 357-8589.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 1981, the State of Louisiana Office of Conservation (Louisiana) submitted to the Commission a recommendation in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Gray Sand, Reservoir A, located in the central portion of north Louisiana, be designated as a tight formation in the Commission's regulations. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Louisiana's recommendation that the Gray Sand Reservoir A, be designated a tight formation should be adopted. Louisiana's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Gray Sand, Reservoir A, underlying specified portions of the Terryville and Sugar Creek Fields in Claiborne and Lincoln Parishes, north Louisiana, consists of interbedded sandstone, limestone, and shale. The recommended area is described below. It is defined as that sand occurring between the measured depths of 12,840 feet and 13,350 feet on the induction electrical log of the IMC Exploration Company—Eugene Tinsley *et al.* No. 1 Well.

Recommended area

T18N-R4W	Sections 3, 4, 5, 6.
T18N-R5W	Section 1.
T19N-R4W	Sections 3-10, 15-23, 26-34.
T19N-R5W	All Sections.
T19N-R6W	Sections 1, 12, 13, 24, 25, 36.

III. Discussion of the Recommendation

Louisiana claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Louisiana on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section

of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Louisiana further asserts that the requirements of Statewide Order No. 29–B will assure that development of the Gray Sand, Reservoir A, will not adversely affect any fresh water aquifer that is or is expected to be used as a domestic or agricultural water supply. In addition, Louisiana states that it is in the process of establishing rules and regulations in accordance with the Environmental Protection Agency's Underground Injection Control guidelines which it believes will further prevent the contamination of any fresh water aquifer.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued August 1, 1980 in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Louisiana that the Gray Sand, Reservoir A, as described and delineated in Louisiana's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 1, 1981. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Louisiana—4), and should give reasons, including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing.

Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than April 16, 1981.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Louisiana's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703 is amended by adding new paragraph (d)(43) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(43) *Gray Sand, Reservoir A, in Louisiana.* RM79–76 (Louisiana—4).

(i) *Delineation of formation.* The Gray Sand, Reservoir A, consisting of interbedded sandstone, limestone and shale, is found in the following portions of Lincoln and Claiborne Parishes, north Louisiana: T18N–R4W, Sections 3, 4, 5, 6; T18N–R5W, Section 1; T19N–R4W, Sections 3–10, 15–23, 28–34; T19N–R5W, all sections; T19N–R6W, Sections 1, 12, 13, 24, 25, 36.

(ii) *Depth.* The Gray Sand, Reservoir A, is defined as that sand occurring between the measured depths of 12,840 feet and 13,350 feet on the induction electrical log of the IMC Exploration Company—Eugene Tinsley *et al.* No. 1 Well located in Section 33, Township 19 North, Range 4 West, Lincoln Parish.

* * * * *

[FR Doc. 81-10371 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket Nos. 78N–1979, 78N–1981, and 78N–2062]

Medical Devices; Classification of Certain Gastroenterology-Urology Devices; Correction; Reopening of Comment Period and Meeting Announcement

AGENCY: Food and Drug Administration.

ACTION: Correction; Reopening of Comment Period.

SUMMARY: The Food and Drug Administration (FDA) is correcting the preambles to three proposed medical device classification regulations with respect to the classification recommendations of the Gastroenterology-Urology Device Section of the General Medical Devices Panel. The agency also is reopening the comment period on these proposed regulations. The classification of these devices will be discussed at a meeting of the Gastroenterology-Urology Device Section that is to be held on April 13, 1981. After considering the comments and the record of the meeting, FDA will issue final regulations classifying these devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by June 8, 1981. The Gastroenterology-Urology Device Section meeting will be held on April 13, 1981, at 9 a.m.

ADDRESSES: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The Gastroenterology-Urology Device Section meeting will be held in Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

FOR FURTHER INFORMATION CONTACT: Fernando Villarroel, Bureau of Medical Devices (HFK–420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 23, 1981 (46 FR 7562), FDA published proposed regulations to classify 57 gastroenterology-urology devices. FDA also published, in the preambles to these proposals, the classification recommendations of the Gastroenterology-Urology Devices Classification Panel (the Panel). The functions of this Panel are now

conducted by the Gastroenterology-Urology Device Section (the Section) of the General Medical Devices Panel, an FDA advisory committee.

Among the proposals published in the Federal Register of January 23, 1981, were proposed regulations to classify penile rigidity implants into class III (premarket approval) (46 FR 7578; Docket No. 78N–1979), testicular prostheses into class III (46 FR 7580; Docket No. 78N–1981), and protective garments for incontinence into class I (general controls) (46 FR 7635; Docket No. 78N–2062). The preambles to these proposals stated that the recommendations of the Gastroenterology-Urology Device Classification Panel were the same as FDA's proposed regulations, i.e., that the Panel had recommended that penile rigidity devices and testicular prostheses be classified into class III and that protective garments for incontinence be classified into class I.

A comment received on two of these proposals (Ref. 1), asserted that FDA's descriptions of the Panel's classfication recommendations in the preambles to the proposed regulations on these three devices, were incorrect.

After reviewing the files, FDA agrees with the comment. In 1977, the Panel had recommended that FDA classify all three devices into class II (performance standards). FDA then reviewed these recommendations and other available information in the light of the statutory criteria for device classification in section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c). Under section 513(d)(1)(B) of the act, a proposed regulation classifying an implanted device into a class other than class III "shall be accompanied by a full statement of the reasons * * * (and supporting documentation and data)" for not classifying the device into class III. Because FDA believed that it could not satisfy this requirement for penile rigidity implants and testicular prostheses, the agency determined that it would have to publish proposed rules to classify the devices into class III rather than class II as the Panel had recommended. With respect to protective garments for incontinence, the agency determined that general controls would be sufficient. On October 19, 1979, FDA sent a letter (Ref. 2) to each Panel member explaining the positions the agency would take in the proposed classification regulations on these devices. In accordance with FDA procedures, the letter also requested the Panel members to express their agreement or disagreement with these positions and to add any additional evidence in support of FDA's proposals or their disagreement. Due to inadvertence relating to the large number of device classification regulations (more than 1,700) and personnel changes, FDA did not followup on this letter by determining at a subsequent meeting of the Section whether the members agreed or disagreed with FDA's views.

FDA advises that, as discussed above, the preambles to these three proposed regulations did not describe accurately the Panel's recommendations. The agency therefore believes that there is good cause under section 520(d) of the act (21 U.S.C. 360j(d)) to reopen the comment period on the three proposed regulations. Although FDA is not changing its proposals with respect to the classification of any of the three devices, the agency particularly invites the submission of supporting documentation and data on whether penile rigidity implants and testicular prostheses should be classifed into class III, as proposed, or into class II, as recommended in 1977 by the Panel.

The classification of these devices, including the Panel's present views on the appropriate classification of these devices, will be discussed at the meeting of the Gastroenterology-Urology Device Section that was announced in the Federal Register, of March 13, 1981 (46 FR 16727). The meeting will be held on April 13, 1981, 9 a.m., in Rm. 1207, 8757 Georgia Ave., Silver Spring, MD. The March 12 notice describes the procedure for interested persons to present data, information, or views at the meeting.

References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Letter from Steinberg, Harvey L., Senior Food and Drug Attorney, Dow Corning, to Dockets Management Branch, FDA, "Classification of Penile Rigidity Implants (Docket No. 78N–1979) and Testicular Prostheses Docket No. 78N–1981)," March 20, 1981.

2. Letter from Yin, Lillian, Bureau of Medical Devices, FDA, to members of the Gastroenterology-Urology Device Section, October 19, 1979.

Interested persons may, on or before June 8, 1981, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 2, 1981.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 81-10509 Filed 4-3-81; 10:30 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

Abandoned Mine Land Reclamation Program

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

ACTION: Notice of receipt of petition for rulemaking and request for public comments.

SUMMARY: OSM seeks public comment on a petition for an amendment to the regulation found in 30 CFR Part 872.11(b)(2) relative to the time period within which the States are required to expend allocations from the Abandoned Mine Reclamation Fund under approved State Reclamation Plans. The petition proposes a regulation change that would require the Director to reallocate to the States funds collected for the fiscal years 1978 and 1979 for an additional three years from the date of allocation as provided pursuant to 30 CFR Part 872.11(b)(2).

DATES: Comments must be received at the address below on or before June 8, 1981 by no later than 5 p.m.

ADDRESS: Written comments must be mailed or hand delivered to: Office of Surface Mining, U.S. Department of the Interior, Assistant Director, Abandoned Mine Lands, 1951 Constitution Avenue N.W., Washington, D.C. 20240. Attention: George Williams. All comments will be available for review in room 153, 1951 Constitution Ave., NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles A. Beasley, Assistant Director, Abondoned Mine Lands, Office of Surface Mining, 1951 Constitution Avenue N.W., Washington, D.C. 20240. 202–343–4012.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95–87, 30 U.S.C. 1201 *et seq.*,

establishes an Abandoned Mine Reclamation Fund ("fund") and empowers the States to use monies generated by grants from this fund to reclaim and restore land and water resources adversely affected by past coal mining practices. Lands and water eligible for the reclamation program under Title IV are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws. The Abandoned Mine Land Program created under Title IV of SMCRA is funded by a reclamation fee imposed upon the production of coal on a per-ton basis at the end of each calendar quarter.

On October 25, 1978, OSM published final rules (30 CFR Part 872, 43 FR 49932) setting forth procedures and criteria relating to the administration of the Abandoned Mine Land Fund. Under 30 CFR 872.11(b)(2), fifty percent of the reclamation fees collected within each State are allocated or specifically earmarked for use in the State from which such funds were collected. The allocation process occurs at the close of business on September 30, the final day of the Federal fiscal year, but before the allocation will be granted, the State must have an approved reclamation plan and an approved regulatory program. The State's portion of the fees collected is reserved for its use under an approved reclamation plan for three years from its allocation. If the State fails to expend such funds within three years from the date of their allocation, the regulations authorize the Director to withdraw the allocation from the State pursuant to a written finding that the amount of the allocation is unnecessary to execute approved reclamation activities or that failure to expend the funds results from avoidable delays in the conduct of approved reclamation activities. If amounts allocated to a State have not been granted to the State within the three year time period, the allocations then become available for use by the Director for other purposes as designated under 30 CFR 872.11(b)(5). Authority for this removal is provided in Section 402 (g)(2) of SMCRA (30 USC 1232 (g)(2)).

A petition to amend 30 CFR 872.11(b)(2) has been submitted by Mr. Kenes C. Bowling, Executive Director of the Interstate Mining Compact Commission (IMCC), personally and on behalf of the Commission's member States (a copy of this petition is at Appendix A hereto). The petition published herein seeks to amend regulations relative to the three (3) year escrow period for States' allocations. This proposed amendment, if accepted, would reserve the States' FY–78 and FY–79 allocated monies for an additional three (3) years, and prevent the use of these monies by the Director regardless of national need or States' efforts to comply with the requirements for their use.

The basic position of the petitioner is that application of the regulation that funds be spent within three years from the date of their allocation now affords the States insufficient time for the expenditure of funds collected for the 1978 and 1979 fiscal years in view of the extension of the deadline for OSM's final decision on State programs from June 3, 1980 to January 3, 1981. OSM published the regulations (43 FR 15333) applicable to the States' regulatory programs on March 13, 1979—some seven months after the date (August 3, 1978) on which those regulations were scheduled for publication according to the timetable set forth in Section 503 of SMCRA. This delay by OSM has reduced the minimum time for States to receive their grants and expend their allocated funds from sixteen (16) months to nine (9) months. The petitioner contends that the reduced time limit for expending the allocations authorized under Section 401 of SMCRA will cause States, through no fault of their own, to lose funds collected from within their own borders. In the absence of greater assurances that Federal funds will be available to implement States' reclamation projects, States may experience difficulty and uncertainty in planning and budgeting programs under SMCRA. Given the uncerainty attendant to the current situation, State Legislatures and budget management agencies may refuse to approve projects for the reclamation of abandoned mine lands. The petitioner proposes an amendment to Section 872.11(b)(2) in order to address the concerns cited.

Petitions to Initiate Rulemaking:

This notice is published pursuant to 30 CFR Section 700.12 seeking comments from the public on the petition. Following receipt and consideration of public comments, OSM will issue the petitioner a written decision either granting or denying the petition. If the petition is granted, OSM will initiate a rulemaking proceeding, during which the public will be afforded another opportunity to comment.

Public Comment Period:

The comment period on the petition will extend until June 8, 1981. All written comments must be received at the addresses given above by 5 p.m. on June 8, 1981. Comments received after that hour will not be considered or included in the administrative record on this petition. The Office cannot insure that written comments received or delivered during the comment period to any location other than that specified above will be considered and included in the administrative record on this petition.

Availability of Copies

In addition to its publication here as Appendix A, copies of the petition and copies of 30 CFR 872.11(b)(2) are available for inspection and may be obtained at the following offices:

OSM Headquarters, Department of the Interior, South Building Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343–4728

OSM Region I, First Floor, Thomas Hill Building, 603 Morris St., Charleston, West Virginia 25301; (304) 342–8125

OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tennessee 37902; (615) 971–5100

OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204 (317) 269–2609

OSM Region IV, 818 Grand Avenue, Scarritt Building 5th Floor, Kansas City Missouri, 64106; (816) 758–2193

OSM Region V, Post Office Building, 1020 15th St., Brooks Tower, Denver, Colorado 80202; (303) 837–5511

Dated: March 23, 1981.

Andrew V. Bailey,

Acting Director.

Appendix A Petition of Kenes C. Bowling Personnally and on Behalf of the Interstate Mining Compact Commission.

In accordance with 30 CFR 700.12 the Interstate Mining Compact Commission (IMCC) hereby petitions you to initiate a proceeding for the issuance of regulations pursuant to title IV of Pub. L. 95–87 pertaining to the State Abandoned Mine Reclamation Fund. Specifically, the IMCC requests that you add a new subsection to 30 CFR 872.11 providing for the reallocation of reclamation fees collected from within a State prior to September 30, 1978, that are not expended within three years of the date of allocation, to the State in which they were collected.

Section 401 of Pub. L. 95–87 establishes an Abandoned Mine Reclamation Fund. The primary source of revenue to the Fund is a reclamation fee established under Section 402 of Pub. L. 95–87. Section 402(g) states, in part:

Fifty per centum of the funds collected annually in any State or Indian reservation shall be allocated to that State or Indian reservation by the Secretary pursuant to any approved abandoned mine reclamation program to accomplish the purposes of this Title * * * Provided, however, that if funds under this subparagraph (2) have not been expended within three years after their allocation, they shall be available for expenditure in any eligible area as determined by the Secretary.

On October 25, 1978, the Office of Surface Mining Reclamation and Enforcement adopted final rules and regulations for the Abandoned Mine Reclamation Program authorized under Title IV of Pub. L. 95–87. Part 872 of 30 CFR established regulations which implement Section 402 of Pub. L. 95–87. Section 872.5(b) defines the term allocate:

Allocate means the administrative identification in the records of the Office (of Surface Mining) of moneys in the (Abandoned Mine Reclamation) Fund for a specific purpose; e.g., identification of moneys for exclusive use by a State.

Section 872.11(b)(2) states:

An amount equal to 50 percent of the reclamation fees collected from within a State shall be allocated at the end of the fiscal year in which they are collected for use in that State under an approved State Reclamation Plan * * * Amounts allocated to a State that have not been granted to the State within 3 years from the date of allocation shall be available to the Director for other purposes under paragraph (b)(5) of this section. Amounts allocated and granted to the State that have not been expended within 3 years from the date of allocation may be withdrawn from the State if the Director finds in writing—

(i) that the amounts involved are not necessary to carry out the approved reclamation activities; or

(ii) That failure to expend is a result of avoidable delays in conducting approved reclamation activities.

In a letter, dated May 8, 1980, to the Interstate Mining Compact Commission, you stated:

The first allocation (of reclamation fees collected from within a State) took place on September 30, 1978, of all fees deposited up to that date. According to the Act, the States have three years from the date of allocation in which to expend their allocations. Section 872.11(b)(2) further clarifies the circumstances under which unexpended funds can be withdrawn from a State . . . OSM has consistently stated that allocations will not be withdrawn until the State has had a reasonable opportunity to use them as long as the State was making good faith efforts toward establishing its program. This policy has not changed and means that withdrawal of funds from States which have submitted proposed regulatory programs is not expected to be considered until the State has had time to submit its Title IV Plan and get the reclamation program into operation.

Under the timetable set forth in Sections 501, 503, and 504 of Pub. L. 95–87, a final decision on a state program would have been made no later than June 3, 1980. Under the statutory timetable, the Secretary was to have published regulations establishing procedures and requirements for preparation, submission, and approval of state programs not later than one year after enactment of Pub. L. 95–87 (no later than August 3, 1978). States had to submit a state program to the Secretary within 18 months from the date of enactment of Pub. L. 95–87, or 24 months after enactment of Pub. L. 95–87 if State legislation was required to formulate and submit a state program. Under the timetable set forth in Section 503, the Secretary was to approve or disapprove a state program no later than June 3, 1980. However, OSM did not publish the regulations that were due on August 3, 1978, until March 13, 1979. Subsequently, the deadline for state program submission was extended by the U.S. District Court for the District of Columbia, from August 3, 1979, to March 3, 1980. Then, the Solicitor for the Department of Interior extended OSM's deadline for a final decision on state programs from June 3, 1980, to January 3, 1981.

Under the timetables set forth in Pub. L. 95–87, States would have had a minimum of 16 months—from June 3, 1980 (the last date for state program approval) to September 30, 1981—to expend funds allocated on September 30, 1978. Given the Title V deadline extensions cited above, the time afforded the States to expend their first allocation has been reduced to nine months (from January 3, 1981, to September 30, 1981). Thus, through no fault of their own, States may lose funds collected within their borders because of the reduced time limit for expending their allocations. The words of the Director, in his letter of May 8, 1980, are reassuring. However, State Legislatures and budget management agencies may refuse to approve abandoned mine land reclamation projects without greater assurances that the funds will be available to implement such projects. Further, the current situation makes program planning and budgeting for abandoned mine reclamation extremely uncertain. Budgets cannot be formulated and contracts cannot be executed with certainty that the Federal funds will be available when needed. This uncertainty can be alleviated to some degree through the promulgation of the regulation which is proposed in this petition.

The additional regulation that the IMCC petitions the Director of OSM to initiate is consistent with Pub. L. 95–87, within his authority under that Act, and consistent with statements of OSM including the Director's letter of May 8, 1980, cited above. By placing specific language in 30 CFR Part 872, State Legislatures, budget management agencies, and abandoned mine land program agencies would be afforded a degree of certainty in their planning, budgeting, and programming that does not now exist. It is not the intent of the member states of the IMCC to evade the purpose of Section 402(g). It is merely our intent to alleviate some of the problems created by the extension in the program submittal deadline.

The specific language proposed is to add to 30 CFR 872.11(b)(2) the following:

Provided, however, amounts allocated to a State on September 30, 1978, and September 30, 1979, that have not been expended within three years from the date of allocation and if withdrawn from the State shall be reallocated to that State for a period of three years.

In accordance with 30 CFR 700.12(b), the IMCC advises that it does not desire a public hearing on this petition.

[FR Doc. 81-10686 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1784-5]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) proposes to approve the Wisconsin Department of Natural Resources (DNR) request for a revision to the Wisconsin State Implementation Plan (SIP). The proposed revision is in the form of a variance for Avis Rent-A-Car. The variance is for an exemption from the requirements of Section NR 154.13(3)(c), Wisconsin Administrative Code, for Avis' gasoline dispensing facility located in Milwaukee, Wisconsin. Any source specific revision must be approved by EPA before it becomes effective as a SIP revision under the Clean Air Act. The purpose of this Notice is to invite public comment on EPA's proposed approval of the variance as a SIP revision.

DATE: Written comments must be submitted on or before May 7, 1981.

ADDRESS COMMENTS TO: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, United States Environmental Protection Agency, Region V, 230 South Dearborn, Chicago, Illinois 60604.

ADDRESSES: Copies of the SIP revision, supporting data, and EPA's evaluation are available for inspection during normal business hours at the following addresses:

United States Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington D.C. 20460

Copies of the submission are also available at: Wisconsin Department of Natural Resources, Bureau of Air Management, 101 S. Webster Street, Madison, Wisconsin 53703.

FOR FURTHER INFORMATION CONTACT: Delores Siega; Regulatory Analysis Section, United States Environmental Protection Agency, 230 South Dearborn, Chicago, Illinois 60604, 312–886–6053.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the Clean Air Act (Act), EPA designated certain areas of the State of Wisconsin as not attaining the National Ambient Air Quality Standards (NAAQS) for ozone.

On January 26, 1979 (44 FR 8220), EPA revised the National Ambient Air Quality Standards (NAAQS) from 0.08 part per million (ppm) total photochemical oxidants for a maximum hourly average, to 0.12 ppm ozone for a maximum hourly average. Part D of the Clean Air Act requires the State to review its SIP for all areas that have not attained the NAAQS. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but not later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987 for ozone and/or carbon monoxide. An adequate SIP for ozone is one which provides for sufficient control of volatile organic compounds (VOC) from stationary and mobile sources to provide for attainment of the standards.

For stationary sources, the plan must include, as a minimum, legally enforceable regulations reflecting the application of reasonable available control technology (RACT) for those stationary sources for which EPA has published a Control Techniques Guideline (CTG) by January 1978. In addition, by each subsequent January, RACT requirements for sources covered by the CTG's published by the preceding January must be adopted and submitted to EPA.

On June 4, 1979, the State of Wisconsin submitted Sections NR 154.01 and NR 154.13 as a revision to the SIP. These revisions set forth new or additional controls for fifteen categories of stationary sources which emit volatile organic compounds (VOC). These controls are a part of Wisconsin's strategy to attain the ozone standard. EPA on January 11, 1980 (45 FR 2319), approved these revisions as part of the ozone SIP.

The Wisconsin Department of Natural Resources (WDNR) has the authority to grant source specific variances from the SIP under Section NR 154.02(3).

On May 8, 1980, the WDNR received from Avis Rent-A-Car a request for a Variance from Section NR 154.13(3)(c). Section NR 154.13(3)(c) requires that gasoline dispensing facilities install both a submerged fill and vapor balance system for storage tanks having capacities greater than 2,000 gallons.

Avis operates a gasoline dispensing facility for refueling its vehicles at 603 North 4th Street in Milwaukee, Wisconsin, an ozone nonattainment area. The gasoline storage system at the Avis installation consists of one 10,000 gallon tank and thus Avis is subject to the requirements of Section NR 154.13(3)(c). Avis claims, however, that compliance with this section is not technologically feasible as the gasoline storage tank is located under a multistory concrete parking garage.

WDNR's review considered the difficulty of installing controls, the air quality impact, and the requirements of NR 154.02(3)(a)3. WDNR determined that the installation of control equipment is technologically infeasible at this installation primarily due to the location of the tank beneath the multistory garage. Thus, WDNR has determined that RACT for this source is status quo operation. WDNR's air quality review showed that status quo operation of this source will not interfere with reasonable further progress toward attainment of the ozone NAAQS. Section 154.02(3)(a)3, which must be met before a variance may be granted, requires that all other sources in the State are owned or operated by a source requesting a variance be in compliance or on a schedule for compliance with the SIP. Avis has other dispensing facilities in the Milwaukee area and they are either in compliance or on schedule to be in compliance with the SIP. It should be noted, however, that there are other Avis distributors in Wisconsin, but they are owned by independent operators and do not come under the requirements of this variance request.

The Wisconsin DNR has determined that Avis has met all the necessary criteria for the variance. Therefore, on September 18, 1980, the Wisconsin DNR granted Avis the requested variance for an exemption from the requirements of Section NR 154.13(3)(c). However, Wisconsin regulations state that a variance will not become effective until submitted to and approved by EPA.

On September 9, 1980, the State of Wisconsin formally submitted the Avis variance request to EPA as a revision to the ozone SIP. EPA has reviewed the variance and has determined that all procedural requirements were met. EPA's analysis of the technical support submitted on behalf of the proposed revision indicate that the operation of the Avis facility without the VOC control equipment specified in Section NR 154.13(3)(c) will not interfere with reasonable further progress towards attainment and maintenance of the ozone NAAQS.

EPA agrees that it would be technologically infeasible to install both a submerged fill and vapor balance system at this facility. Therefore, EPA proposes to approve the revision to the Wisconsin ozone SIP.

All interested persons are invited to comment on the revision to the Wisconsin SIP and on EPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before May 7, 1981 will be considered in EPA's final rulemaking.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements. In addition, this action only applies to one facility.

Under Executive Order 12291, EPA must determine whether a proposed regulation is a major rule as defined by the Order. I reviewed this proposed rulemaking and determined that it is not a major rule because the only effect of approving the rule is to exempt one source (Avis Rent-A-Car) from the requirements of Section NR 154.13(3)(c), of Wisconsin Administrative Code. The exemption permits the source to continue the present operation of its facility.

(Secs. 110, 172, and 301(a) of the Clean Air Act)

Dated March 9, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-10453 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR PART 52

[A3 FRL 1759-2]

Commonwealth of Virginia; Proposed Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Revisions to the Virginia State Implementation Plan (SIP) for the attainment of ozone and carbon monoxide standards have been submitted to the environmental Protection Agency (EPA) by the Governor on December 17, 1979 and May 15, 1980. The intended effect of the revisions is to meet the requirements of Part D of the Clean Air Act, as amended, "Plan Requirements for Nonattainment Areas." This Notice provides a description of the proposed SIP revisions, summarizes the Part D requirements and the previously submitted plan revisions, compares these revisions to the requirements and any previously noted deficiencies, identifies major issues in the proposed revisions, and suggests corrective actions.

On April 4, 1979 (44 FR 20372) EPA published a Notice entitled "General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas." The general preamble supplements this proposal by identifying the major considerations that will guide EPA's evaluation of the submittal. The EPA invites public comments on these revisions, the identified issues, the suggested corrections, and whether the revision should be approved or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATE: Comments must be submitted on or before May 7, 1981.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Attn.: Patricia Sheridan

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, D.C. 20460

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 1106, Richmond, VA 23219, Attn.: John M. Daniel, Jr.

All comments on the proposed revisions submitted within 30 days of publication of this Notice will be considered and should be directed to: Mr. James E. Sydnor, Chief, DC, MD, VA Section (3AH11), Air, Toxic and Hazardous Materials Division, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Attn: AH300a/300bVA.

FOR FURTHER INFORMATION CONTACT: Miss Eileen M. Glen (3AH11), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: 215/597-8187.

SUPPLEMENTARY INFORMATION: This section is divided into three categories entitled BACKGROUND, DESCRIPTION AND EVALUATION, and CONCLUSION. The BACKGROUND section outlines the development of the Virginia SIP revision and summarizes actions already taken by EPA on related submittals. The DESCRIPTION AND EVALUATION section describes each area plan submittal and EPA's preliminary findings. The CONCLUSION category is a closing section which again requests public comments on today's proposed actions.

Background

New provisions of the Clean Air Act, enacted in August 1977, Public Law No. 95-95, require States to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). The amendments required each State to submit, to the Administrator, a list of the NAAQS attainment status for all areas within the State. The Administrator promulgated these lists on March 3, 1978 (43 FR 8962) and on September 12, 1978 (43 FR 40502). This list was revised on June 27, 1980 at 45 FR 43412 to delete Smyth County from the list of designated non-attainment areas. Various portions of Virginia were designated as nonattainment for ozone and carbon monoxide. As a consequence, the Commonwealth of Virginia was required to develop, adopt, and submit to EPA revisions to its SIP for those nonattainment areas by January 1, 1979. These revisions must conform to requirements of Part D of the Clean Air Act and provide for attainment of the NAAQS as expeditiously as practicable. In accordance with these requirements, Maurice B. Rowe, Secretary of Commerce and Resources, acting on behalf of Governor John N. Dalton, submitted a revised SIP on January 11, 1979. The designated nonattainment areas and appropriate proposed State plans are set forth in Table I below. This submittal was the subject of a final rulemaking on August 19, 1980 (45 FR 55180) conditionally approving the Commonwealth's ozone and CO Part D plan. Except as noted elsewhere in this notice, the conditions of approval specified in the August 19, 1980 rulemaking will be handled in a separate **Federal Register** notice.

Shortly thereafter, on February 8, 1979 (44 FR 8202), EPA revised the ozone standard from .08 to .12 ppm. As a result of this change in the ozone standard and the need to implement Round II Control Techniques Guidelines (CTG's), the Commonwealth revised its Part D nonattainment plan and submitted these revisions on December 17, 1979. The December 17, 1979 submittal supplements the approved plan, implements Round II CTG's, makes several minor administrative changes and contains a revised control strategy demonstration based on the .12 ppm ozone standard.

On May 15, 1980, the Commonwealth submitted Part D SIP revisions which deal only with Chapter 9 (Inspection/Maintenance) of the Plan. This submittal appears to satisfy conditions noted in the Proposed Rulemaking which appeared in the August 19, 1980 **Federal Register** (45 FR 55228).

This Notice will address only the December 17, 1979 and May 15, 1980 submittals.

On August 19, 1980 (45 FR 55229), EPA published a Notice of Availability of the Commonwealth of Virginia SIP revision and invited the public to inspect the plan. As yet, no public comments have been received. EPA has reviewed the SIP revision with respect to the requirements and criteria described or referenced in the **Federal Register** Notice published on April 4, 1979 (44 FR 20372). This Notice, to which interested persons may refer, is entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas," and is incorporated herein by reference. This Notice is supplemented by the following publications which are also incorporated herein by reference: July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182). A summary of the criteria for approving SIP's for nonattainment areas was published in the **Federal Register** on July 30, 1979 (44 FR 44564).

Table I

	12/17/79 submittal—plan title	5/15/80 submittal—plan title
Ozone Non-Attainment Areas		
II. Valley of Virginia Interstate AQCR Roanoke County Roanoke City Salem City	Roanoke Area	
III. Northeastern Virginia Interstate AQCR Stafford County	Stafford County	
IV. State Capital Interstate AQCR Richmond City Henrico County Chesterfield County	Richmond Area	Richmond Area.
V. Hampton Roads Interstate AQCR Hampton City Newport News City Norfolk City Suffolk City Virginia Beach City	Peninsula Area	
VI. National Capital Interstate AQCR Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Counties of Arlington, Fairfax, Loudoun, and Prince William	Northern Virginia	Northern Virginia
Carbon Monoxide Nonattainment Areas		
VI. National Capital Interstate AQCR Alexandria City Arlington County Fairfax County—areas of high traffic density	Northern Virginia	Northern Virginia

The following list summarizes the basic requirements for nonattainment area plans as contained in Section 172(b) of the Clean Air Act:

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.

The December 17, 1979 submittal satisfies this requirement in that a Notice of Hearing was published in at least one newspaper in each AQCR on August 17, 1979 and Public Hearings were held on September 17, 1979.

The May 15, 1980 submittal consists of the State Statute and a revision to Chapter 9 of the Richmond and Northern Virginia plans only. Chapter 9 contains a schedule for the implementation of an I/M program in these two areas and two of the interim milestones are the adoption of regulations and motor vehicle emission standards. At the time these regulations and standards are proposed by the Commonwealth, a Public Hearing will be held.

2. A provision for implementation of all reasonably available control measures as expeditiously as practicable.

All designated nonattainment areas demonstrate attainment of the standard by December 31, 1982 except for the Richmond and Northern Virginia areas. EPA has granted an extension until December 31, 1987 for both these areas while at the same time requiring the implementation of an Inspection and Maintenance Program. EPA proposes to approve the schedules for compliance submitted by the Commonwealth. (See below for further details.)

The Commonwealth has exempted the Roanoke area from implementation of the reasonably available control measures (RACT) and EPA's preliminary finding is that this section of the plan is unacceptable. There are also several other deficiencies with the proposed RACT requirements which are discussed below.

3. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.

Chapter 3 of the proposed Plans provides the detailed schedule of reductions to be achieved each year and appears to satisfy the condition noted in the August 19, 1980 **Federal Register.**

4. An accurate inventory of existing sources.

The December 17, 1979 submittal does not appear to satisfy this requirement. See below for details.

5. An identification of emissions growth.

Chapter 3 of the December 17, 1979 submittal furnishes this type of information and appears to satisfy this requirement.

6. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.

This requirement was satisfied by the January 12, 1979 submittal. The December 17, 1979 submittal makes several changes to the Commonwealth's permit program and they are discussed in detail below. (See Chapter 5 of the DESCRIPTION AND EVALUATION section.)

7. An identification of and commitment to the resources necessary to carry out the plan.

The Commonwealth commits itself to assign resources as required or needed to carry out the requirements of the SIP. Although this commitment is contingent upon the constraints set by the Governor and the General Assembly, as well as upon the level of Federal funding received, EPA believes it to be sufficient.

8. Contain emission limitations, schedules of compliance and such other measures as may be necessary to attain the standards.

See below for detailed discussion of this requirement and the Commonwealth's submittals as contained in Chapter 5.

9. Evidence of public, local government and State involvement and consultation.

Chapter 11 of the December 17, 1979 submittal details the Commonwealth's compliance with this requirement.

10. Evidence of the enforceability of the regulations and compliance schedules as well as a commitment to implement and enforce the appropriate elements of the plan.

The Commonwealth has long had the legal authority to adopt and enforce regulations pertaining to stationary sources. The May 15, 1980 submittal contains statutory authority to implement and enforce the I/M program dealing with motor vehicles. The three agencies involved in the implementation and enforcement of this program are the Virginia State Air Pollution Control Board (VSAPCB), the State Police, and the Division of Motor Vehicles (DMV). While the I/M program is discussed in detail below, EPA feels the above-mentioned requirement is satisfied.

However, there is a consistent omission in the proposed regulations which will adversely effect their enforceability. There are no test methods specified for determining compliance with the standards and/or limitations contained in the following Sections:

4.54(h)—VOC Storage—Floating Roof Tanks
4.55(k)—Miscellaneous Metal Parts and Products Coating
4.55(l)—Flatwood Paneling Coating
4.55(m)—Graphic Arts (Printing)
4.56(f)—Tank Trucks/Account Trucks and Associated Vapor Collection Systems
4.56(h)—Petroleum Liquid Storage—Floating Roof Tanks
4.57(c)—Synthesized Pharmaceutical Products Manufacturing
4.57(d)—Pneumatic Rubber Tire Manufacturing
4.57(e)—Dry Cleaning (Perchloroethylene)

EPA-450/2-79-004 (September 1979) recommends the test methods to be used for each of these source categories. EPA believes that the Commonwealth must designate test methods for each of these source categories. Therefore, the appropriate test methods should be specified.

11. In areas where attainment will not be achieved until December 31, 1987 (Richmond and Northern Virginia), the plans must satisfy the following requirements:

a. Prior to permit issuance, an analysis of alternative sites, sizes, production processes, and environmental control techniques must be done for proposed major new or modified sources.

b. Establish a schedule for the implementation of an I/M program.

c. Identify other measures necessary to provide for attainment of the standard by December 31, 1987.

The EPA plans submitted by the Commonwealth on January 11, 1979 and approved by EPA on August 19, 1980 (45 FR 55180) satisfy Requirements Nos. 11a and 11c above. The May 15, 1980 submittal contains a schedule for the implementation of the I/M program and satisfies Requirement No. 11b above as well as a proposed condition published in the **Federal Register** on August 19, 1980 (45 FR 55228).

The following is a list of Virginia's submittals dealing with nonattainment area plans and a summary of EPA actions thus far:

January 11, 1970: The plan addressed attainment of the .08 ppm ozone standard and installation of RACT for certain sources of volatile organic compounds. EPA published its final rulemaking on August 19, 1980 (45 FR 55180) approving, in part, this submission. At the same time, EPA conditionally approved certain portions and proposed deadlines for correcting the deficiencies (45 FR 55228).

September 7 and 21, 1979: These submittals proposed numerous revisions to the Virginia SIP including the nonattainment area plans. Those portions of these submittals which specifically addressed deficiencies in the January 11, 1979 submittal were approved in the August 19, 1980 rulemaking. The balance of these submittals are being addressed in a separate rulemaking.

December 17, 1979: This plan addresses attainment of the .12 ppm ozone standard and installation of RACT for nine new categories of VOC sources. In addition, Chapter 3, Control Strategy Demonstration, containing the revised design value for Northern Virginia was included in this submittal. It was approved in the August 19, 1980 rulemaking (45 FR 55180).

May 15, 1980: this submittal includes the statutory authority for the implementation of an I/M program and a revised Chapter 9 for the Richmond and Northern Virginia area plans only.

Description and Evaluation

The following is a brief description of the proposed SIP revisions and a summary of EPA's preliminary evaluation:

Chap. 2—Air Quality Monitoring Data Analysis

This Chapter deletes and replaces the material submitted on January 11, 1979 by the Commonwealth. It contains, on an area by area basis, the design value, the statistical procedures, and monitoring methods used to demonstrate attainment and/or reasonable further progress toward attainment of the standard. EPA believes the material contained therein is acceptable. However, the reader should be aware that a previously noted deficiency (45 FR 55180, 55228 (1980)), namely, the submittal of a Carbon Monoxide "hot spot" analysis has not been remedied by this submission and that condition, the subject of a separate rulemaking, is still in effect.

Chap. 3—Control Strategy

This Chapter deletes and replaces the material submitted on January 11, 1979 by the Commonwealth. It also contains a plan for tracking growth and Reasonable Further Progress. The plan appears to satisfy the condition noted in EPA's rulemaking published in the **Federal Register** on August 19, 1980 (45 FR 55228).

This chapter also provides for the accommodative concept in dealing with new source growth in nonattainment areas. By letter dated April 15, 1980, the Commonwealth confirmed that any offsets required to allow new source growth would be processed under this system. However, the Commonwealth also agreed that should additional offsets be necessary, the administrative procedures contained in the EPA Emission Offset Interpretative Ruling would be followed.

One of the areas plans presents issues that relate specifically to that area only:

1. Roanoke—the rollback model has been used to demonstrate attainment of the ozone standard by December 31, 1982. Current EPA policy states that if this model is used to demonstrate attainment, the RACT requirement is still applicable in those areas. However, the Commonwealth's plan does not require RACT for the Roanoke area and EPA believes this to be unacceptable. This is a designated non-attainment area and RACT must be applied to sources located here.

Chap. 4—New Source Review

Chapter 4 is merely a summary of the Commonwealth's NSR program and is acceptable as written. The regulations supporting this program are contained in Chapter 5 and are discussed below.

Chap. 5—Regulations

A. Part I—Definitions

The new definitions contained in the December 17, 1979 submittal are acceptable except for the following definitions and EPA has recommended the changes shown below:

(1) Drycleaning System—differs from the language in EPA guidance and should be made consistent to read as follows:

"Dry cleaning facility" means a facility engaged in the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves.

(2) Potential to Emit—insert the word "design" so that the first sentence will read: "The capability at maximum *design* capacity . . ." The second sentence should be changed to read as follows: "Annual potential shall be based on the maximum annual rated capacity of the source *assuming continuous year round operation*, unless the source . . ."

(3) Vapor Tight—should be changed to read as follows:

Capable of holding a pressure of *18* in. H_2O or a vacuum of 6 in. H_2O without sustaining a pressure change of more than 3 in. H_2O in 5 minutes. The Commonwealth's definition does not reflect RACT.

Furthermore, in light of the provisions contained in Section 4.56(h)(3) of the Virginia regulations, a definition for "Waxy, heavy pour crude" should be submitted.

B. Part II—General Provisions

Sections 2.33(d), (g) and (h) contain minor administrative changes which are consistent with EPA's new source regulations and are acceptable as written.

C. Part IV, Rule Ex-5

Revisions to §§ 4.54(a)(1), 4.55(a)(1), 4.56(a)(1) and 4.57(a)(1) are acceptable.

However, §§ 4.54(a)(2), 4.55(a)(2), 4.56(a)(2) and 4.57(a)(2) are not acceptable in light of the deletion of the Roanoke/Salem areas from Appendix P. Therefore, the proposed addition of Appendix P is also not acceptable. Section 172 of the Clean Air Act requires that SIP's contain provisions requiring the implementation of RACT measures in *all* designated nonattainment areas. The Roanoke/Salem area is currently designated nonattainment and, therefore, sources in this area are subject to the RACT requirements. (See discussion under Appendix P for further information.)

Section 4.54(h) is unacceptable for the following reasons:

(1) There is no practical method available to test a 90% emission reduction; therefore, the requirement for such reduction has no meaning. This provision should specify only an equipment standard as in Appendix M. Section I.d.

(2) A provision should be added requiring semi-annual seal inspections and annual gap measurements.

Section 4.55(a)(5), (6) and (7) appear to reflect only minor administrative changes to previously approved VOC regulations in that § 4.55(a)(5) is now reserved and § 4.55(a)(5) and (6) as submitted on January 11, 1979 and modified on September 21, 1979 are now § 4.55(a)(6) and (7). The new § 4.55(a)(6) also reflects a minor wording change which is acceptable.

Section 4.55(h)(4) is acceptable as revised.

Section 4.55(k) and (l) will be acceptable providing Appendix M, Sections II, i. and j. respectively are revised to reflect RACT for capture and control methods.

Section 4.55(m) (1), (3), (4), (5), and (6) are acceptable as written, however, § 4.55(m)(2) is not. Section 4.55(m)(2)(i) requires 65% control efficiency while the RACT recommendation is 75%.

Section 4.56(a)(6) is acceptable as written.

Sections 4.56(d)(3)(i) and (e)(3)(i) are acceptable providing Appendix P is changed to include the Roanoke area as a VOC emission control area.

Sections 4.56(f) (1), (2) and (3) are acceptable as modified. New § 4.56(f) (4) thru (9) are also acceptable. However, the reader should be aware that these provisions apply to tank and account trucks and associated vapor collection systems and that the Commonwealth has not yet submitted an acceptable definition of the term "vapor tight." EPA's final decision on the acceptability of these provisions must take into consideration the status of this definition. Also, a provision should be added specifying truck certification and test procedures.

Section 4.56(g) is acceptable as modified.

Section 4.56(h) contains the same deficiencies as § 4.54(h).

Section 4.56(i) is acceptable as written providing the Commonwealth submits written certification that no petroleum refineries subject to this regulation exist in the ozone non-attainment areas of Virginia.

Section 4.57(a)(5) should exempt § 4.57 (c) and (d) from paragraph (a)(4) but not 4.57(e).

Section 4.57(c) should state that any such source with emissions in excess of 15 lbs./day is subject to the requirements of this Section. The Commonwealth may document to EPA that the regulation, including the exclusion of the sources as proposed, controls VOC emissions to within 5% of the CTG presumptive norm for this category.

Section 4.57(d) is acceptable except for § 4.57(d)(1)(i), (d)(3)(i) which will be acceptable providing Appendix M, Section IV b.1. is revised to reflect RACT for capture and control methods. (See below for discussion of Appendix M).

Section 4.57(e) is acceptable as written.

D. Appendices

Appendix K is acceptable as written.

Appendix M does not represent RACT. The following is a discussion of each Section and EPA's preliminary findings:

1. Section I.d. is acceptable.

2. Sections II. i., j., and k. may be acceptable as RACT because they may not require both capture and control of emissions. Appendix M specifies "control system" and it is unclear as to whether this expression is intended to mean both capture and control or only control.

3. Section III.f. is acceptable.

4. Sections IV. a. and b. may not be acceptable as RACT because they may not require both capture and control of emissions. Again, this section specifies "control system" and it is unclear as to whether the expression is intended to mean both capture and control or only control.

Appendix P is unacceptable because it does not include Roanoke City, Roanoke County and Salem City as emission control areas. These are designated non-attainment areas and RACT must be applied to sources located here.

Chap. 6—Emission Inventory

EPA is requesting comments on the accuracy of the inventory submittal. The emission inventory is very important in light of the Commonwealth's decision to accommodate new growth by "banking" excess emission reductions.

The Commonwealth has assumed 85% control after application of RACT but does not explain if this applies to capture and control of emissions of if it applies to only control. EPA has requested clarification of this point from the Commonwealth and we are soliciting public comment on this assumption.

EPA has reviewed the emissions inventory, calculated the projected percentage of reduction to be achieved by 1982 or 1987 and requests comments on the following:

a. *Peninsula.* The 89% reduction assumed for "Other Metal Products Coating" appears excessive and EPA is requesting that the Commonwealth provide further information on these projections.

b. *Richmond.* The following reductions also appear to be excessive and require further explanation:

Gasoline Terminal Truck Loading—94% (total reduction as of 1982)

Paint Manufacturing—87% (total reduction as of 1987)

Flat Wood Products Coating—88% (total reduction as of 1982)

Auto Refinishing—88% (total reduction as of 1987)

c. *Southeastern Virginia.* No reduction was assumed for automobile coating. This should be explained as there is one automobile plant in this area subject to RACT requirements. The assumptions outlined for estimating VOC area source emissions from Asphalt Paving are not consistent with current EPA guidance. The evaporation rate should be used instead of a 100% figure for emulsifieds. We are soliciting comments as to whether or not this deviation will have a significant impact on the attainment demonstration.

Although there are no existing refineries in this area, the omission of any emissions appears to be unrealistic in light of recently issued permits. EPA believes the projected emissions from these sources must be included in order to provide an accurate and comprehensive emission inventory. This is especially important in light of the fact that the Commonwealth is prosposing to use any emission reductions achieved in excess of those necessary to attain the standard by 1982 to offset VOC emissions from new sources. However, because emission reductions to be achieved as result of the switch from cutback to emulsified asphalt are also not included in the

control strategy demonstration, EPA does not believe this omission will have a singificant adverse impact on the control strategy demonstration in Chapter 3.

Chap. 7—Compliance Schedules

This chapter describes the historical procedure for dealing with compliance and the new requirements of Section 120 of the Clean Air Act which allows a maximum of three years for a source to comply with a new or more stringent emission standard.

Specific categorical compliance schedules are contained in Appenidx N and Section 4.02(f) of the Regulations which were approved by EPA on August 19, 1980 (45 FR 55180).

Chap. 8—Resources

No change.

Chap. 9—Inspection/Maintenance

The May 15, 1980 submittal deletes and replaces all previously submitted inforamtion. The I/M program will be implemented in the Northern Virginia (except Loudoun County) and Richmond nonattainment areas only. The program will be implemented on or before January 1, 1982 and will be mandatory for all light duty vehicles (automobiles and trucks) with a registered gross weight of 6000 pounds or less; however, the program is limited to the most recent 8 model years. Maintenance and retesting will be mandatory for any vehicles failing the inspection ($75.00 ceiling).

This submittal corrects previously noted deficiencies (45 FR 55180, 55228) (1980). Namely, it contains a schedule to implement the I/M program, a commitment to reduce emissions by 25%, and a commitment to enforce such a program. This Chapter appears to be acceptable.

Chap. 10—Transportation Source Measures

Virginia has requested that certain measures be deleted from their SIP for the Northern Virginia area. Only the following measures may be deleted as court rulings have rendered them null; also, a new TCM package for the National Capital Region will incorporate appropriate measures to replace these obsolete provisions:

1. Priority Buslanes—52.2423(b) and 52.2435 (Related Compliance schedules).
2. Increased Bus Fleet—52.2423(b) and 52.2435.
3. Elimination of On-Street Commuter Parking—52.2423(b) and 52.2435.
4. Vehicle Retrofit—52.2444, 52.2445, 52.2446, and 52.2447.
5. Bicycle Lanes—52.2442.

Due to EPA's suspension of parking management measures and because a new submittal of TCM measures is expected in the near future, the following strategies may be deleted:

1. Elimination Free Employee Parking—52.2423(b) and 52.2435 (various parts), (d) has already been removed at some point and reserved, 52.2437 (removed & reserved).
2. Imposition of Parking Surcharge—52.2423(b) and 52.2435 (various parts).

For Management of Parking Supply (52.2443), EPA suspended the provisions indefinitely at 40 FR 29714 published on July 15, 1975, and congressional actions in the 1977 amendments limit EPA involvement in parking strategies therefore it also can be deleted.

Finally, the Inspection/Maintenance provision of 52.2423 and 52.2441 will be deleted if EPA approves the current proposal relative to I/M in Richmond and Northern Virginia.

Chap. 11—Intergovernmental Responsibilities, Legal Authority, Consulation

The Commonwealth has certfied that the appropriate public hearings were held in accordance with State and Federal regulations and procedures.

Chap. 12—Analysis of Effects

This section should be revised to demonstrate what effects, if any, the new regulations will have.

Conclusion

The public is invited to submit, to the address stated above, comments on whether the proposed amendments to the Commonwealth of Virginia air pollution regulations should be approved as a revision of the Commonwealth's SIP. On August 19, 1980, the Regional Administrator, EPA Region III published a Notice of Availability (45 FR 55229) of the revised Virginia State Implementation Plan (SIP) for public inspection. The Regional Administrator believes that the additional 30 days now being afforded the public to comment will be sufficient. However, in the event the Regional Administrator receives a request for additional time to submit comments, he will consider granting an extension of the present comment period for up to an additional 30 days. The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans. Deficiencies in the Commonwealth's plan that are not corrected may be cause for conditional approval or disapproval of the proposed revisions to the SIP.

Pursuant to the provisions of 5 U.S.C 605(b) I hereby certify that the attached rule will not if promulgated have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. Moreover, due to the nature of the Federal–State relationship, Federal inquiry into the economic reasonableness of the State actions would serve no practical purpose and could well be improper.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because of the fact that today's action merely proposes to approve regulations submitted by the State which are already in effect under State law and to remove existing EPA regulatory requirements.

This regulation was submitted to the Office of Management for review as required by Executive Order 12291. Any comments from OMB to EPA and any response to those comments are available for public inspection at U.S. EPA, Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106

(42 U.S.C. 7401–7642)

Dated: October 31, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81–10450 Filed 4–6–81; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 52

[A–3–FRL 1784–3]

Commonwealth of Virginia; Proposed Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION Proposed rule.

SUMMARY: Commonwealth of Virginia has submitted to the Environmental Protection Agency (EPA) a variance to its air pollution control regulations and requested that it be processed as a revision to the Virginia State Implementation Plan (SIP). This revision was submitted to EPA on July 28, 1980 and consists of a variance from Part IV, Rule EX–4, Section 4.41(i) for dryers 1FSD, 2FSD, and pre-dryer 3FSD at the Union Camp Corporation Particleboard Plant located in Franklin, Virginia to increase its particulate matter emissions

during installation of a new control system.

DATE: The public is invited to submit comments on this variance. All comments submitted on or before May 7, 1981 will be considered.

ADDRESSES: Copies of the proposed variance, as well as accompanying support documentation submitted by Virginia, are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan;

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, VA 23219, ATTN: Mr. John M. Daniel, Jr.;

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

All comments should be submitted to: Mr. James E. Sydnor, Chief, DC, MD, VA Section (3AH11), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: AH028VA.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen Glen, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets Philadelphia, PA 19106, Phone: (215) 597-8187.

SUPPLEMENTARY INFORMATION: On July 28, 1980, the Commonwealth of Virginia submitted a variance which it had issued to the Union Camp Corporation on June 2, 1980 and requested it be reviewed and processed as a revision to the Virginia SIP. In addition to the variance, the Commonwealth also submitted its technical and modeling analyses. The revision consists of a variance from Part IV, Rule EX-4, Section 4.41(i) and to Paragraph 3 and 5 of the Permit issued on October 13, 1978 for dryers 1FSD, 2FSD, and pre-dryer 3FSD.

The Commonwealth has provided proof that, after adequate public notice, a public hearing was held with regard to this variance. The dates of the public notice and hearing as well as the hearing location are shown below:

Date of public notice: April 22, 1980.
Date of public hearing: May 22, 1980.
Location: Virginia Beach, Va.

EPA Evaluation

In accordance with Section 4.41(i) of the Virginia State Air Pollution Control Board (VASPCB) Regulations for the Control and Abatement of Air Pollution, the particulate matter limitation for 1FSD is 27.9 lbs./hour and for 2FSD is 20.4 lbs./hour. The limitation for 3FSD, in accordance with the permit issued on October 13, 1978, is 18 lbs./hour. Therefore, the total allowable particulate emissions from the three dryers is 66.3 lbs./hour at rated capacity.

In October 1979, the new dryer (3FSD) began operation and the Company conducted stack tests to determine compliance with the permit conditions. The new dryer did not comply with the emission limitations set forth in the permit and, because a new raw material was being used, the Company decided to test 1FSD and 2FSD which had previously been shown as in compliance with Section 4.41(i). These dryers were also now in violation. While it appears that the raw material is the cause of the problem, it has not yet been proven. All tests were conducted under typical operating conditions (not rated capacity) and represent a cross-section of conditions encountered in the drying process. By using the "worst case" for each dryer, the total particulate (TSP) emissions of the three dryers were 87 lbs./hour and emissions from individual dryers (stacks) were:

1 FSD 47 lbs./hour
2 FSD 30 lbs./hour
3 FSD 10 lbs./hour

The modeling analysis performed by the VSAPCB staff demonstrated that the above emission levels would not cause any violation of the primary 24-hour TSP standard and that the secondary 24-hour standard could be exceeded on company property only under certain wind and stability conditions. Such exceedances would be small, less than 15 ug/m^3, and would occur only in a small area of the Company property. Furthermore, the meterological conditions necessary to cause this worst case situation have not occured in the past 12 years.

The control strategy demonstration and the variance, which expires on June 15, 1981, are acceptable to EPA as a SIP revision providing the Commonwealth amends the variance to include emission limitations, the tested "worst case" emissions cited above. These are to remain in effect for the length of the variances.

Previously Submitted Variance

On August 13, 1979, the Commonwealth submitted a revision of its SIP which consisted of a variance to Part IV, Section 4.22 and 4.30 which had been issued to the Union Camp Corporation, Franklin, Virginia on June 11, 1979. The variance dealt with the operation of the No. 7 power boiler only and the installation of an electrostatic precipitator to control emissions. The variance expired on May 7, 1980 and this source is now operating in compliance with the SIP requirements. Therefore, EPA does not plan to take any action on this submittal.

Conclusion

The public is invited to submit, to the address stated above, comments on this variance to the regulations of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed variance will be based on the comments received, the Commonwealth's decision to amend the variance to include emission limitations, and on a determination of whether the variance satisfies the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements of Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because of the fact that today's action merely proposes to approve regulations submitted by the State which are already in effect under State law and further in this action applies to only one facility in the Commonwealth of Virginia.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at: Environmental Protection Agency, Air Programs, Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves State action. It imposes no new requirements. Moreover, due to the nature of the Federal-State relationship, under the Clean Air Act, Federal inquiry into the economic reasonableness of the State action would serve no practical purpose and could well be improper. In addition, this action only applies to one facility. On January 27, 1981, the Administrator published the required certification for all SIP approvals under Section 110 of the Act at 45 FR 8709.

(42 U.S.C. 7401-7642)

Dated: February 25, 1981.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 81-10452 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 80

[EN-FRL 1741-6]

Lead-in-Gasoline Test Procedure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to amend its testing procedure for the determination of lead content in gasoline by adding an optional automated method to the standard method. The automated method uses techniques of chemical analysis similar to the standard method, making it suitable for comparison purposes, and it is technically equivalent. Its principal advantage is greater laboratory efficiency at reduced operational cost. After reviewing comments received in response to this proposal, EPA intends to promulgate a final rule.

DATES: Comments on this proposal must be received no later than June 8, 1981. A public hearing will be held upon request. Requests for a public hearing must be made no later than April 21, 1981.

ADDRESSES: Interested persons are encouraged to participate in this rulemaking procedure by submitting written comments (in duplicate if possible). Comments and requests for a public hearing should be addressed to: Central Docket Section (A-130), U.S. Environmental Protection Agency, Washington, D.C. 20460. Attn: A-80-41.

Copies of support documents relevant to this rulemaking proceeding are contained in Public Docket A-80-41 at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery One, 401 M Street, S.W., Washington, D.C. and are available for review weekdays between 8 a.m. and 4 p.m. Raw test results and data obtained during development of the automated method are available for review by contacting Dr. Joe Lowry [see next heading]. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Andrew C. Parker, Esq., Tampering Section, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, Washington, D.C. 20460; Tel. (202) 472-9363, or Dr. Joe H. Lowry, Chief, Inorganic Analyses Section, Laboratory Services Division, National Enforcement Investigations Center, Building 53, Box 25227, Denver Federal Center, Denver, Colorado 80225; Tel. (303) 234-4661.

SUPPLEMENTARY INFORMATION:

I. Introduction

The use of leaded gasoline in motor vehicles equipped with catalytic converters as part of their emission control systems can render the catalysts inoperative. Therefore, the introduction of leaded fuel into vehicles requiring unleaded fuel is prohibited by law (40 CFR 80.22). To ensure that fuel represented as unleaded does not contain lead in excess of the maximum established by law of 0.05 gram of lead per gallon of gasoline (40 CFR 80.2(g)), the Administrator has established an approved testing procedure (40 CFR Part 80, Appendix B). The rule proposed herein would amend the approved testing procedure by adding an automated procedure to the approved standard method. The rule also proposes procedures for the manual and automated testing of gasoline samples with lead content greater than 0.10 g Pb/gal.

The determination of lead in gasoline by atomic absorption spectrometry has been adopted by the American Society for Testing Materials (method No. D3237-73) and the U.S. Environmental Protection Agency (40 CFR Part 80, Appendix B) as the standard method of analysis. The method consists of the manual preparation of an in-situ reaction of the alkyl lead compounds in gasoline with iodine, stabilization of alkyl lead iodide complexes with tricapryl methyl ammonium chloride (Aliquat 336), ten-fold dilution with methyl isobutyl ketone (MIBK) and measurement by atomic absorption spectrometry with an air-acetylene flame. The iodine reaction eliminates the problem of variations in responses due to different alkyl lead compounds.[1] The dilution compensates for severe non-atomic absorption, scatter from unburned carbon, and minimizes matrix effects.[2]

The automation of the standard method is discussed below. Data showing equivalence of the automated and manual procedures and precision and accuracy data gathered over a four month period during the analysis of about 1500 samples are presented.

Various methods are available for the detection of lead content in gasoline. However, any new method approved for use by EPA for enforcement actions under this Part must be compatible, for comparison purposes, with the approved standard method. Therefore, EPA is proposing this rule to permit the use of an efficient, accurate, rapid analysis which is, in its chemistry, similar to and compatible with the standard method.

Publication of this rule in final form will be subject to comments received by the Agency and successful completion of comparision testing of the manual and automated methods being performed by an independent laboratory under contract to EPA's Office of Research and Development.

II. Development of Test Procedure

A. Experimental

Apparatus

The automated system requires the use of an automatic sampler and a proportioning pump. Thirty-five and one half turn coils are used for the mixing. An atomic absorption spectrometer and a strip chart recorder constitute the detection system used for both the manual and automated procedures.

The solvent displacement flasks are erlenmeyer flasks fitted with silicone rubber stoppers and glass tubing. The solvents are transported through teflon tubing fitted to the glass with heat shrinkable teflon tubing. The glassware employed in the manifold is interconnected with polyethlene tubing because tygon tubing dissolved in the presence of MIBK. Constant flow syringe pumps can be used instead of the solvent displacement flasks to add the MIBK solutions. Solvaflex tubing was found to be compatible with the gasoline. However, the iodide reagent solvaflex pump tubing must be changed daily as it becomes soft.

Reagents

Working standards of lead alkyls in reference rule (U.S., EPA, RTP, N.C.) are utilized in both the manual and automated procedures. For the manual procedures the iodine solution (Fischer Sci. Co., Fairlawn, N.J.) was 3 percent w/v (weight/volume) in toluene (Burdick & Jackson, Muskegon, MI). The automated procedure iodine solution was 0.24 percent w/v in toluene. In both procedures the Aliquat 336 (Aldrich Chemical Co., Milwaukee, Wisconsin) solution was 0.88 percent w/v MIBK (Burdick & Jackson, Muskegon, MI). Certified unleaded gasoline was obtained form Phillips Chemical Company, Borger, Texas.

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[1] M. Kashiki, S. Yamazoe, S. Ohima, Anal. Chem Acta, *53*, 95 (1971).

[2] Lukasiewicz, R. J., Berens, P. H., Buell, B. E., Anal. Chem., *47*, 1045 (1975).

B. Procedures

Manual

The procedure published in the **Federal Register** (40 CFR Part 80, Appendix B) was followed except that alkyl lead compounds in iso-octane standards were utilized instead of lead chloride standards.

Automated

The flow diagram of the automated system is illustrated in Figure 1. At concentrations less than 0.05 g Pb/gal, a sampling rate of 30/hr is used to allow the baseline to be established between samples. The procedures screened all samples at a 30/hr sampling rate. Any samples with a lead content greater than 0.05 g Pb/gal were rerun at a sampling rate of 20/hr with a 3:1 sample to wash ratio. The wash solution consisted of certified unleaded gasoline. The sample was diluted and mixed in the first mixing coil with MIBK displaced from a two-liter flask with distilled water. The iodine reagent (0.24 percent w/v) was then reacted in the air segmented stream in the second mixing coil. At the flow rates given in Figure 1, the reaction time of the iodine before the addition of the Aliquat 336 was a little over one minute. The Aliquat 336 solution was introduced into the system by means of displacement with distilled water from a 500 ml flask. The air segmented stream was then debubbled by the reverse displacement and the products of the reaction were pumped into the atomic absorption spectrometer. The operating conditions of the atomic absorption spectrometer were as follows: wavelength: 283.3nm; acetylene flow: 20 ml/min; airflow: 65 ml/min; nebulizer flow: 5.2 ml/min.

C. Results and Discussion

Manual and Automated Comparison

The additions of the individual reagents of the automated system were designed to match as closely as possible those of the manual method. Table I shows the volume of each reagent required by the manual method to the volumes of reagents utilized in one minute by the automated method. Iodine at a concentration of 3 percent w/v caused the pump tubing to harden very quickly. The iodine was diluted and its pump flow rate was increased to result in an equal molar concentration addition. Therefore, the percent total volume and molar concentration of each reagent is very closely matched in both methods.

Analytical comparability of two methods of analysis are usually measured by defining the sensitivity, precision, and accuracy of each method. Four point calibration curves were prepared over the concentration range of 0.010 g Pb/gal to 0.110 g Pb/gal for both methods. A least squares fit of the calibration data for the manual and automated methods resulted in slopes of 9.8 and 9.1 Abs. Units/g Pb/gal respectively and intercepts of –0.016 and –0.012 respectively. This demonstrates that both systems have about the same sensitivity.

The percent relative standard deviation (% RSD) of replicate analysis of a sample is a measure of the precision of the method. Table II shows the results of the replicate analysis of three samples by the automated method and the replicate analysis of one sample by the manual method. As shown by the comparison of the % RSD of the respective methods, the precision is very similar. Another measure of precision can be obtained by the absolute difference of duplicate analysis. Four samples analyzed in duplicate by both methods resulted in the data presented in Table II. The average difference for duplicate analysis by both methods are less than 0.005 g Pb/gal which is the maximum acceptable difference allowed by the standard method. In consideration of these measures of precision, the precisions of both methods are about the same.

Assessment of the accuracy of both methods was accomplished by measuring the lead content of three NBS certified gasoline standards. The results of these analyses are given in Table II. The manual analysis average deviation was slightly biased high, 2.4%±7.2%, while the automated analyses are biased low, −3.7%±1.8%. Absolute deviations would indicate that since the automated analyses fell within 5% of the true value while the manual analyses were within 10%, the accuracy of the automated method is a little better than the manual method.

Seventeen unleaded gasoline samples were analyzed by both methods. The results of these analyses and the differences between the analyses are given in Table III. Also shown in Table III is a statistical student T method comparison test, the result of which is the conclusion that there is no statistical difference between the results of the two methods.

There are a number of practical considerations that favor the use of the automated analysis. When a workload of twenty samples is on hand the automated analysis results in a savings of approximately 70% in the cost of labor and reagents over manual analysis. In one person-day, at least 100 sample analyses can be performed by the automated analysis while, in consideration of glassware cleaning, sample preparation and analysis, only about 25 sample analyses can be performed by the manual analysis. The ease with which quality control data can be gathered with the automated analysis offers an advantage that is of uppermost importance in producing legally defensible analyses. An additional advantage of the automated system, is that since the entire system is closed, MIBK vapors are cut substantially in the laboratory.

Sample Analysis

The automated procedure utilized in the analysis of samples placed a heavy emphasis on quality control. This procedure requires first a check of the slope of the calibration curve. All calibration curves utilized for sample analyses agreed to within 10% of the slope stated earlier. Every tenth sample was analyzed in duplicate. At least one NBS reference standard and at least one blind reference standard (U.S. EPA, RTP, N.C.) was analyzed during an analysis run. All samples greater than 0.05 g Pb/gal were rerun and spiked with known quantities of alkyl lead compounds. All samples were diluted if necessary with unleaded gasoline so that the resulting diluted value as well as the diluted spike sample fell on the calibration curve.

The quality control results of the analysis of 1,491 samples are summarized in Table IV. The average difference of the duplicate analyses very closely approximate zero which would be expected statistically. Within a 95% confidence interval all duplicate analyses performed with the automated system would differ by less than 0.0046 g Pb/gal which is within the acceptable limit of 0.005 g Pb/gal difference established in the standard method. The accuracy of the method evaluated over an extensive period is quite good. Within a 95% confidence interval, values reported over 0.05 g Pb/gal are within 10% of the true value. Values reported below 0.05 g Pb/gal are within 15% of the true value. As indicated by the spiking data no substantial matrix effects were encountered in the analyses.

To establish a quality assurance program, reference may be made to EPA publication 650/4–74–005–m, "Guidelines for Development of a Quality Assurance Program: Volume XIII 'Test for Lead in Gasoline by Atomic Absorption Spectrometry'". This publication may be ordered from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va.,

22161. The order number is PB241264/1BE.

III. Conclusion

For the reasons discussed above, I conclude that the automated system may be a useful alternative to the manual method and appears to offer acceptable sensitivity, precision, and accuracy. Accordingly, I propose to establish it as an alternative method for the determination of lead content in gasoline as discussed more fully above.

Note.—Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an effect on the economy of $100 million or more, it will increase efficiency while decreasing cost to commercial and government testing facilities which adopt the proposed procedure, and there will not be significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery One, 401 M Street, SW., Washington, D.C.

Note.—Under the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require preparation of a regulatory flexibility analysis. The regulation proposed herein authorizes use of an optional automated laboratory procedure for testing lead content of gasoline for enforcement purposes. The proposed method allows greater efficiency than the authorized standard method. This enables facilities to achieve a cost savings if they test a volume of samples sufficient to warrant the initial investment in the pumps and automatic sampler which are required. Small laboratories which cannot afford to purchase the needed equipment may be placed at a competitive disadvantage if they are unable to test gasoline samples as inexpensively as facilities employing the automated method; however, this impact on small entities is expected to be slight. Therefore, pursuant to the provisions of 5 U.S.C. § 605(b), I hereby certify that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Accordingly, I have determined that preparation of a regulatory flexibility analysis is not required.

(Sec. 211 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7545 and 7601(a))

Dated: March 31, 1981.

Walter C. Barber,

Acting Administrator.

Accordingly, it is proposed to amend 40 CFR Part 80 as follows:

1. Section 80.3 is proposed to be revised to read as follows:

§ 80.3 Test methods.

The lead and phosphorous content of gasoline shall be determined in accordance with test methods set forth in the Appendices to this Part.

2. Appendix B is proposed to be revised as follows:

Appendix B

The title of the existing test procedure would be changed to "Standard Method Test For Lead In Gasoline By Atomic Absorption Spectrometry."

Section 1 would be revised as follows:

1. *Scope.* 1.1 This method covers the determination of the total lead content of gasoline. The procedure's calibration range is 0.010 to 0.10 gram of lead/U.S. gal. Samples above this level should be diluted to fall within this range. The method compensates for variations in gasoline composition and is independent of lead alkyl type.

Section 6 would be amended to add a new subsection 6.3 as follows:

6.3 Any sample resulting in a peak greater than 0.05g Pb/gal. will be run in duplicate. Samples registering greater than 0.10g Pb/gal. should be diluted with isooctane or unleaded fuel to fall within the calibration range.

An approved alternative test method would be added as follows: Automated Method Test For Lead In Gasoline By Atomic Absorption Spectrometry.

1. Scope and Application.

1.1 This method covers the determination of the total lead content of gasoline. The procedure's calibration range is 0.010 to 0.10 gram of lead/U.S. gal. Samples above this level should be diluted to fall within this range. The method compensates for variations in gasoline composition and is independent of lead alkyl type.

1.2 This method may be used as an alternative to the Standard Method set forth above.

1.3 Where trade names or specific products are noted in the method, equivalent apparatus and chemical reagents may be used. Mention of trade names or specific products is for the assistance of the user and does not constitute endorsement by the U.S. Environmental Protection Agency.

2. Summary of Method.

2.1 The gasoline sample is diluted with methyl isobutyl ketone (MIBK) and the alkyl lead compounds are stabilized by reacting with iodine and a quarternary ammonium salt. An automated system is used to perform the diluting and the chemical reactions and feed the products to the atomic absorption spectrometer with an air-acetylene flame.

2.2 The dilution of the gasoline with MIBK compensates for severe non-atomic absorption, scatter from unburned carbon containing species and matrix effects caused in part by the burning characteristics of gasoline.

2.3 The *in-situ* reaction of alkyl lead in gasoline with iodine eliminates the problem of variations in response due to different alkyl types by leveling the response of all alkyl lead compounds.

2.4 The addition of the quarternary ammonium salt improves response and increases the stability of the alkyl iodide complex.

3. Sample Handling and Preservation.

3.1 Samples should be collected and stored in containers which will protect them from changes in the lead content of the gasoline such as from loss of volatile fractions of the gasoline by evaporation or leaching of the lead into the container or cap.

3.2 If samples have been refrigerated they should be brought to room temperature prior to analysis.

4. Apparatus.

4.1 AutoAnalyzer system consisting of:

4.1.1 Sampler 20/hr cam, 30/hr cam.

4.1.2 Proportioning pump.

4.1.3 Lead in gas manifold.

4.1.4 Disposable test tubes.

4.1.5 Two 2-liter and one 0.5 liter Erlenmeyer solvent displacement flasks. Alternatively, syringe pumps may be used.

4.2 AAS Detector System consisting of:

4.2.1 Atomic absorption spectrometer.

4.2.2 10" strip chart recorder.

4.2.3 Lead hollow cathode lamp or EDL.

5. Reagents.

5.1 Aliquat 336/MIBK solution (10% v/v): Dissolve and dilute 100 ml (88.0g) of Aliquat 336 (Aldrich Chemical Co., Milwaukee, Wisconsin) with MIBK (Burdick & Jackson Lab., Inc., Muskegon, Michigan) to one liter.

5.2 Aliquat 336/iso-octane solution (1% v/v): Dissolve and dilute 10 ml (8.8 g) of Aliquat 336 (reagent 5.1) with iso-octane to one liter.

5.3 Iodine solution (3% w/v): Dissolve and dilute 3.0 g iodine crystals (ACS) with toluene (Burdick & Jackson Lab., Inc., Muskegon, Michigan) to 100 ml.

5.4 Iodine working solution (0.24% w/v): Dilute 8 ml of reagent 5.3 to 100 ml with toluene.

5.5 Methyl isobutyl ketone (MIBK) (4-methyl-2-pentanone).

5.6 Certified unleaded gasoline (Phillips Chemical Co., Borger, Texas) or iso-octane (Burdick & Jackson Lab, Inc., Muskegon, Michigan).

6. Calibration Standards.

6.1 Stock 5.0 g Pb/gal Standard: Dissolve 0.4433 gram of lead chloride ($PbCl_2$) previously dried at 105 C for 3 hours in 200 ml of 10% v/v Aliquat 336/MIBK solution (reagent 5.1) in a 250 ml volumetric flask. Dilute to volume with reagent 5.1 and store in an amber bottle.

6.2 Intermediate 1.0 g Pb/gal. Standard: Pipet 50 ml of the 5.0 g Pb/gal. standard into a 250 ml volumetric flask and dilute to volume with a 1% v/v Aliquat 336/iso-octane solution (reagent 5.2). Store in an amber bottle.

6.3 Working 0.02, 0.05, 0.10 g Pb/gal Standards: Pipet 2.0, 5.0, and 10.0 ml of the 1.0 g Pb/gal solution to 100 ml. volumetric flasks. Add 5 ml of a 1% Aliquat 336/iso-octane solution to each flask. Dilute to volume with iso-octane. These solutions contain 0.02, 0.05, and 0.10 g Pb/gal in a 0.05% Aliquat 336/iso-octane solution.

7. AAS Instrumental Conditions.

7.1 Lead hollow cathode lamp.

7.2 Wavelength: 283.3 nm.

7.3 Slit: 4 (0.7mm).

7.4 Range: UV.

7.5 Fuel: Acetylene (approx. 20 ml/min at 8 psi).

7.6 Oxidant: Air (approx. 65 ml/min at 31 psi).

7.7 Nebulizer: 5.2 ml/min.

7.8 Chart speed: 10 in/hr.

8. Procedures.

8.1 AAS start-up.

8.1.1 Assure that instrumental conditions have been optimized and aligned according to Section 7 and the instrument has had substantial time for warm-up.

8.2 Auto Analyzer start-up (see figure 1).

8.2.1 Check all pump tubing and replace as necessary. Iodide tubing should be changed daily. All pump tubing should be replaced after one week of use. Place the platen on the pump.

8.2.2 Withdraw any water from the sample wash cup and fill with certified unleaded gasoline (reagent 5.6).

8.2.3 Fill the 2 liter MIBK dilution displacement Erlenmeyer flask (reagent 5.5) and the 0.5 liter Aliquat 336/MIBK 1% v/v (reagent 5.2) displacement flask and place the rubber stopper glass tubing assemblies in their respective flasks.

8.2.4 Fill a 2-liter Erlenmeyer flask with distilled water. The water will be used to displace the solvents. Therefore, place the appropriate lines in this flask. This procedure is not relevant if the syringe pumps are used.

8.2.5 Fill the final debubbler reverse displacement 2-liter Erlenmeyer flask with distilled water and place the rubber stopper glass tubing assembly in the flask.

8.2.6 Place the appropriate lines for the iodine reagent (reagent 5.4) and the wash solution (reagent 5.6) in their respective bottles.

8.2.7 Start the pump and connect the aspiration line from the manifold to the AAS.

8.2.8 Some initial checks to assure that the reagents are being added are:

a. A good uniform bubble pattern.

b. Yellow color evident due to iodine in the system.

c. No surging in any tubing.

8.3. Calibration.

8.3.1 Turn the chart drive on and obtain a steady baseline.

8.3.2 Load standards and samples into simple tray.

8.3.3 Start the sampler and run the standards (Note: first check the sample probe positioning with an empty test tube).

8.3.4 Check the linearity of calibration standards response and slope by running a least squares fit. Check these results against previously obtained results. They should agree within 10%.

8.3.5 If the above is in control then start the sample analysis.

8.4. Sample Analysis.

8.4.1 To minimize gasoline vapor in the laboratory load the sample tray about 5-10 test tubes ahead of the sampler.

8.4.2 Record the sample number on the strip chart corresponding to the appropriate peak.

8.4.3 Every ten samples run the high calibration standard and a previously analyzed sample (duplicate). Also let the sampler skip to check the baseline.

8.4.4 After an acceptable peak (within the calibration range) is obtained, pour the excess sample from the test tube into the waste gasoline can.

8.4.5 Any sample resulting in a peak greater than 0.05 g/gal will be run in duplicate. Samples registering greater than 0.10g Pb/gal. should be diluted with iso-octane or unleaded fuel to fall within the calibration range.

8.5. Shut Down.

8.5.1 Replace the solvent displacement flask with flasks filled with distilled water. Also place all other lines in a beaker of distilled water. Rinse the system with distilled water for 15 minutes.

8.5.2 Withdraw the gasoline from the wash cup and fill with water.

8.5.3 Dispose of all solvent waste in waste glass bottles.

8.5.4 Turn the AAS off after extinguishing the flame. Also turn the recorder and pump off. Remove the platen and release the pump tubing.

8.5.5 Shut the acetylene off at the tank and bleed the line.

9. Quality Control

9.1 Precision

9.1.1 All duplicate results should be considered suspect if they differ by more than 0.005 g Pb/gal.

9.2 Accuracy

9.2.1 All quality control standard checks should agree within 10% of the nominal value of the standard.

9.2.2 All spikes should agree within 10% of the known addition.

10. Past Quality Control Data

10.1 Precision

10.1.1 Duplicate analysis for 156 samples in a single laboratory has resulted in an average difference of 0.00011 g Pb/gal. with a standard deviation of 0.0023.

10.1.2 Replicate analysis in a single laboratory (greater than 5 determinations) of samples at concentrations of 0.010, 0.048, and 0.085 g Pb/gal. resulted in relative standard deviations of 4.2%, 3.5%, and 3.3% respectively.

10.2 Accuracy

10.2.1 The analysis of NBS lead in reference fuel of known concentrations in a single laboratory has resulted in found values deviating from the true value for 11 determinations of 0.0322 g Pb/gal. by an average of 0.56% with a standard deviation of 6.8%, for 15 determinations of 0.0519 g Pb/gal. by an average of −1.1% with a standard deviation of 5.8%, and for 7 determinations of 0.0725 g Pb/gal. by an average of 3.5% with a standard deviation of 4.8%.

10.2.2 Twenty-three analyses of blind reference samples in a single laboratory (U.S. EPA, RTP, N.C.) has resulted in found values differing from the true value by an average of −0.0009 g Pb/gal. with a standard deviation of 0.004.

10.2.3 In a single laboratory, the average percent recovery of 108 spikes made to samples was 101% with a standard deviation of 5.6%.

(Secs. 211 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7545 and 7601(a))

BILLING CODE 6560-33-M

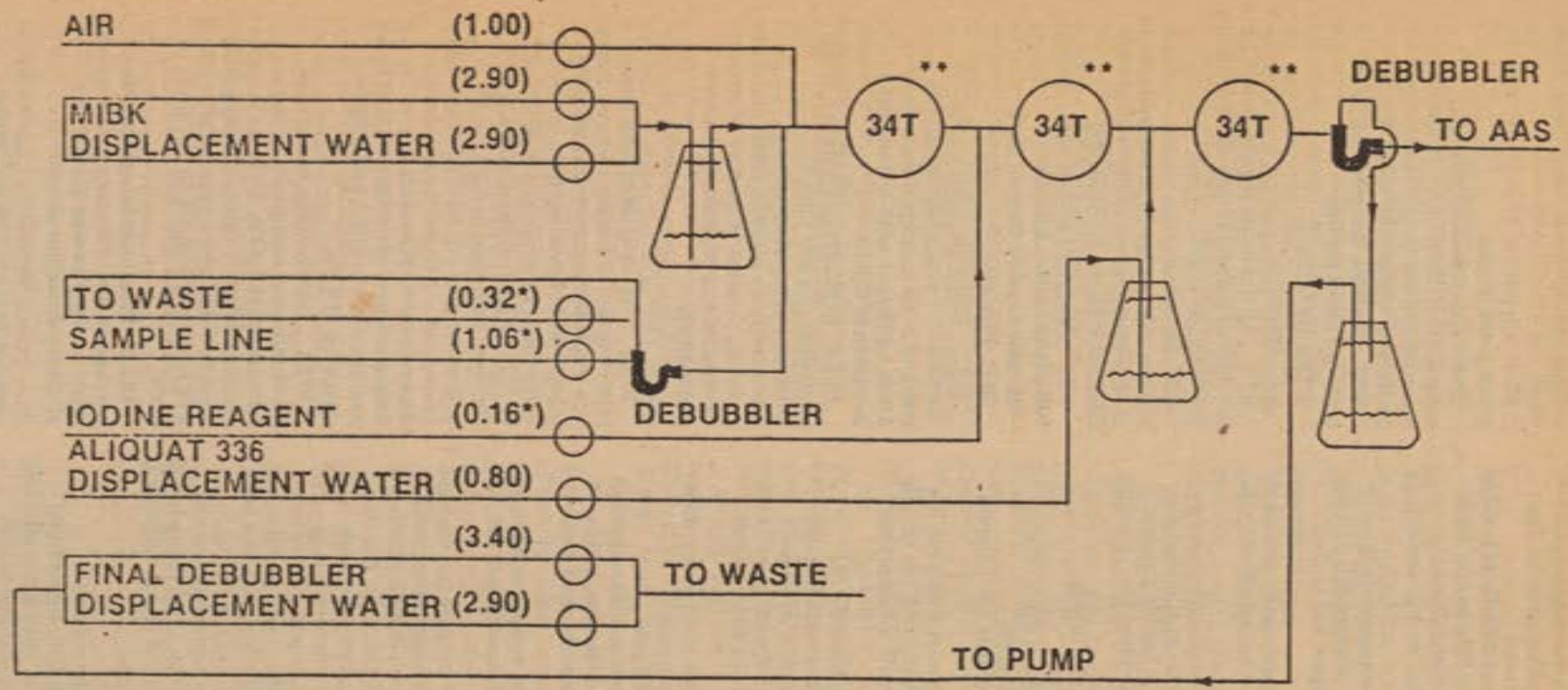


Figure 1

Flow Diagram for the Automated System. (*: Solvaflex pump tubing, **: Technicon part no. 157-0225) Numbers in parentheses refer to the flow rate (ml/min.).

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Table I.—*Comparison of Reagent Usage by the Manual and Automated Methods*

Reagent Proportions

Manual		Reagent	Automated	
mL used	Percent total volume		mL used [1]	Percent total volume
39.9	79.8	MIBK	5.60	77.3
5.0	10.0	Std. or Sample	0.74	9.9
0.1	0.2	I_2/Toluene	0.16	2.1 [2]
5.0	10.0	1% Aliquat 336/MIBK	0.80	10.7
50.0	100.0	Total volume	7.50	100.0

[1] mL utilized in 1 minute.
[2] Concentration of I_2/Toluene solutions are 3% for manual method, 0.24% for automated method.

Table II.—*Precision and Accuracy Data for the Manual and Automated Methods*

Precision

Replicate Analysis

No. of analyses	Method	Concentration g Pb/gal.	Percent RSD
5	Manual	0.054	3.6
5	Automated	0.010	4.2
5	Automated	0.048	3.5
5	Automated	0.085	3.3

Duplicate Analysis (g Pb/gal.)

Sample No.	Automated		Manual	
	Average	Difference	Average	Difference
1	0.031	0.003	0.033	0.001
2	0.043	0.000	0.045	0.002
3	0.012	0.004	0.015	0.001
4	0.101	0.003	0.098	0.008

$X_d = 0.0025$ $X_d = 0.0030$
$S_d = 0.0017$ $S_d = 0.0034$

Accuracy

NBS Reference Standards

NBS value g Pb/gal.	Automated		Manual	
	Value g Pb/gal.	Percent deviation	Value g Pb/gal.	Percent deviation
0.0322	0.0307	−4.7	0.0350	+8.7
0.0519	0.0494	−4.8	0.0539	+3.9
0.0725	0.0713	−1.7	0.0685	−5.5

Table III.—*Statistical Comparison of Actual Sample Analysis by the Automated and Manual Methods*

Sample No.	Found Value g Pb/gal.		
	Manual	Automated	Auto-manual difference
1	0.032	0.032	0.000
2	0.044	0.043	−0.001
3	0.014	0.014	0.000
4	0.094	0.099	+0.005
5	0.035	0.034	−0.001
6	0.053	0.052	−0.001
7	0.012	0.007	−0.005
8	0.032	0.032	0.000
9	0.014	0.010	−0.004
10	0.086	0.092	+0.006
11	0.055	0.058	+0.003
12	0.032	0.030	−0.002
13	0.012	0.007	−0.005
14	0.050	0.055	+0.005
15	0.074	0.073	−0.001
16	0.010	0.005	−0.005
17	0.089	0.097	+0.008

Table III.—*Statistical Comparison of Actual Sample Analysis by the Automated and Manual Methods*—Continued

$\overline{X}_{difference} = 0.00012$
$\delta_{difference} = 0.004$
$n = 17$
$t = \overline{X}/\delta\sqrt{n} = 0.123$
For $n-1 = 16$, $t_{.05} = 1.746$

Table IV.—*Precision and Accuracy Data for the Automated Method Gathered During the Survey*

Precision

Duplicate Analyses

n	Average difference, g Pb/gal.	Standard deviation
156	0.00011	0.0023

Accuracy

NBS Reference Standards

n	Concentration, g Pb/gal.	Average percent deviation	Standard deviation
21	0.0322	3.4	6.4
36	0.0519	0.7	4.8
20	0.0725	0.7	4.9

"Blind" Reference Standards

n	Average difference	Standard deviation
23	−0.0009	0.004

Spiked Samples

n	Average percent recovery	Standard deviation
108	101	5.6

NOTE.—Samples analyzed: 1491.

[FR Doc. 81-10447 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-33-M

40 CFR Part 81

[A-5-FRL 1799-1]

Indiana; Designation of Areas for Air Quality Planning Purposes; Sulfur Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking; correction notice.

SUMMARY: EPA proposed rulemaking for public comment on January 27, 1981 (45 FR 8585) which would redesignate Jefferson County, Indiana as nonattainment for sulfur dioxide. The proposal inadvertently omitted the date by which comments are due. Comments are due on March 26, 1981, 60 days from the date of the proposal's publication.

ADDRESS: Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604. In reply refer to: File B46.

FOR FURTHER INFORMATION CONTACT: Robert Miller, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

(Sections 107 and 301(a) of the Clean Air Act as amended)

Dated: February 13, 1981.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 81-10422 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 86

[EN-FRL 1799-6]

Motor Vehicle Pollution Control; Procedures for Application for Waiver of Effective Date of Carbon Monoxide Emission Standards for Certain 1982 Model Year Light-Duty Motor Vehicle Models

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Procedures for Waiver Application.

SUMMARY: This notice provides procedures for interested manufacturers to file applications for waiver of the 1982 carbon monoxide (CO) emission standard for certain lightduty vehicle models which they have never introduced into commerce subject to the statutory CO standard. The notice also requests public comment on those applications, and announces opportunity

for a public hearing on any new applications EPA receives in response to this notice.

DATES: Manufacturers may submit applications by April 16, 1981 for waiver of the 1982 model year carbon monoxide (CO) emission standard for any light-duty vehicle not previously marketed under the statutory CO emission standard. Interested parties may submit a written request for a public hearing by April 21, 1981. If EPA receives such a hearing request the Agency will hold a public hearing on April 27, 1981, beginning at 9:00 a.m. Otherwise, EPA will publish a notice in the **Federal Register** announcing the cancellation of this public hearing. Regardless of whether a hearing is requested, EPA will consider written comments received by May 4, 1981.

ADDRESSES: Applications for waivers, requests for a hearing, or comments on the applications should be sent to the Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The public hearing will be held at the EPA Conference Room 3906, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Information submitted by the applicants, as well as any other relevant information, will be available for public inspection and copying in EPA Public Docket EN-81-6, located in EPA's Central Docket Section (A-130), Gallery I, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Varela, Waivers Section, Manufacturers Operations Division (EN-340), 401 M Street, S.W., Washington, D.C. 20460, telephone number, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(5) of the Clean Air Act, as amended, 42 U.S.C. 7521(b), authorizes EPA to waive, for the 1981 and 1982 model years, the effective date of the statutory CO emission standard otherwise applicable to light-duty motor vehicles and engines upon the request of a manufacturer for a specific vehicle model if the Administrator makes certain findings specified under section 202(b)(5)(C) of the Act.

Guidelines for CO waiver applications were published in the **Federal Register** at 43 FR 47272, October 13, 1978, in order to apprise manufacturers of the information deemed necessary to demonstrate that a waiver should be granted.

After holding previously announced public hearings, EPA granted earlier waiver requests which allowed several manufacturers to market certain light-duty vehicle models under a less strict CO standard for the 1981 model year only. These decisions announced that EPA would reconsider extending these waivers to cover the 1982 model year if manufacturers were to reapply with additional information more relevant to the 1982 model year. These models have yet to be introduced into commerce after being certified under the statutory CO standard. In addition, some manufacturers may be designing new engine families to be produced and introduced into commerce for the first time in the 1982 model year which also never have been subject to the statutory CO standard.

EPA is announcing these procedures for submission of applications for waiver of the statutory CO standard at this time in an effort to consolidate proceedings with common issues. A consolidated proceeding will save time and conserve public and industry resources. EPA expects several such applications will be submitted, because manufacturers of models covered by one-year waivers or models not yet in production may still face uncertainty regarding their ability to market such models without waivers in the 1982 model year, given the limited amount of lead time available before scheduled start of production (in some cases within several months), and the deteriorating economic circumstances under which many automobile manufacturers are operating.

EPA will consider waiver applications for these engine families solely on the basis of written information submitted to or otherwise included in the record, unless EPA receives a written request for a public hearing by April 21, 1981. If EPA receives such a request, it will hold a hearing on April 27, 1981, at the time and place specified in the "Dates and Addresses" section of this notice.* The procedures for this hearing will be the same as those which EPA has employed for previous CO waiver hearings (see, e.g., 45 FR 45956 (July 8, 1980)). If EPA does not receive a hearing request, it will publish a **Federal Register** notice cancelling the April 27 hearing.

The primary purposes of this procedure are (1) to allow interested parties to submit relevant information for the public record in a manner consistent with the procedural requirements of the Clean Air Act to allow the Administrator to determine whether to grant waivers covering these models, and (2) to enable the Administrator to make a decision as soon as possible to provide these manufacturers with sufficient lead time to implement production plans based upon decisions on these models.

As was the case in the previous CO waiver proceedings the participants' presentations in this proceeding should address the considerations listed in previous CO waiver hearing notices (see, e.g., 45 FR 63514 (September 25, 1980) and 45 FR 79116 (November 28, 1980)). In conjunction with the statutory issues examined in previous waiver proceedings (i.e., availability of technology, public health concerns, public interest considerations, and good faith efforts), this hearing will focus in particular on:

1. Whether the information available at this stage of the 1982 development process indicates that a waiver should be granted for the 1982 model year for the models in question, based on considerations such as (a) the current emission levels of 1981 vehicles covered by 1981 model year waivers; (b) problems that the applicant has not resolved; (c) the risks the applicant faces in attempting to solve these problems, given 1982 lead time schedules; (d) the potential availability of alternative technology capable of enabling the model in question to meet the statutory standards in the 1982 model year, especially the availability of alternative technology which the applicant already has used under those standards.

2. The severity of the adverse consequences that could result from an erroneous 1982 waiver denial at this time (as opposed to a later date when more definite information may be available), based on considerations such as (a) the costs an applicant could avoid by receiving a waiver at this time, including the costs of attempting to develop a system to meet the statutory CO standard for the 1982 model year and the costs of developing and certifying an interim system in 1982; and (b) the impact which these costs could have on the applicant and the public in light of any financial problems the applicant might face during the period were it to attempt the development and certification of its 1982 model year system.

* EPA may conduct this hearing in conjunction with a hearing on applications for waiver of the oxides of nitrogen (NO_x) emission standard applicable to light-duty diesel motor vehicles. A notice announcing an opportunity for a hearing on diesel NO_x waiver applications appears elsewhere in today's **Federal Register**. Manufacturers are required to submit separate applications for a CO waiver request or a diesel NO_x waiver request, by engine family. To proceed as expeditiously as possible, EPA will combine the hearings (if hearings are requested) to consider any timely applications it receives pursuant to these notices as the Agency did on May 8, 1980. (See 45 FR 27788 (April 24, 1980)).

3. The risks of an erroneous grant for any or all of the requests for extending the 1981 model year waivers or granting waivers for models not yet in production, including the likelihood and severity of adverse environmental consequences.

EPA also is requesting public comment on the concerns that this notice has raised for the purpose, in part, of reevaluating conclusions announced in previous waiver decisions. EPA recognizes the need to consider any information submitted regarding these applications quickly, in light of the sixty-day statutory deadline which section 202(b)(5) of the Act establishes for responding to CO waiver requests and in light of manufacturers' needs to finalize plans to begin production of these vehicle models. Thus, EPA is requiring that all comments be submitted by May 4, 1981, to ensure that the Administrator will consider them in deciding on these applications.

EPA will place all information which it receives by that date in public docket EN-81-6. EPA will rely solely on the information contained in that docket in deciding whether or not to grant these waiver requests.

Dated: March 30, 1981.

Richard D. Wilson,

Acting Assistant Administrotor for Enforcement.

[FR Doc. 81-10421 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-33-M

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40 CFR Part 86

[EN-FRL 1799-5]

Motor Vehicle Pollution Control; Procedures for Application for Waiver of the 1981-1984 Model Year Oxides of Nitrogen Emission Standard For Light-Duty Diesel Motor Vehicles; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of procedures for waiver applications.

SUMMARY: This notice provides procedures for interested manufacturers to file applications for waiver of the 1981 through 1984 model year oxides of nitrogen (NO_x) emission standard applicable to diesel light-duty vehicles. It also requests public comment and provides an opportunity for a public hearing to consider applications received in response to this notice.

DATES: This notice announces that EPA has tentatively scheduled a consolidated public hearing beginning at 9:00 a.m. on April 27, 1981, if any party notifies EPA by April 21, 1981, that it wishes to present oral testimony, on any NO_x waiver applications that EPA receives by April 16, 1981. Interested parties should submit any relevant written comments by May 4, 1981, to ensure that the Administrator can consider those comments in deciding on the waiver applications. If no party submits a timely notice to EPA that it wishes to testify, EPA will consider the waiver request based on written submissions to the record and publish a **Federal Register** notice cancelling the hearing.

ADDRESSES: Manufacturers submitting NO_x waiver applications, and parties interested in submitting proposed testimony or relevant written comments, should direct their submissions to the Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. EPA has tentatively scheduled a public hearing at the EPA Conference Room 3906, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. Information submitted by applicants and other relevant information will be available for pubic inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at U.S. Environmental Protection Agency, Central Docket Section (A-120), Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C. (Docket Number EN-81-7).

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Schwartz, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION:

I. Background

Section 202(b)(6)(B) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(6)(B)(1977), allows any manufacturer to petition the Administrator of EPA for waiver of the 1981-1984 model year NO_x standard of 1.0 gpm. The Administrator, after notice and opportunity for public hearing, may waive the standard for any class or category of light-duty vehicles manufactured during the four model-year period beginning in model year 1981, up to a maximum level of 1.5 gpm, if the manufacturer can show that the waiver is necessary to permit diesel engine technology to be used on the subject vehicles. The waiver may be granted if the Administrator determines:

(i) That the waiver will not endanger public health;

(ii) That the waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act, and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.

Guidelines for diesel NO_x waiver applications were published in the **Federal Register** at 43 FR 30341, July 14, 1978, in order to apprise manufacturers of the information deemed necessary to demonstrate that a waiver should be granted.

II. Purpose

EPA is announcing these procedures for submission of applications for waiver of the statutory NO_x standard for model years 1981-1984 at this time in an effort to consolidate proceedings with common issues. A consolidated proceeding will save time and conserve public and industry rescoures. EPA expects several such applications will be submitted,[1] because of potential risks the manufacturers may face in developing and applying technology to enable their diesel models to comply with both the statutory NO_x standard and the particulate standards applicable in those model years and because of the difficult economic circumstances which many of these manufacturers may be facing during that time.[2]

Therefore, EPA is establishing procedures under which manufacturers may submit waiver applications covering 1981-1984 mdoels to EPA for decision at this time. EPA has tentatively scheduled a public hearing on April 27, 1981, to consider those applications received by April 16, 1981, at the EPA Conference Room 3906, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.[3] If EPA does

[1] In fact, General Motors Corp. already has filed a waiver application for its 4.3 liter diesel engine family for model years 1982 through 1984. See 46 FR 15893 (March 10, 1981).

[2] In the 1982 model year the 0.6 gpm light-duty diesel particulate standard takes effect. That standard becomes 0.2 gpm as of the 1985 model year. 45 FR 14496 (March 5, 1980). These are technology-based standards that reflect the greatest degree of particulate emission reduction achievable through the application of technology which EPA has determined will be available for a given model year, considering lead time and other constraints. 42 U.S.C. 7521(a)(3)(A)(iii).

[3] As part of this tentatively scheduled public hearing, EPA may also consider applications from manufacturers for waiver of the statutory carbon monoxide (CO) standard for certain 1982 model year light-duty vehicles. See the notice published elsewhere in today's **Federal Register**. Manufacturers are required to submit separate applications for a CO waiver request or a diesel

Continued

not receive a hearing request, it will publish a **Federal Register** notice cancelling the April 27 hearing.

III. Hearing Procedures

If the tentatively scheduled hearing takes place, it will provide an opportunity for interested persons to state their views or arguments or to provide pertinent information concerning the waiver requests at issue. Any party desiring to make an oral statement at the hearing should file a notice of such intention with the Director of EPA's Manufacturers Operations Division at the address listed above no later than April 21, 1981. The procedures for the hearing will be the same as those which EPA has employed in previous NO_x waiver hearings.[4]

Presentations by the participants at the hearing, if any, and interested parties who make written submissions or file applications should address the considerations listed in previous NO_x waiver hearing notices.[5] In conjunction with the statutory issues examined in previous waiver proceedings, this hearing will focus in particular on:

(1) The technological and engine durability difficulties faced by the applicant in producing vehicles capable of meeting applicable emission standards in model years 1981–1984. In particular, applicants should set forth emission levels achieved by their light-duty diesel vehicles in the 1980 and 1981 model years and technological problems faced in attempting to improve these emission levels in each of the model years of the waiver period, considering available lead time.

(2) The risks the applicant faces in attempting to resolve these technological problems in each of the model years of the waiver period, considering lead time.

(3) The potential availability of alternative or improved technology capable of enabling the applicant's models to meet applicable standards in each model year of the waiver period.

(4) The particulate emission levels achieved by the applicant's diesel models in the 1980 and 1981 model years, and the levels likely to be achieved by its diesel models both with and without waivers for the remaining years of the statutory waiver period.

(5) Economic risks faced by the applicant if waivers are not granted for one or more of the model years in the 1981–1984 model year period, as compared to economic benefits realized if waivers are granted. Specifically, the applicant should base its determinations on such considerations as the costs an applicant could avoid by receiving a waiver for all four years of the 1981–1984 model year period at this time, in comparison to a less than four model year waiver. An applicant should also include additional costs, if any, that it would incur in developing and certifying a system targeted to achieve an unwaived NO_x standard for any of those model years.

(6) Other financial information detailing the impact these additional costs, if any, could have on the applicant and the public in light of any financial problems the applicant might face during the waiver period.

(7) The likelihood that the applicant's models will be capable of meeting applicable emission standards at the end of the waiver period.

(8) The risks of environmental harm if EPA grants waivers for the applicant's diesel vehicles for model years 1981–1984, including the likelihood and severity of any adverse consequences.

Whether or not EPA holds a hearing the record will remain open until May 4, 1981, for the submission of written information for consideration by the Administrator in formulating this waiver decision. If EPA does hold the hearing, the agency will make a verbatim record of the proceeding. Interested persons may obtain a copy of the transcript at their own expense by so arranging with the reporter during the hearing. The Administrator will base determinations with regard to manufacturer's waiver request submitted pursuant to this notice on the record of the public hearing, if any, and on any other relevant written submissions submitted to, or otherwise included in, the record. This information will be available for public inspection at the EPA Central Docket Section in docket number EN-81-7. Interested parties may obtain copies of documents in the public docket as provided in 40 CFR Part 2.

Dated: March 30, 1981.

Richard D. Wilson,

Acting Assistant Administrator for Enforcement.

[FR Doc. 81-10449 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-33-M

NO_x waiver request, by engine family. To proceed as expeditiously as possible EPA will combine the hearings (if hearings are requested) to consider any timely applications it receives pursuant to these notices, as the Agency did on May 8, 1980. (See 45 FR 27788 (April 24, 1980)).

[4] See *e.g.*, 45 FR 27788, 27789 (April 24, 1980).

[5] See *e.g.*, 45 FR 73790, 73792 (November 6, 1980).

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40 CFR Parts 122, 260, and 264

[SWH-FRL 1800-4]

Hazardous Waste Management System; Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities and EPA Administered Permit Programs

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Hearings.

SUMMARY: This notice sets forth the dates and locations of four public hearings to be held in June 1981, on the reproposed permitting standards applicable to owners and operators of hazardous waste land disposal facilities and procedural requirements for permit applications.

DATES: June 8–9, Chicago, Illinois, June 11–12, Washington, D.C., June 15–16, Houston, Texas, June 18–19, San Francisco, California.

ADDRESSES: The hearings will be held at the following facilities:

Americana Congress Hotel, Windsor Room, 520 South Michigan Avenue, Chicago, Illinois;

Department of Health & Human Services, Humphrey Auditorium, 200 Independence Avenue, SW, Washington, D.C;

The Houston Grand Hotel (Ballroom), 2525 West Loop South, Houston, Texas;

EPA Regional Office, Conference Room (6th Floor-Nevada Room), 215 Freemont Street, San Francisco, California.

All hearings will begin at 9:00 a.m., with registration at 8:30 a.m. If necessary, an evening session will be held on the first day of each hearing, otherwise the hearings will conclude at the end of each day's session. Attendance is open to the public. Persons wishing to present oral statements should notify, in writing, Ms. Gerri Wyer, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Written comments should be addressed to Deborah Villari, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Comments should identify the regulatory docket as follows: "Section 3004 Permitting Standards for Land Disposal Facilities."

The public docket for this rulemaking is available at Room 2711B, U.S. Environmental Protection Agency, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Land Disposal Division, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 755-9120.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Land Disposal Division, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 755-9120.

SUPPLEMENTARY INFORMATION: EPA is required by the Resource Conservation and Recovery Act (RCRA) to issue standards applicable to owners and operators of hazardous waste management facilities. These standards are to be used in issuing permits for facilities used to store, treat, or dispose of hazardous waste. EPA has issued many of its permitting standards, but has not yet promulgated final permitting standards for land disposal facilities. (The Agency issued on February 13, 1981, (**Federal Register** (FR) 46, No. 30, pp. 12414-12433), temporary interim final standards for new hazardous waste land disposal facilities.) Based on the Agency's analysis and review of public comments on the December 18, 1978 proposed standards EPA, on February 5, 1981, (FR 46, No. 24, pp. 11126-11177) reproposed the permitting standards applicable to owners and operators of hazardous waste land disposal facilities, and also proposed companion informational and procedural requirements for permit applications.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 81-10451 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 420

[WH-FRL 1799-4]

Iron and Steel Manufacturing Point Source Category; Effluent Limitations Guidelines; Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency. (EPA).

ACTION: Extension of Comment Period and Notice of Availability of New Data.

SUMMARY: On January 7, 1981, EPA proposed a regulation under the Clean Water Act for pollutant discharges from steel mills (46 FR 1858-1907). The comment period, originally scheduled to expire March 9, 1981, has already been extended to April 8, 1981 (46 FR 14135). However, representatives of the steel industry have requested additional time to review and comment on the proposed regulation. Accordingly, EPA is extending the comment period until May 8, 1981 for all issues except alternative limitations for central treatment facilities. EPA is also providing notice of new data which will be added to the record.

DATE: Comments on the issue of alternative limitations for central treatment facilities must be submitted to EPA by April 8, 1981. Comments on the remainder of the proposed regulation including the new data must be submitted to EPA by May 8, 1981.

ADDRESS: Send comments to Mr. Ernst P. Hall, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: EGD Docket Clerk, Proposed Iron and Steel Manufacturing Rules (WH-552).

The supporting information and all comments on the proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Ernst P. Hall, (202) 426-2726.

SUPPLEMENTARY INFORMATION: On January 7, 1981, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from the steel industry (46 FR 1858-1907). These facilities are primarily involved in producing intermediate and finished steel products. Comments on the proposal were originally to be submitted on or before March 9, 1981. EPA extended the comment period until April 8, 1981 (46 FR 14135, February 26, 1981). Industry representatives have petitioned for a further extension of the comment period because their review and comments on costs and feasibility of the proposed regulation can not be completed within the present comment period. Accordingly, except as provided below, EPA is extending the public comment period on the proposed regulation until May 8, 1981.

The Agency specifically solicited comments (46 FR 1872, January 7, 1981) on whether seven plants listed by the Agency or any other plants should have alternative limitations for central treatment facilities. It is essential that comments on this aspect of the regulation be submitted as early as possible so that the Agency can investigate and evaluate any additional claims of need for special limitations. The Industry was consulted after receipt of their request for an extension of the comment period and agreed that this information is needed as soon as possible and foresaw no problems if the Agency did not extend the comment period for this aspect of the regulation. Accordingly, this extension of the comment period does not apply to comments on alternative limitations for central treatment. All comments on these alternative limitations must be submitted by April 8, 1981.

The Agency will place additional information in the Administrative Record for this rulemaking. This information expands the wastewater data base relative to hot forming and cold forming operations and will be taken into account before the final rule is promulgated. This information will be made available for inspection and copying at the EPA library on or before April 9, 1981. EPA invites public comment on these data.

Dated: April 2, 1981.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 81-10448 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-29-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 80-767]

Elimination of the Telephone Company Cable Television Cross-Ownership Rules for Rural Areas; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period and reply comment period.

SUMMARY: This action extends the time for filing comments and reply comments in a proceeding to define "rural areas" and to exempt such areas from the rules against telephone-cable television cross-ownership. This action was taken in response to a motion filed by Teleprompter Corporation.

DATE: Comments must be filed on or before April 6, 1981 and reply comments on or before May 6, 1981.

ADDRESS: Federal Communications Commission, 1919 M Street N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Linda M. Trochim, Common Carrier Bureau, (202) 632-6920.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Comments and Reply Comments

Adopted: March 30, 1981.

Released: April 1, 1981.

By the Chief, Common Carrier Bureau.

1. The Commission has before it a motion to extend the time for filing comments to the *Notice of Proposed Rulemaking* in Docket No. CC 80-767 released January 22, 1981, and a separate statement in support of the motion. The Notice proposed to define "rural areas" and to exempt such areas from the rules against telephone-cable television cross-ownership. Comments were due to be filed on or before March 30, 1981 and replies on or before April 29, 1981.

2. The motion for extension of time was submitted by Teleprompter Corporation on March 25, 1981. The National Cable Television Association, Inc. then filed a Statement in Support of Motion for Extension of Time. The requested extension is 7 days. Teleprompter states that it needs an extension in order to prepare for oral argument before the U.S. Court of Appeals for the District of Columbia on March 27, 1981, in support of the Commission's pole attachment rules, *Monongahela Power Company v. FCC*, Docket No. 80-1390. In addition, it claims to be engaged in preparation of briefs for the Federal District Court for New Jersey in opposition to AT&T's request for modification of the 1956 Consent Agreement. Teleprompter contends that these other obligations will prevent timely filing of comments in Docket No. CC 80-767.

3. The National Cable Television Association, Inc., supports the motion for extension with a claim that AT&T's "Motion for Construction of Final Judgment, January 24, 1956" before the U.S. District Court for the District of New Jersey may result in a construction of the decree which would permit AT&T and its affiliates to provide cable television service. It claims that the possibility of such a construction greatly complicates the issues under consideration in this rulemaking proceeding. It requests the extension in order to analyze more carefully the interrelationship of the proceedings.

4. It is our intention that all those who wish to comment have an opportunity to do so. However, we also have the responsibility to insure that proceedings before the Commission move forward at a reasonable pace. Although some of the interested parties in this proceeding, due to other litigation, may be better able to comment if granted an extension, it seems that others will have substantially completed their comments by this time. Admittedly, there may be a relationship between this rulemaking and the AT&T consent agreement, and we recognize the need to make the final decision on as complete a record as possible. Furthermore, we have previously recognized that where additional information must be considered to address the matter in issue adequately, it may be appropriate to extend the time for filing comments. *Motions for extension of time; Common Carrier Bureau*, 44 RR 2d 96 (1978). In considering all these facts, we believe a short extension of the time for filing comments to April 6, 1981, would be appropriate. The date for the filing of reply comments will also be extended seven days. We believe this will be enough time to provide a sufficiently complete record, and provide all parties a reasonable opportunity to comment, while not delaying the proceeding unduly.

5. Therefore, it is ordered, That the date for filing comments is extended to and including April 6, 1981, and the date for filing reply comments is extended to and including May 6, 1981.

6. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d(1), and 303(r), and §0.291 of the Commission's Rules, 47 CFR 0.291.

Federal Communications Commission.

Joseph A. Marino,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-10523 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-192; RM-3743]

FM Broadcast in Arroyo Grande and Pismo Beach, Calif.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of Class B FM Channel 234 for Channel 237A at Pismo Beach, California, in response to a petition filed by KPGA, Inc.

DATES: Comments must be filed on or before May 25, 1981, and reply comments on or before June 15, 1981.

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

FOR FURTHER INFORMATION CONTACT:
Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Arroyo Grande and Pismo Beach, California); BC Docket No. 81-192; RM-3743; *Notice of Proposed Rule Making.*

Adopted: March 24, 1981.

Released: March 31, 1981.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:* A petition for rule making [1] was filed by KPGA, Inc. ("KPGA"), licensee of FM Station KPGA, Pismo Beach, California (Channel 237A), which is assigned to Arroyo Grande.[2] KPGA requests the substitution of Class B FM Channel 234 for Channel 237A at Arroyo Grande. No comments have been filed opposing the substitution.

2. *Community Data:*

(a) *Location:* Arroyo Grande is located in San Luis Obispo County, approximately 240 kilometers (150 miles) northwest of Los Angeles, California, and 19 kilometers (11.7 miles) south of San Luis Obispo.

(b) *Population:* Arroyo Grande–7,454; Pismo Beach–4,043; San Luis Obispo County–105,690.[3]

(c) *Local Aural Broadcast Service:* Arroyo Grande is currently served by fulltime AM Station KKAL (1280 kHz); Pismo Beach is served by FM Station KPGA (Channel 237A).

3. *Economic Considerations:* KPGA states that Arroyo Grande is located in a rapidly growing area of California. Agriculture and tourism are the major industries. Petitioner should supply information concerning Pismo Beach, since that community is the current place of license and we could not through this rule making proceeding modify Station KPGA's license to specify a wholly new community of license.

4. *Preclusion Considerations:* The assignment of Channel 234 would cause preclusion on Channel 232 within 40 miles, Channel 233 within 105 miles, Channel 234 within 150 miles, and Channel 237A within 40 miles. According to KPGA, Channel 221A and Channel 296A are available for assignment to almost all of the precluded areas.

[1] Public Notice was given on September 19, 1980, Report No. 1248.

[2] The station is licensed to operate at Pismo Beach pursuant to Section 73.203(b) of the Commission's Rules, the "10-mile" rule.

[3] Population figures are taken from the 1970 U.S. Census.

5. *Other Considerations:* Wide area Class B channels are not usually assigned to communities the size of Pismo Beach. See Section 73.206(b)(2) of the Commission's Rules. Moreover, due to the number of AM and FM assignments in close proximity to Arroyo Grande, the proposed assignment would not provide any first or second FM or aural service. However, we are willing to propose the substitution of Channel 234 for Channel 237A so that petitioner can demonstrate the need for a highpowered facility. In a recent proceeding, *Grover City, California*, BC Docket 80–240, adopted March 17, 1981, the assignment of Class B channel in this area of California, was denied. In particular, the lack of a showing that there is a need for another wide area coverage station, that preclusion would be substantial and that the proximity of the station to San Luis Obispo, raised questions as to which community the station's programming would be directed. Petitioner should address these issues in its comments and also supply more specific preclusion information as to the precluded communities over 1,000 population and without an FM channel.[4]

6. Accordingly, comments are invited on the possible substitution of Channel 234 for Channel 237A at Pismo Beach. In the alternative we shall reassign Channel 237A to Pismo Beach, to reflect its use there. The Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Rules) with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
Arroyo Grande, Calif	237A	
Pismo Beach, Calif		234 or 237A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before May 25, 1981, and reply comments on or before June 15, 1981.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, *It is proposed to amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-10504 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[4] Channel 296A was assigned to Grover City, California in the above referred to proceeding and is therefore no longer available in the precluded areas.

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47 CFR Part 73

[BC Docket No. 81-191; RM-3804]

FM Broadcast Station in Powell, Wyo.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 281 to Powell, Wyoming, in response to a petition filed by Broadcast Enterprises. The proposal could provide for a second FM station to Powell.

DATES: Comments must be filed on or before May 25, 1981, and reply comments must be filed on or before June 15, 1981.

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

FOR FURTHER INFORMATION CONTACT:

Mark Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), FM Table of Assignments, (Powell, Wyoming); BC Docket No. 81-91; RM-3804; Notice of Proposed Rule Making.

Adopted: March 24, 1981.

Released: March 30, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration a petition to assign Class C FM Channels 281 and 286 to Powell, Wyoming, filed by Broadcast Enterprises ("petitioner"), licensee of AM Station KPOW, Powell.[1] Comments in opposition were filed by Camdeck Corporation ("Camdeck"), to which petitioner replied.

2. Powell (population 4,807)[2] is located in Park County (population 17,752), approximately 512 kilometers (320 miles) northwest of Cheyenne, Wyoming. Oil and agriculture are the most important aspects of Powell's economy and many affiliated and support industries have arisen in the area. There are approximately 150 retail and wholesale businesses in the community. Powell is currently served locally by full-time AM station KPOW and has unoccupied FM Channel 225 for which three applications are pending.[3]

3. Petitioner states that it is one of three mutually exclusive applicants for a construction permit for a new FM station on Channel 225 at Powell. Adding two FM channels to Powell, petitioner explains, will serve the public interest by accommodating each of the applicants interested in serving Powell and avoid the necessity of a costly and time consuming comparative hearing.

4. In opposing comments, Camdeck points out that petitioner's only argument in support of adding two FM channels to Powell is based on avoidance of a comparative hearing. Camdeck cites the Commission's *Policy to Govern Requests for Additional FM Assignments*, 8 FCC 2d 79 (1967), for the proposition that the requirement of a sufficient showing of need for an additional channel to a community of less than 10,000 is not normally met by a request aimed primarily at the elimination of a comparative hearing. Camdeck argues that no convincing showing of need for a second and third assignment can be made since Powell, a community having a 1977 estimated population of 5,500 receives or will soon receive service from one local and at least six other radio stations in nearby communities. In reply, petitioner argues that the stations mentioned by Camdeck are located thirty to 100 miles away from Powell and do not provide effective coverage. Petitioner also states that Powell is a growing community that will be able to support an additional two channels.

5. As stated in our *Policy to Govern Requests for Additional FM Assignments*, 8 FCC 2d 79 (1967), avoidance of a comparative hearing is not sufficient reason to assign an additional channel to a community of this size. Although assignment of an additional FM channel to Powell would not be violative of the Commission's population criteria, which would assign one or two channels to communities of less than 50,000, assignment of a third channel would exceed those guidelines. Although our approach to cases involving requests to exceed our population criteria has become less restricted, as exemplified by the recent case of *Waycross, Georgia*, 45 Fed. Reg. 25806, published April 16, 1980, 47 RR 2d 319, and while it appears that the preclusive impact of the proposal herein would not result in substantial preclusive impact, we do not have an expression of interest in a third FM station for Powell. Nor do we even have a commitment from petitioner that it would amend its present application to specify the proposed new assignment of a second Class C channel. If petitioner would like to pursue its request to have a third FM channel assignment to Powell, we would need, in addition to an expression of interest in a third Powell FM station, a showing of first and second FM or aural services.[4]

6. In view of the foregoing, we propose the following revision to the FM Table of Assignments, § 73.202(b), with respect to the community listed below:

City	Channel No.	
	Present	Proposed
Powell, Wyo	225	225, 281

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before May 25, 1981, and reply comments on or before June 15, 1981.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, *it is Proposed To Amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if

[1] *Public Notice* of the petition was given on December 11, 1980, Report No. 1261

[2] Population figures are taken from the 1970 U.S. Census.

[3] The applicants are Broadcast Enterprises, BPH791106AG; and Jack H. Jensen, BPH800408AC, and Camdeck Corporation BPH800401AG. The applications have been set for a comparative hearing—BC Dockets 81-14, 81-15, and 81-16.

[4] See *Roanoke Rapids, N.C.*, 9 FCC 2d 672 and *Anamosa, Iowa*, 46 FCC 2d 520 (1974).

authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-10506 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-193; RM-3688, RM-3732]

FM Broadcast Station in San Manuel, Miami, Claypool, and Summerhaven, Ariz.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes assignment of FM Channel 288A to Summerhaven, Arizona, and related substitutions of FM Channel 276A for FM Channel 288A in San Manuel, Arizona, substitution of FM Channel 252A for Channel 276A in Miami, Arizona, and substitution of Channel 288A for Channel 252A in Claypool, Arizona, as requested in separate petitions filed by Coronado Broadcasting Company and by Stanley Soho.

DATES: Comments must be filed on or before May 25, 1981, and reply comments on or before June 15, 1981.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (San Manuel, Miami, Claypool, and Summerhaven, Arizona); BC Docket No. 81-193, RM-3688, RM-3732, Notice of Proposed Rule Making.

Adopted: March 24, 1981.

Released: April 1, 1981.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration two separate petitions for rule making. The first was filed by Coronado Broadcasting Company ("Coronado")[1] and requested substitution of FM Channel 276A for FM Channel 288A in San Manuel, Arizona, substitution of FM Channel 252A for FM Channel 276A in Miami, Arizona, and substitution of FM Channel 288A for FM Channel 252A in Claypool, Arizona. The second petition, filed by Stanley Soho, M.D. ("Sobo"),[2] requested the same substitutions as the Coroando petition with the addition of requesting the assignment of FM Channel 288A to Summerhaven, Arizona. Since the petitions request the same substitutions, and are not contingent upon action on the other, we are consolidating the petitions for consideration herein. Both petitioners have stated their intent to apply for the channels, if assigned. Coronado filed comments in opposition to the Soho petition.

2. San Manuel (pop. 4,332),[3] is located in Pinal County (pop. 67,916) approximately 161 kilometers (100 miles) southeast of Phoenix, Arizona. Miami (pop. 3,394) is located in Gila County (pop. 29,255), approxmiately 109 kilometers (68 miles) east of Phoenix. Claypool (pop. 2,245), also located in Gila County, is approximately 112 kilometers (70 miles) east of Phoenix. Summerhaven, the population of which is not reported in the U.S. Census, is located in Pima County (pop. 351,667) approximately 166 kilometers (103 miles) southeast of Phoenix. Channel 288A in San Manuel, Channel 276A in Miami, and Channel 252A in Claypool remain unoccupied and unapplied for. In addition to Channel 276A, Miami is served by fulltime AM Station KIKD. Summerhaven presently has no local aural broadcast service.

3. According to Coronado, use of Channel 288A in San Manuel is severely limited because of restricted site availability created by the required 65-mile co-channel separatioin of FM Station KSAA in Casa Grande, Arizona, and the surrounding Santa Catalina mountains. We are told that the available sites for use on Channel 288A at San Manuel will not enable a facility to serve the three nearby communities of Oracle, Mammouth, and Catalina. Substitution of Channel 276A at San Manuel, Coronado, claims, will provide first local service to an estimated 13,000 persons (including San Manuel).

4. According to Soho, Summerhaven is a small community in the Santa Catalina Mountains, having about 260 year-round residents. While its economy is based on tourism, with employment being provided primarily by retail and service establishments, copper mining and cattle ranching are also important. Soho argues that Summerhaven's year-round residents and tourist population need local radio service to help cope with the unique problems of living in a mountainous area. Reception from stations in Tucson, Arizona, is poor because of a mountain ridge that runs between the two communities.

5. Coronado filed comments opposing Soho's petition on several grounds and requested that it be dismissed. First, Coronado claimed that Soho's petition was untimely and inappropriate at the "pre-notice" stage of a rule making

[1] Public Notice of the petition was given on July 7, 1980, Report No. 1238.

[2] Public Notice of the petition was given on September 2, 1980, Report No. 1246.

[3] Population figures are taken from the 1970 U.S. Census.

proceeding. Citing §§ 1.405(a) and 1.420(d) of the Commission's Rules, Coronado argues that only comments in support of or in opposition to a proposal are appropriate at this stage, counterproposals being acceptable only during the initial comment phase of an actual rule making proceeding. Second, Coronado claims that Summerhaven is not an identifiable "community" but is the name of a housing subdivision located within the community of Mount Lemmon, in Pima County. Coronado also contests Soho's population figure of 260, stating that a 1979 study compiled for the Pima County Board of Supervisors lists Mount Lemmon as having a popualtion of sixty-five. Soho's figure of 260, Coronado claims, represents the number of structures in Mount Lemmon, most of which are recreational residence primarily used by weekend and seasonal visitors. Coronado asserts that Mount Lemmon alone cannot support a broadcast facility and that if only one channel is assigned to this area then San Manuel, 13 miles to the north, should be the recipient. Third, Coronado questions whether Soho actually intends to serve the nearby larger communities of San Manuel or Tucson. In support, Coronado points out that Soho's proposed transmitter site is Mount Bigelow, which is used by Tucson radio and television stations, and that a facility there will not provide line of site coverage over Mount Lemmon as required by § 73.315(b) of the Commission's Rules.

6. We will deal with Coronado's objections in the order in which they have been presented. First, we do not believe that Soho's petition should be dismissed. The rules cited by Coronado do not state that counterproposals (assuming Soho's proposal is in someway conflicting), are not to be filed before a notice of proposed rule making is published. Section 1.405(a) provides that interested persons may file statements in support of or in opposition to a petition prior to Commission action, and § 1.420(d) states only that counterproposals shall not be advanced in reply comments. Moreover, although captioned "counterproposal," Soho's petition incorporates by reference that of coronado and is actually supportive of the petition since it involves the same substitutions proposed by Coronado.

7. Although economic arguments that a community cannot support a broadcast facility are usually entertained at the application stage,[4] the status of Summerhaven as a separate identifiable community is relevant to the assignment decision. Soho has not provided sufficient information upon which we can conclude that Summerhaven has the identifiable indicia of a community. Soho should address in his comments whether Summerhaven possesses characteristics necessary to be considered a community. Common indicia of a typical community are ascertainable boundaries, identifiable population and community of interest, such as a designated post office, local government, schools, and businesses identified with the name of the community. *See Holiday and Dunedin, Florida*, Docket No. 20536, 40 FR 29303, published July 11, 1975. Since Coronado has claimed that Summerhaven is actually a subdivision of the larger community of Mount Lemmon, Soho should provide the same information about Mount Lemmon, so that it may be determined whether Mount Lemmon is the more appropriate community for the requested assignment.

8. The location of Summerhaven does not raise a question as to which community Soho's proposed facility would actually serve, since a facility at the proposed transmitter site would not place a predicted city grade signal over San Manuel. Nor could the 10-mile rule, § 73.203(b), be utilized to permit the use of an assignment at Summerhaven to serve San Manuel. Although Summerhaven is only 21 miles from Tucson, it appears that the mountainous terrain does prevent the Tucson stations from providing reception service to the Mount Lemmon-Summerhaven area. Likewise, a Class A Summerhaven station would not reach Tucson with a predicted 1 mV/m signal.

9. Coordination with the Mexican Government is required for each substitution and assignment proposed herein.

10. In view of the foregoing, comments are invited on the following revisions to the FM Table of Assignments, § 73.202(b), with respect to the communities listed below:

City	Channel No.	
	Present	Proposed
Claypool, Ariz	252A	288A
Miami, Ariz	276A	252A
San Manuel, Ariz	288A	276A
Summerhaven, Ariz		288A

11. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

12. Interested parties may file comments on or before May 25, 1981, and reply comments on or before June 15, 1981.

13. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*. 46 FR 11549, published February 9, 1981.

14. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

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

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, *It Is Proposed to Amend* the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if

[4] *FCC v. Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693 (1940); *Carroll Broadcasting Co. v. FCC*, 258 F. 2d 440, 17 RR 2066 (D.C. Cir. 1958).

authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 81-10503 Filed 4-6-81; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Amendments to Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of changes in appendices; proposed listing.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a 67-nation treaty regulatory the impact and export of certain wildlife and plant species. The species for which such trade is controlled are listed in appendices to the CITES.

The nations that are Party to the CITES met on February 25 to March 8, 1981, at New Delhi, India, to consider changes in the appendices and other measures to improve the effectiveness of the CITES. This notice announces changes in the appendices that were adopted by the Parties, and that when incorporated into the listing in 50 CFR Part 23, will become effective on June 6, 1981. The Service requests comments from the public on whether the United States should enter a reservation on any of these new amendments. The effect of a reservation is that the nation entering it is considered not to be a Party to the CITES for the species subject to reservation.

DATE: The Service will consider all comments received by May 8, 1981, in determining if any reservations should be entered.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H. Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: The Service published a notice of United States negotiating positions on amendments to the appendices in the February 13, 1981, **Federal Register** (46 FR 12215). Those positions were advanced by the U.S. Delegation at the Third Meeting of the Conference of the Parties to the CITIES.

Article XV of the CITES establishes procedures for amending Appendices I and II. Amendments are adopted if they are approved by two-thirds majority of the Parties present and voting, and they enter into effect 90 days after the meeting at which they are adopted.

The following table lists those proposals adopted by the Parties at New Delhi. The remaining proposals that were listed in the Service's **Federal Register** notice of November 6, 1980, (45 FR 73876) were withdrawn or rejected by the Parties.

Amendments to Appendices I and II (listed in 50 CFR 23.23) as of June 6, 1981

Species	Present listing	New listing June 6, 1981	Proponent party
CLASS MAMMALIA			
Order Primates:			
Saguinus oedipus (including *S. oedipus geoffroyi* (Geoffroy's tamarin)	II for *S. geoffroyi*	I	Panama.
Cercopithecus diana (Diana monkey)	II	I	U.S.
Papio (= *Mandrillus*) *leucophaeus* (Drill)	II	I	U.S.
Papio (= *Mandrillus*) *sphinx* (Mandrill)	II	I	U.S.
Order Cetacea:			
Physeter catodon (Sperm whale)	II	I (all stocks)	Federal Rep. of Germany.
Balaenoptera borealis (Sei whale)	I and II	I (all stocks)	Federal Rep. of Germany.
Balaenoptera physalis (Fin whale)	I and II	I (all stocks)	Federal Rep. of Germany.
Order Artiodactyla:			
Damaliscus dorcas dorcas (Bontekbok)	I	II	South Africa.
Hippotragus equinus (Roan antelope)	Not listed	II	South Africa.
CLASS AVES			
Order Sphenisciformes:			
Spheniscus humboldti (Humboldt penguin)	Not listed	I	Peru.
Order Falconiformes:			
Falco rusticolus (Gyrfalcon)	I	II North American population excluding Greenland)	U.S.

Amendments to Appendices I and II (listed in 50 CFR 23.23) as of June 6, 1981—Continued

Species	Present listing	New listing June 6, 1981	Proponent party
Order Galliformes:			
Penelope albipennis (White-Winged guan)	Not listed	I	Peru.
Order Psittaciformes:			
(Parrots, macaws, cockatoos and allies)	Not listed	II (all species except those on App. I, and except *Melopsittacus undulatus* (budgerigar), *Nymphicus hollandicus* (cockatiel) & *Psittacula krameri* (rosy-ringed parakeet).	United Kingdom.
Amazona arausiaca (Red-necked amazon)	Not listed	I	U.S.
Amazona barbadensis (Yellow-shouldered amazon)	Not listed	I	U.S.
Amazona brasiliensis (Red-tailed amazon)	Not listed	I	U.S.
Cyclopsitta (=*Opopsitta*) *diophthalma coxeni* (Coxen's fig parrot).	II	I	Australia.
Rhynchopsitta terrisi (Maroon-fronted parrot)	Not listed	I	U.S.
CLASS REPTILIA			
Order Testudinata:			
Dermatemys mawii (Central American river turtle)	No listed	II	U.S.
Psammobates (=*Testudo*) *geometricus* (Geometric tortoise).	I (as *P. geometrica*)	I	South Africa.
Chelonia depressa (Flat-backed sea turtle)	II	I	Australia.
Chelonia mydas (Green sea turtle)	II (Australian population).	I	Australia.
Order Crocodylia:			
Crocodylus acutus (American crocodile)	I and II	I (all populations)	U.S.
Order Squamata:			
Brachylophus spp. (Fiji iguanas)	Not listed	I	U.S.
Cyclura spp. (West Indian rock iguanas)	II	I	U.S.
Sauromalus varius (San Esteban Island chuckwalla)	Not listed	I	U.S.
Cordylus spp. (Girdled lizards)	Not listed	II	South Africa.
Pseudocordylus spp. (Crag lizards)	Not listed	II	South Africa.
CLASS OSTEICHTHYES			
Order Cypriniformes:			
Caecobarbus geertsi (African or Congo blind barb)	Not listed	II	United Kingdom.
PHYLUM COELENTERATA			
CLASS ANTHOZOA			
Order Antipartharia (Black corals)	Not listed	II (all species of the order).	United Kingdom.
PLANTS			
Family Apocynaceae:			
Pachypodium namaquanum (Elephant's trunk)	II	I	South Africa.
Family Cactaceae:			
Ariocarpus agavoides (Living rock cactus)	II	I	U.S.
Ariocarpus scaphirostrus (*Living rock cactus*)	II	I	U.S.
Aztekium ritteri (Aztec cactus)	II	I	U.S.
Echinocereus lindsayi (Lindsay's cactus)	II	I	U.S.
Obregonia denegrii ("Peyote")	II	I	U.S.
Pelecyphora aselliformis (Hatchet cactus, peyotillo)	II	I	U.S.
Pelecyphora (=*Encephalocarpus*) *strobiliformis* (Pinecone cactus).	II	I	U.S.
Family Nepenthaceae:			
Nepenthes rajah (Giant pitcher plant)	Not listed	I	U.S.
Family Sarraceniaceae:			
Darlingtonia californica (California pitcher plant, cobra lily).	Not listed	I	U.S.
Sarracenia alabamensis alabamensis (Alabama canebrake pitcher plant).	Not listed	I	U.S.
Sarracenia jonesii (Mountain sweet pitcher plant)	Not listed	I	U.S.
Sarracenia oreophila (Green pitcher plant)	Not listed	I	U.S.

Under Article XV of the CITES, the United States may enter a reservation on any of the amendments listed above. Any reservations must be communicated in writing to the Government of Switzerland before June 6, 1981. If the United States were to reserve on a species listing, it would mean that the requirements of the CITES would not be imposed on imports, exports, or re-exports of that species at U.S. ports of entry. However, trade with other nations that are Party to the CITES and that did not reserve on the species in question would still require compliance with the CITES requirements of those nations.

The Service will consider all comments received by May 8, 1981, in determining if the United States should enter any reservations. If the Service determines that reservations should be entered, it will publish a notice of its intention in the **Federal Register** before taking action on them.

At the end of the 90-day period following the New Delhi meeting, the Service plans to publish a notice of the amendments entering into effect at that time, and plans to incorporate them into the list in 50 CFR Part 23.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: March 31, 1981.

F. Eugene Hester,

Acting Deputy Director, Fish and Wildlife Service.

[FR Doc. 81-10522 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 46, No. 66
Tuesday, April 7, 1981

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 COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Cornwall Industries, Inc., P.O. Box 219, South Paris, Maine 04281, a producer of giftware, clocks, housewares and art work (accepted March 12, 1981); (2) Custom Crystals, Inc., 716 Burlington Street, Omaha, Nebraska 68127, producer of radio antennas (accepted March 17, 1981); (3) Frezzolini Electronics, Inc., 7 Valley Street, Hawthorne, New Jersey 07506, producer of motion picture cameras and accessories (accepted March 17, 1981); (4) Morgan Yacht, Inc., 7200 Bryan Dairy Road, Largo, Florida 33543, producer of sailing boats (accepted March 17, 1981); (5) P. C. Fashions, Inc., 829 Main Avenue, Passaic, New Jersey 07055, producer of men's and womens leather coats (accepted March 17, 1981); (6) Debbi-Jo Frocks, 735 West Coal Street, Shenandoah, Pennsylvania 17976, producer of women's dresses, pants and jump suits (accepted March 17, 1981); (7) McGrew Bros. Sawmill, Inc., P.O. Box 160, Ashland, Oregon 97250, producer of softwood lumber (accepted March 19, 1981); (8) Energy Research and Development Corporation, P.O. Box 225, Madison, Indiana 47250, producer of wood-fueled heaters (accepted March 19, 1981); (9) Gorsuch Foundry, Inc., 120 East Market, Jeffersonville, Indiana 47130, producer of metal castings (accepted March 20, 1981); (10) Creataform, Ltd., 2859 Wagner Road, Waterloo, Iowa 50701, producer of plastic parts for motorcycles, snowmobiles, recreational vehicles, and other products (accepted March 20, 1981); (11) Royal Art Manufacturing Company, 160 Passaic Avenue, Kearny, New Jersey 07032, producer of decorative accessories and occasional furniture (accepted March 20, 1981); (12) Morrisville Company, 111 West 40th Street, New York, New York 10018, producer of knit fabrics (accepted March 20, 1981); (13) Thorntown Textile Company, Inc., 125 S. Pearl Street, Thorntown, Indiana 46071, producer of women's knit tops and other sportswear (accepted March 20, 1981); (14) Buckeye Knoll Farm, 26965 Cook Road, Olmsted Falls, Ohio 44138, producer of roses and foliage plants (accepted March 25, 1981); (15) The Hockensmith Corporation, Penn, Pennsylvania 15675, producer of iron castings (accepted March 25, 1981); (16) South Shore Sportswear, Inc., 169 Court Street, Brockton, Massachusetts 02402, producer of women's slacks and skirts (accepted March 26, 1981); (17) Altec Corporation, 1515 South Manchester Avenue, Anaheim, California 92803, producer of sound systems (accepted March 27, 1981); and (18) Bronte Champagne and Wines Company, Inc., 930 West Eight Mile Road, Ferndale, Michigan 48220, producer of wine (accepted March 30, 1981).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business April 17, 1981.

The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,
Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 81–10076 Filed 4–6–81; 8:45 am]
BILLING CODE 3510–24–M

International Trade Administration

Advisory Committee on East-West Trade: Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Advisory Committee on East-West Trade was initially established on February 11, 1974, and rechartered on December 5, 1980 in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. (1976). The Committee advises the Department of Commerce on ways to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries.

TIME AND PLACE: April 22, 1981, at 9:30 A.M. The meeting will take place at the Main Commerce Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

AGENDA: *General Session* (9:30 A.M.–12:30 P.M.)

(1) Welcome and Opening Remarks by the Chairman.

(2) Remarks on U.S. Export Development Programs.

(3) Report on CSIS Research Project on U.S. Export Competitiveness.

(4) Remarks on U.S. Export Control Policies.

(5) Review of Country Developments in East-West Trade.

(6) Remarks on the GDR Leipzig Fair

(7) Remarks on Developments in P.R.C. Economy and Foreign Trade and Implications for U.S.–P.R.C. Trade.

(8) Review of Problems Affecting Company Projects in East-West Trade.

Executive Session (2:00 P.M.–4:00 P.M.)

(9) Committee Views on Possible Administration Initiatives in East-West Trade.

(10) Committee Views on East-West Energy Cooperation.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis. A period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments may be submitted in writing at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 20, 1981 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 in 5 U.S.C. 552b(c)(1) and (9)(B); i.e., material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which is properly classified pursuant to such Executive Order, and whose premature disclosure would be likely to significantly frustrate implementation of U.S. policy.

A copy of the Notice of Determination to close the aforementioned portion of the April 22, 1981 meeting is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377–4217. Summary minutes of the General Session will be available 30 days after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:

Ronald G. Oechsler, Committee Control Officer, Office of East-West Policy and Planning, International Trade Administration, Room 4816, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–5896.

Dated: April 2, 1981.

J. Misbell George,

Acting Deputy Assistant, Secretary for East-West Trade.

[FR Doc. 81–10470 Filed 4–6–81; 8:45 am]

BILLING CODE 3510–25–M

Steel Trigger Price Mechanism; Additional Preclearance Requests and Reviews of Certain Earlier Preclearance Requests

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Announcement of additional preclearance requests and the results of the Department's reviews of certain earlier preclearance requests.

SUMMARY: Since February 20, 1981, when the Department of Commerce last announced the names of foreign companies requesting the Department to review certain of their products under the Department's steel trigger price mechanism (TPM) preclearance procedures (46 FR 13250), seven additonal companies have requested preclearance reviews. The Department has completed its reviews of some previously announced requests and has granted preclearances to 13 Canadian producers, a Greek pipe and tube producer, and 10 reseller/processors. The preclearances announced in this notice are the only preclearances that the Department recognizes for products exported after February 28, 1981. To date, satisfactory information for preclearance of one Canadian producer, one Swedish producer and one Belgian producer has not been provided.

FOR FURTHER INFORMATION CONTACT: Michael J. Ready, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 1001, Washington, D.C. 20230, (202) 377–3793.

SUPPLEMENTARY INFORMATION: The Department of Commerce uses trigger prices to monitor imports of steel mill products into the United States. Sales below applicable trigger prices indicate possible sales of the subject merchandise at less than fair value within the meaning of Title VII, Tariff Act of 1930, as amended. In those instances where imports appear to be priced at less than fair value, the Secretary of Commerce may initiate antidumping investigations.

The Department recognizes that there may be some producer/exporters that can export certain steel products to the United States at prices below the applicable trigger price and still be priced at or above fair value. Where this is the case, the foreign producer/exporter can avoid the risk of a TPM initiated antidumping investigation by requesting preclearance and cooperating with the Department's preclearance review of its production costs and pricing practices.

Table 1 lists the seven companies that have recently requested the Department to review certain of their products for preclearance and the products that the companies want to preclear. A preclearance request may cover any category of steel mill products for which a trigger price exists.

Table 1.—*Preclearance requests*

Company	Products
Estel Hoogvens BV, Netherlands	Hot rolled band. Hot rolled sheet. Cold rolled sheet.
Korea Steel Pipe Co., Ltd., Korea	Welded pipe and tubing.
Productos de Acero, Mexico	Wire nails. Barbed wire.
Thyssen AG, West Germany	Hot rolled sheet. Hot rolled band. Cold rolled sheet. Galvanized sheet.
Sacilor, France	Hot rolled sheet. Cold rolled sheet.
Union Steel Manufacturing Co., Ltd., Korea.	Welded pipe and tubing.
Universal, FTE, Poland	Wire nails.

Additional preclearance requests, or comments on the preceding requests, should be filed with the U.S. Department of Commerce, International Trade Administration, Import Administration, Office of Compliance, Room 1001, Washington, D.C. 20230.

The Department completed reviews of some of the previous preclearance requests and has granted preclearances to 13 Canadian producers, a Greek pipe and tube producer, and 10 Canadian reseller/processors (See Tables 2 and 3). To date, satisfactory information for preclearance of one Canadian producer, one Swedish producer and one Belgian producer has not been provided. The preclearance reviews of the foreign producers established prices against which the precleared steel products exported to the United States by the companies will be monitored. For Canadian producers, preclearance prices are based on current company price books. Those prices also constitute the base from which preclearance prices are calculated for products exported by reseller/processors. The preclearance review of reseller/processors identifies the additional value contributed to the product by the reseller/processor and, when combined with a producer's preclearance, establishes the price against which the precleared steel products exported to the United States by these companies will be monitored. The reseller/processor preclearance prices are tied to specific precleared producers as well as to the reseller/processor exporting the product.

Table 2.—*Precleared producers and products*

Company	Product
Algoma Steel Corp., Canada	Structural shapes.
	Plate.
	Rail and track accesories.
	Hot rolled sheet.
	Cold rolled sheet.
	Hot rolled strip.
Atlas Steels, Canada	Alloy bars.
	Cold finished bars.
Burlington, Canada	Bars under 3".
	Carbon bars.
	Alloy bars.
Condel, Canada	Welded pipe and tube.
Corinth Pipe Works, Greece	Welded pipe and tubing.
Courtice Steel Ltd., Canada	Structural shapes.
	Bars under 3".
	Carbon bars.
Dominion Foundries and Steel Ltd., Canada.	Plate.
	Black plate.
	Tin plate.
	Hot rolled sheet.
	Cold rolled sheet.
	Galvanized sheet.
	Tin free steel.
Dominion Steel Export, Canada	Welded tubing.
Ivaco Rolling Mills, Canada	Wire rod.
	Wire nails.
	Round and shaped wire.
Lake Ontario Steel Co., Ltd., Canada.	Structural shapes.
	Bars under 3".
Laurel Steel, Canada	Cold finished bars.
Standard Tube of Canada, Canada.	Welded pipe and tubing.
The Steel Company of Canada, Ltd., Canada.	Wire rods.
	Plates.
	Rail and track accessories.
	Carbon bars.
	Alloy bars.
	Cold finished bars.
	Welded pipe and tubing.
	Other pipe and tubing.
	Round and shaped wire.
	Wire nails.
	Black plate.
	Tin plate.
	Hot rolled sheet.
	Cold rolled sheet.
	Galvanized sheet.
	Hot rolled strip.
Welded Tube of Canada, Canada	Structural tubular products.

Table 3.—*Canadian Reseller/processors granted preclearance*

Company	Product
Acier Casteel Inc.	Structural shapes.
	Plate.
	Concrete reinforcing bars.
	Bars under 3".
Acier Casteel Inc. (con't)	Carbon bars.
	Cold finished bars.
	Welded pipe and tubing.
	Other pipe and tubing.
	Black plate.
	Tin plate.
	Hot rolled sheets.
	Cold rolled sheets.
	Galvanized sheets.
	Hot rolled strip.
	Tin free steel.
Akstel, Inc.	Structural shapes.
	Plate.
	Hot rolled sheet.
	Cold rolled sheet.
Bridge and Tank	Structural shapes.
	Plate.
	Carbon bars.
	Hot rolled sheet.
	Cold rolled sheet.
	Galvanized sheet.

Table 3.—*Canadian Reseller/processors granted preclearance*—Continued

Company	Product
Brussels Steel	Structural shapes.
	Plate.
	Concrete reinforcing bars.
	Bars under 3".
	Carbon bars.
	Cold finished bars.
	Welded pipe and tube.
	Other pipe and tube.
	Round and shaped wire.
	Hot rolled sheet.
	Galvanized sheet.
Casteel, Inc.	Structural shapes.
	Plate.
	Concrete reinforcing bars.
	Bars under 3".
	Cold finished bars.
	Welded pipe and tubing.
	Hot rolled sheet.
	Cold rolled sheet.
	Galvanized sheet.
	Hot rolled strip.
Ennisteel	Structural shapes.
	Plate.
	Welded pipe and tube.
Mart Steel Corp.	Structural shapes.
	Plates.
	Concrete reinforcing bar.
	Bars under 3".
	Carbon bars.
	Cold finished bars.
	Welded pipe and tube.
	Other pipe and tube.
	Round and shaped wire.
	Hot rolled sheets.
	Galvanized sheets.
Namasco	Plates.
	Hot rolled sheets.
	Galvanized sheets.
Richler Steel	Structural shapes.
Russel Steel	Structural shapes.
	Plate.
	Bars under 3".
	Carbon bars.
	Cold finished bars.
	Welded pipe and tube.
	Hot rolled sheet.
	Cold rolled sheet.
	Galvanized sheet.

The preclearances shown in this notice are the only preclearances currently in effect. When the Department announced the reinstatement of the TPM, it announced that it would consider existing preclearances to be in effect for 130 days after the reinstatement of the TPM. These preclearances expired February 28, 1981.

Dated: April 2, 1981.

John O. Greenwald,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-10501 Filed 4-6-81; 8:45 am]

BILLING CODE 3510-25-M

Imported Steel Mill Products Trigger Price Mechanism; Monitoring of Specialty Steel Imports

AGENCY: Department of Commerce, International Trade Administration.

SUMMARY: In monitoring specialty steel imports, on a product line basis, for surges possibly caused by dumping or subsidization, the Department of Commerce has determined that surge conditions exist in two of the product lines, stainless steel bars and alloy tool steel. Surge conditions do not presently exist in stainless plate, rod, and sheet and strip. While surge conditions do not exist in the stainless steel pipe and tubing category, the import situation warrants particular attention during the coming months.

FOR FURTHER INFORMATION CONTACT: Joseph A Spetrini, Import Administration, U.S. Department of Commerce, Room 1001, Washington, D.C. 20230, (202) 377-3793.

SUPPLEMENTARY INFORMATION: On January 8, 1981 the Department of Commerce announced the Administration's decision to monitor imports of specialty steel products for surges apparently caused by unfair trade practices. This is the first of a series of quarterly reviews which the Department will issue, based upon its assessment of the specialty steel import situation. This review includes a detailed listing of the specific TSUSA categories included in the Department's monitoring procedures and discusses import trends insix major specialty steel product lines.

By monitoring specialty steel imports for surges possibly caused by dumping or subsidization, the Department will be in a position to enforce promptly the trade laws of the United States, in a manner consistent with our international obligations, in cases where the imports could be causing material injury to our industry.

If the Department of Commerce finds that a surge in specialty steel imports appears to be the result of unfair competition, an anti-dumping or countervailing duty investigation could be initiated. No action will be taken where the surge appears to be the result of fair competition. The monitoring system is designed to ensure enforcement of the trade laws, not to set or imply import quantity of price levels.

The major product lines monitored by the Department are stainless steel sheet and strip, plate, bar, rod, pipe and tubing, and alloy tool steel. A surge exists when, on a product line basis (1) imports as a percent of domestic consumption rise above the average levels for the past ten years and (2) the import penetration trend is clearly

toward the levels at which the International Trade Commission found injury in the 1976 escape clause case.

An outline of the major factors noted in the Department's first quarterly review follows. While this review is based primarily upon annual data through calendar year 1980, future updates will include a review of quarterly information as well. More detailed data are presented in the Appendix to this notice, including a listing of the specific TSUSA import categories covered in the monitoring procedures.

For the category of stainless steel sheet and strip, surge conditions do not exist, as evidenced by the fact that the 1980 level of import penetration (the share of U.S. apparent consumption accounted for by imports) was 5.9 percent, which is below the 1971 through 1980 ten year weighted average of 9.5 percent and represents a ten year low foreign market share.

Surge conditions do not exist for the category of stainless steel plate. Import penetration during 1980 was 2.7 percent, which is both below the 1971 through 1980 ten year weighted average of 11.6 percent and a ten year low for foreign market share.

Surge conditions do not exist for the category of stainless steel rod. Import penetration during 1980 was 37.9 percent, which is below the 1971 through 1980 ten year weighted average of 44.3 percent and considerably below the 1975 level of 68.4 percent.

While surge conditions do not currently exist for the category of stainless steel pipe and tubing, there is concern that import penetration, especially during the latter part of 1980, is at a point which warrants particular attention during the coming months. Import penetration for calendar year 1980 was 46.6 percent. This is above the ten year weighted average of 41.5 percent, but considerably below the 1976 level of 61.2 percent and less than the 1978 level of 52.0 percent. West Germany accounted for 4.8 percent of U.S. apparent consumption of stainless steel pipe and tubing during 1980, compared to shares of 0.8 percent and 0.3 percent during 1978 and 1979, respectively. This marked increase in West Germany's share of U.S. apparent consumption reflects exports of 2,420 tons of stainless steel pipe and tubing during 1980, compared to 412 tons in 1978 and 174 tons in 1979.

Surge conditions do exist for the category of stainless steel bar. Import penetration for calendar year 1980 was 21.6 percent, which is above the 1971 through 1980 ten year weighted average of 17.1 percent and second only to the 1975 level of 24.6 percent during the past ten years. South Korean exports of stainless steel bar accounted for 2.28 percent of U.S. apparent consumption during 1980, up from the 1978 level of 0.29 percent and the 1979 level of 0.43 percent. West Germany accounted for 1.50 percent of U.S. consumption of stainless steel bar during 1980, which is up from the 1978 level of 0.96 percent and the 1979 level of 0.92 percent. French exports of stainless steel bar represented 1.34 percent of the 1980 U.S. apparent consumption, up from the 1978 level of 0.62 percent and the 1979 level of 0.80 percent. The marked increases in these countries' respective shares coincide with the fact that U.S. imports of stainless steel bar from those countries represent recent historical highs. During 1980, the Korean Republic exported 3,888 tons of stainless bar to the United States, while West Germany exported 2,549 tons and France exported 2,291 tons. Also, during the recent six-month period from July 1980 through January 1981, imports of stainless steel bar increased 44.0 percent from the same period a year ago, and imports of stainless steel bar from France increased 21.5 percent from the same period a year ago.

The Department of Commerce is beginning to examine trade in stainless steel bar from South Korea, West Germany and France to determine whether sales in the U.S. market have involved dumping or subsidization.

Surge conditions also exist for the category of alloy tool steel. Import penetration for calendar year 1980 was 28.4 percent, which is above the 1971 through 1980 ten year average of 22.0 percent, as well as being a ten year high foreign market share. Japan accounted for 7.0 percent of U.S. apparent consumption in 1980, compared to 4.7 percent in 1978 and 4.4 percent in 1979. Austria's 2.3 percent share of U.S. apparent consumption of alloy tool steel in 1980 is up from the 1978 level of 1.2 percent and the 1979 level of 2.1 percent. Japan's increase in market share reflects the sale of 7,400 tons in the U.S. market, compared to 5,398 tons in 1978 and 5,441 tons in 1979. Austria's increases in U.S. market share reflect high levels of exports during 1979 and 1980, when 2,618 tons and 2,438 tons were sold in the United States.

The Department of Commerce is beginning to examine trade in alloy tool steel, particularly from Japan and Austria, to determine whether sales in the U.S. market involved dumping or subsidization.

Dated: April 2, 1981.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

Table I.—*Import Market Shares by Product Category*

[Percent of U.S. apparent consumption* supplied by imports]

Year	S.S. sheet and strip	S.S. plate	S.S. bar	S.S. rod	Alloy tool steel	S.S. pipe and tubing
1971	19.7	17.9	13.7	57.7	14.4	44.5
1972	10.2	24.0	14.5	50.9	14.7	33.9
1973	6.1	13.3	12.5	42.3	18.0	20.8
1974	7.5	9.3	15.2	48.8	18.4	26.5
1975	13.9	16.8	24.6	68.4	28.0	41.5
1976	10.7	20.0	18.2	51.3	25.6	61.2
1977	9.0	8.4	17.4	41.2	21.8	46.3
1978	9.8	9.6	17.5	39.1	24.5	52.0
1979	7.0	5.0	16.4	31.5	27.3	36.4
1980	5.9	2.7	21.6	37.9	28.4	46.6
Ten-Year Weighted Average	9.5	11.6	17.1	44.3	22.0	41.5

*Apparent Consumption = Net Domestic Shipments plus Imports minus Exports.

Sources.—Imports: U.S. Department of Commerce, Bureau of the Census, IM146. Exports: U.S. Department of Commerce, Bureau of the Census, EM546. Shipments: American Iron and Steel Institute, AIS10-S and AIS10, Data Reflect net shipments, excluding shipments to reporting companies.

Specialty Steel Product Lines: TSUS Categories

(1980 U.S. Tariff Schedules)

(1) Stainless Steel Sheet and Strip

607.7610	608.2900
607.9010	608.4300
607.9020	608.5700
608.2600	

(2) Stainless Steel Plate

607.7605	607.9005

(3) Stainless Steel Bar

606.9005	606.9010

(4) Stainless Steel Rod

607.2600	607.4300

(5) Alloy Tool Steel

606.9300	607.5420
606.9400	607.7205
606.9505	607.7220
606.9510	607.8805
606.9520	607.8820
606.9525	608.3405
606.9535	608.3420
606.9540	608.4905
607.2800	608.4920
607.3405	608.6405
607.3420	608.6420
607.4600	609.4520
607.5405	609.4550

(6) Stainless Steel Pipe and Tubing

610.3705	610.5130
610.3715	610.5235
610.3745	610.5210
610.3765	610.5215

[FR Doc. 81-10367 Filed 4-6-81; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Additional Verification Procedures for I/O Channel Level Interface Standards; Federal Information Processing Standards 60–1, 61, 62, and 63

On February 16, 1979, notice was given in the **Federal Register** (44 FR 10098–10101) announcing that the Secretary had approved three input/output (I/O) channel level interface standards as Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated FIPS Publication (PUB) 60 (which has been redesignated 60–1), FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the **Federal Register** (44 FR 50078–50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63. These standards were the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079), August 31, 1979 (44 FR 51294) and December 3, 1979 (44 FR 69317).

On December 11, 1979, notice was given in the **Federal Register** (44 FR 71444) that the National Bureau of Standards (NBS) would provide a verification service for these standards that would result in equipment being placed on a Verification List. The principal initial means for verification would be a review by the Government of equipment interface documentation. Two additional verification procedures are now specified: Documented Operational Use in conjunction with equipment already on the Verification List, and Documented Demonstration in conjunction with equipment already on the Verification List.

Verification Through Documented Operational Use in Conjunction With Equipment Already on the Verification List

NBS will employ the following criteria in making a determination of Documented Operational Use of equipment on one side of an interface defined by an applicable combination of FIPS 60–1, 61, 62 and 63 with equipment on the other side of the interface which is already on the Verification List:

1. The equipment must be employed in the processing of information as a primary purpose (as contrasted with the examination of the functioning of the system itself).

2. The duration of the period of operational use must be long enough to establish satisfactory performance.

3. The configuration of the computer system must clearly demonstrate the functionality of the equipment.

4. The equipment must meet the preceding criteria at more than one installation.

Verification Through Documented Demonstration in Conjunction With Equipment Already on the Verification List

NBS will employ the following criteria making a determination of Documented Demonstration of equipment on one side of an interface defined by an applicable combination of FIPS 60–1, 61, 62 and 63 with equipment on the other side of the interface which is already on the Verification List:

1. The test or sequence of tests used to demonstrate such conformance must address every applicable FIPS specification. Completeness will be determined by using the Verification Checklist (available from NBS), which provides an orderly framework for ensuring that all of the applicable provisions of the standards have been tested.

2. The demonstration must be sufficient to demonstrate correct operation of the equipment when such equipment receives any sequence conforming to the applicable provisions of the standards.

3. The demonstration must be sufficient to demonstrate appropriate response to incorrect sequences.

Normally such tests as are deemed necessary by NBS to verify equipment under this provision would be conducted by the supplier of the equipment for which verification is being sought.

Parties interested in obtaining verification of equipment in accordance with either of the procedures described in this notice (Documented Operational Use or Documented Demonstration), or Document Review as announced in the **Federal Register** on December 11, 1979 (44 FR 71444), should address their request to Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234; Attention: I/O Channel Equipment Verification. Submissions should identify the proposed method of verification being sought and include information relevant to the criteria which would assist NBS in making a verification determination.

In making a verification determination, NBS may (a) require information in addition to that already provided, or (b) require that the equipment being considered for verification be demonstrated, possibly with NBS specified instruments connected to the interface defined by FIPS 60–1 through 63.

For each of the above standards for which verification is requested, a determination in one of the following categories will result.

I. The information provided has been compared to the standard and no significant deviations have been identified. The equipment identified will be included on the Verification List. Any subsequent indication, based on attempts to use equipment actually delivered or to test that equipment with suitable instrumentation, that the equipment does not conform to the standard will result in removal from the Verification List.

II. Review of the information provided shows significant deviations from the standard. In this case, the nature of the deviations will be clearly summarized with specific details provided.

III. In adequate information has been provided to complete the verification.

The general policy for test procedures is specified in Part 200 of Title 15, Code of Federal Regulations, and in the publication "Calibration and Test Services of the National Bureau of Standards" (NBS Special Publication 250). Procedures for formally requesting services, and use of a certificate are included. Specific instructions for suppliers are provided below.

NBS does not approve, recommend, or endorse any commerical product. NBS in no way guarantees that equipment reviewed conforms to the standard. However, a supplier may claim that equipment bearing the same identification as the equipment reviewed by NBS, for which no significant deviations were identified, has been verified with respect to the standard(s). Such a claim will make the equipment eligible for procurement and use by government agencies. However, no express or implied agreement for such procurement can be nor is made by NBS.

In accordance with Federal law (15 U.S.C. 275a), fees are chargeable for services performed by the National Bureau of Standards. Fees will include the cost of labor, materials, and contractor support, if needed, used in making the determination and in issuing a verification certificate. NBS labor costs will include administrative and technical personnel participating in the determination; labor rates will be determined by the cost for the personnel, including applicable overhead. Travel costs, when necessary,

will be actual costs to NBS. Bills will be issued on completion or termination of the determination. A verification certificate will be issued upon receipt of payment.

Documentation, containing sufficient information to make a determination, must be provided to NBS for its permanent retention. A suitable statement from the supplier that it has evaluated its equipment and believes it to be verifiable with respect to the applicable FIPS must also be provided. Any supplier desiring to obtain such verification must make a request identifying by make and model the equipment to be verified and the applicable FIPS. The government will provide, within 20 days, and estimate of the costs (if any) which will be incurred to make the determination. If the costs are subsequently authorized by the supplier, the determination will be performed on a fully reimbursable basis.

The Verification List is maintained by NBS and will be periodically distributed to all Federal agencies and be publicly available upon request. Copies of the list are now available from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attn: I/O Interface Verification List.

Additional information concerning Documented Operational Use Verification and Documented Demonstration verification may be obtained from Dr. Marshall Abrams, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, phone (301) 921-3723.

Dated April 1, 1981.

Ernest Ambler,

Director.

[FR Doc. 81-10370 Filed 4-6-81; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes in Officials of the Government of Macau Authorized to Sign Visas for Certain Textile Products Exported to the United States

April 2, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a new list of officials of the Government of Macau who are authorized to sign export visas for cotton, wool and man-made fiber textile products from Macau.

SUMMARY: The Government of Macau has notified the Government of the United States that eight officials are currently authorized to sign export visas for cotton, wool and man-made fiber textile products exported to the United States. A complete list of authorized officials is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

EFFECTIVE DATE: April 7, 1981.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On August 14, 1972, a letter dated August 6, 1972 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (38 FR 21962), which established an export visa requirement for cotton, wool and man-made fiber textile products, produced or manufactured in Macau and exported to the United States under the provisions of the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement between the Governments of the United States and Portugal. One of the requirements is that the visas must be signed by an authorized official. Macau has designated eight officials to sign export visas. The letter published below from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs further amends the directive of August 14, 1973 to provide for the change in officials.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

April 2, 1981.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of August 6, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, under specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in Macau for which Macau had not issued an appropriate visa. One of the requirements is that each visa include the signature of a Masau official authorized to issue visas.

Effective on April 7, 1981, the directive of August 6, 1973, is further amended to authorize the officials of the Government of Macau named on the enclosed list to issue export visas for cotton, wool and man-made fiber textile products, produced or manufactured in Macau. The list includes all Macau officials currently authorized to issue export visas.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton, wool and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exeception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Macau Officials Authorized To Issue Visas for Cotton, Wool and Man-Made Fiber Textile Products Exported to the United States

Florinda de Rosa Silva Chan
Angelo Bemdito Galdino Dias
Jose Bernardino Marques Ferreira
Francisco Xavier Jose de Mesquita
Jose Carlos Mesquita
Rui Manuel Barata Paiva
Joana Maria de Sousa Santos
Maria Manuela Aguiar Viana

[FR Doc. 81-10367 Filed 4-6-81; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

The New York Mercantile Exchange's Proposed Gasoline Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed commodity futures contracts.

SUMMARY: The New York Mercantile Exchange ("NYME") has applied for designation as a contract market in both leaded regular gasoline and unleaded regular gasoline (New York Harbor). The Commodity Futures Trading Commission ("Commission") has determined that the proposed terms and conditions of the proposed futures contracts are of major economic significance and that, accordingly, publication of the proposed terms and conditions is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before June 8, 1981.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K

Street NW., Washington, D.C. 20581. Reference should be made to the NYME Gasoline Futures Contracts.

FOR FURTHER INFORMATION CONTACT: De'Ana Hamilton, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254–8955; or Robert Clark, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., (202) 254–3310.

SUPPLEMENTARY INFORMATION: The terms and conditions of NYME's proposed gasoline futures contracts are as follows:

Section 19.—Petroleum Products Futures Contracts—New York Harbor, Leaded Regular Gasoline and Unleaded Regular Gasoline

Note.—These Rules apply to two separate petroleum product futures contracts: One for delivery of leaded regular gasoline, and one for delivery of unleaded regular gasoline. The terms and conditions of these two contracts are identical in all respects except with regard to Rule 190.03 *Grade and Quality Specifications*. Subsection (A) of Rule 190.03 is applicable only to the unleaded regular gasoline contract. Subsection (B) of Rule 190.03 is applicable only to the leaded regular gasoline contract.

190.01 Scope.

The provisions of these rules shall apply to all leaded regular gasoline and unleaded regular gasoline bought or sold for future delivery on the Exchange with New York Harbor delivery.

190.02 Contract unit.

The contract unit shall be 42,000 U.S. gallons (1,000 U.S. barrels). The seller shall deliver not less than 39,900 U.S. gallons (950 U.S. barrels) nor more than 44,100 U.S. gallons (1,050 U.S. barrels). The volume delivered shall be determined at 60°F using A.S.T.M. Standard D1250, Table 6 unabridged.

190.03 Grade and quality specifications.

The oil shall be a hydrocarbon oil free from alkali, mineral acid, grit, fibrous or other foreign matter and shall meet the following physical and chemical properties:

(A) Unleaded regular gasoline

(1) Gravity: A.P.I. (American Petroleum Institute) 52° minimum (A.S.T.M. Test Method D287).

(2) Color: undyed

(3) Corrosion: 3 hours at 122°F, maximum 1 (A.S.T.M. Test Method D130)

(4) Lead: maximum 0.03 grams per gallon (A.S.T.M. Test Method D2599 or equivalent)

(5) Doctor: negative (A.S.T.M. Test Method D484) or, if necessary, Mercaptan Sulfur: weight percent, maximum 10 parts per million (A.S.T.M. Test Method D3227)

(6) Octane: RON minimum 91.0 (A.S.T.M. Test Method D2699); MON minimum 82.0 (A.S.T.M. Test Method D2700); (RON + MON)/2 minimum 87.0.

(7) Reid Vapor Pressure: maximum pounds, January—14.5 February—14.5, March—13.5, April—13.5, May—11.5, June—10, July—10, August—10, September—11.5, October—13.5, November—13.5; December—14.5 (A.S.T.M. Test Method D323).

(8) Distillation:

Northern grade	Class B Jun.-Jul.-Aug.	Class C May-Sept.	Class D Mar.-Apr.-Oct.-Nov.	Class E Dec.-Jan.-Feb.
10% evaporation °F maximum	149	140	131	122
50% evaporation °F maximum	170	170	170	170
50% evaporation °F maximum	245	240	235	230
90% evaporation °F maximum	374	365	365	365
End point °F maximum (A.S.T.M. Test Method D86.)	430	430	430	430

(B) Leaded regular gasoline.

(1) Gravity: A.P.I. (American Petroleum Institute) 52° minimum (A.S.T.M. Test Method (D287).

(2) Color: yellow or bronze in sufficient quantity to meet United States Surgeon General's minimum requirements.

(3) Corrosion: 3 hours at 122° F, maximum 1 (A.S.T.M. Test Method D130).

(4) Lead: maximum 4.00 grams per gallon (A.S.T.M. Test Method D3341 or equivalent).

(5) Doctor: negative (A.S.T.M. Test Method D484) or, if necessary, Mercaptan Sulfur: weight percent, maximum 10 parts per million (A.S.T.M. Test Method D3227)

(6) Octane: RON minimum 92.5 (A.S.T.M. Test Method D2699); MON report (A.S.T.M. Test Method D2700); (RON + MON)/2 minimum 89.0.

(7) Reid Vapor Pressure: maximum pounds, January—14.5 February—14.5, March—13.5, April—13.5, May—11.5, June—10, July—10, August—10, September—11.5, October—13.5, December—14.5 (A.S.T.M. Test Method D323).

(8) Distillation:

Northern grade	Class B Jun.-Jul.-Aug.	Class C May-Sept.	Class D Mar.-Apr.-Oct.-Nov.	Class E Dec.-Jan.-Feb.
10% evaporation °F maximum	149	140	131	122
50% evaporation °F maximum	170	170	170	170
50% evaporation °F maximum	245	240	235	230
90% evaporation °F maximum	374	365	365	365
End point °F maximum (A.S.T.M. Test Method D86.)	430	430	430	430

190.04 Delivery.

(A) Delivery shall be made F.O.B. seller's New York Harbor ex-shore facility with all duties, entitlements, taxes, fees and other charges imposed prior to delivery on or in respect to the product paid by the seller. At buyer's option, such delivery shall be made by any of the following methods which are applicable:

(1) By delivery into buyer's barge or truck;

(2) By delivery into buyer's tanker or pipeline, if buyer can take delivery in such manner at the facility used by seller;

(3) By transfer of title to the buyer without physical movement of product ("book transfer"), if the facility used by seller allows such transfer;

(4) By intra-facility transfer ("pump-over"), if the facility used by seller allows such transfer;

(5) By inter-facility transfer ("pump-over"), if the facilities used by seller and buyer both allow such transfer.

For the purpose of these rules, New York Harbor shall extend from the East River west of Hunts Point; Gowanus Bay west of the Hamilton Avenue Bridge; the Hudson River south of George Washington Bridge; the Upper Bay; the Narrows; the Lower Bay west of Norton Point; the Newark Bay, the Hackensack River and Passaic River south of the Pulaski Skywar Bridge; the Kill Van Kull; the Arthur Kill and the Raritan River east of the Garden State Parkway Bridge.

(B) If delivery is taken by truck the buyer shall pay $.0025 (.25¢) per gallon surcharge.

(C) All deliveries made in accordance with these rules shall be final and there shall be no appeal.

190.05 Petroleum committee.

The Board of Governors shall appoint a Petroleum Committee whose duty it shall be to advise the Board with respect to the futures contracts traded under these rules.

190.06 Delivery months.

Trading shall be conducted in contracts providing for delivery in such months as may be determined by the Board of Governors. The Clearing House Committee or the Board of Governors shall determine when trading in the delivery months shall commence.

190.07 Prices and fluctuations.

(A) Prices shall be quoted in dollars and cents per gallon. The minimum price fluctuation shall be $.0001 (.01¢) per gallon. The maximum permissible price fluctuation in any one day shall be $.02 (2¢) per gallon above or below the preceding day's settling price (the "basic maximum fluctuation").

(B) If the settling price for any month shall move by the basic maximum fluctuation in either direction, the maximum permissible fluctuation in either direction for all months during the next business session shall be 50% above the basic maximum fluctuation.

(C) If the settling price for any month for a business session for which the maximum permissible fluctuation is 50% above the basic maximum fluctuation shall not move by said expanded maximum permissible fluctuation in either direction, the maximum permissible fluctuation for all months during the next business session shall be the basic maximum fluctuation.

(D) If the settling price for any month for a business session for which the maximum permissible fluctuation is 50% above the basic maximum fluctuation shall move by said expanded maximum permissible fluctuation in either direction, the maximum permissible fluctuation in either direction for all months during the next business session shall be twice the basic maximum fluctuation.

(E) The expanded maximum permissible fluctuation established in accordance with section (D) above shall remain in effect for all subsequent business sessions until the business session next following the first session at which the settling price for no month shall move by said expanded maximum permissible fluctuation in either direction. At such next business session the maximum permissible fluctuation in either direction for all months shall be 50% above the basic maximum fluctuation.

(F) There shall be no maximum limit on price fluctuations during the month preceding the delivery month.

190.08 Termination of trading.

Trading in the current delivery month shall cease on the last business day of the month preceding the delivery month.

190.09 Delivery procedure.

(A) Open Longs: Clearing Members having open long positions shall give the Clearing House a Notice of Intention to Accept by 4:30 p.m. on the last trading day established for the delivery month. The Notice of Intention to Accept shall be on the form prescribed by the Clearing House, which shall be properly completed and signed.

(B) Open Shorts: Clearing Members having open short positions shall give the Clearing House a Delivery Notice by 4:30 p.m. on the last trading day established for the delivery month. The Delivery Notice shall be on the form prescribed by the Clearing House, which shall be properly completed and signed. The Delivery Notice shall specify the location of the shore facility that will supply the product.

(C) Settling Price: The last settling price shall be the basis for delivery.

(D) Notice Day: The Clearing House shall allocate Delivery Notices and Notices of Intention to Accept by matching size of positions to the extent possible. The Clearing House shall pass copies of the notices to the respective Clearing Members on the morning of the next business day prior to the opening of trading. The day the notices are passed to the Clearing Members shall be referred to as the Notice Day. There shall be only one Notice Day, which shall be the first business day of the delivery month.

(E) Non-Transferable: The Clearing Member who receives a Delivery Notice or a Notice of Intention to Accept from the Clearing House shall be deemed to have agreed to accept or deliver product. Delivery Notices or Notices of Intention to Accept are not transferable.

(F) Delivery Day:

(1) The buyer shall give delivery or loading instructions to the seller as soon as possible but not later than 4:30 p.m. on the fifth business day of the delivery month. The buyer shall submit to the seller a copy of the freight contract before shipment commences, if applicable.

(2) All deliveries must be completed between the fifth business day and the last business day of the delivery month.

(3) Shipment will commence when product passes the buyer's cargo intake flange, tank or pipeline connection, at which point the buyer shall assume the risk of loss.

(4) The buyer shall pay the seller at the office of the seller by certified check by 12:00 noon of the business day following the receipt of the product. Amount of payment shall be based on volume delivered as determined at 60°F using A.S.T.M. Standard D1250, Table 6 unabridged. Should the Exchange approved inspector be unable to supply quantitative results prior to the time established in the Rules for payment of the product, amount of payment shall be based initially on 42,000 U.S. gallons per contract. Payment adjustments based on actual quantity transferred shall be completed between Clearing Members by 12:00 noon of the third business day after transfer of product.

(a) If the buyer requires multiple delivery dates (i.e. truck delivery), multiple payments shall be required for each portion of product transferred.

(b) The seller upon receipt of payment shall give the buyer a bill of lading or other quantitative certificate and all appropriate documents that may be necessary to transfer ownership of the product to the buyer.

(5) The day the buyer receives the stated product shall be referred to as the Delivery Day.

190.10 Shipment.

(A) The seller's ex-shore facility must have a minimum draft of 20 feet at mean low water and a minimum access draft of 20 feet at mean low water. The seller must supply the product as soon as the barge or tanker reports readiness to load, or if delivery is to be made on shore, to supply the product as soon as the buyer reports the transfer facility or truck is ready to accept the product.

(B) The buyer must accept the product between the fifth business day and the last business day of the delivery month. The buyer's barge or tanker must be safely afloat at all times.

(C) The seller shall pay all applicable demurrage charges if his shore facility is unable to deliver the product at a rate sufficient to meet normal requirements for loading a barge or tanker or to deliver ex-tank or pipeline at a normal rate. The buyer shall pay all other demurrage charges.

190.11 Validity of documents.

The Exchange makes no representation respecting the authenticity, validity or accuracy of any inspection certificate, Delivery Notice, Notice of Intention to Accept, bill of lading, check or of any document or instrument delivered pursuant to these rules.

190.12 Inspection.

(A) The buyer shall notify the seller by 4:30 p.m. on the fifth business day of the delivery month, that a grade and quality and/or quantity inspection(s) is requested at place of delivery. The buyer may request the tests for any or

all grade and quality specifications for the stated product listed in Rule 190.03

(B) If a buyer requests grade and quality and/or quantity inspection(s), the buyer shall appoint an Exchange approved inspector. If the buyer does not request a quantity inspection, the seller may request such inspection and shall appoint an Exchange approved inspector.

(C) If the product meets grade and quality specifications, the buyer and seller shall share equally in the cost of inspection. If the product does not meet grade and quality specifications, the seller shall pay the cost of inspection. The cost of verifying the quantity of product transferred shall be shared equally by buyer and seller.

(D) The Exchange approved inspector shall determine the quantity of product transferred by using the prevailing practice of the ex-shore facility transferring the product.

190.13 Trading in spreads.

A spread shall consist of the simultaneous purchase of one future month and sale of another future month at a stated price difference. The purchase and the sale shall be for one account. Floor brokers executing spreads shall properly record them in writing so as to permit the identification of the transactions and the parties thereto. All spread trading on this Exchange must be made by open outcry. All spread trading must be in line with current spread differentials. Both months must be within the trading range of the day of the time of execution. The seller in each contract must report on a pit card the spread price and differential to the Floor Supervisor. Spread transactions shall be recorded on special spread sales panels. The Exchange ticker shall record and publish a spread differential only. Spread transactions shall not set off stops in any contract except for spread stops.

Spreads between petroleum product contracts shall be permitted.

190.14 Exchange of futures in connection with cash commodity transactions or futures for cash commodities.

(A) An exchange of futures in connection with cash commodity transactions or futures for cash commodities is permitted either before or after the termination of trading in a contract but not later than the second business day prior to the end of the delivery month. All exchanges entered into after the termination of trading must be between the buyer and the seller matched by the Clearing House in the delivery procedure. No such exchange shall be made by a seller who does not, at the time of such exchange, have in possession the cash commodity to be delivered and no such exchange shall be made which does not require delivery of the cash commodity within a reasonable period of time.

(B) A report of such exchange shall be submitted to the President and the Clearing House, which report shall identify the trade as made under this Rule and shall contain the following information: a statement that the trade has resulted in a change of ownership, the kind and quantity of the cash commodity, the kind and quantity of the futures, the price at which the transaction is made, the names of the Clearing Members and such other information as the President may require. Each party to such exchange must satisfy the President, at his request, that the transaction is bona fide. All documentary evidence relating to the exchange including, without limitation, evidence as to change of ownership and possession by the seller of the cash commodity shall be retained by the parties for examination by the President.

(C) The report of such exchange shall be given, and notice thereof shall be posted on the floor of the Exchange, on the day that the agreement with respect thereto was entered into, or if such agreement was entered into after the close of trading, then on the next business day. Such exchanges shall be cleared through the Clearing House in accordance with normal procedures, shall be clearly identified as exchange transactions and recorded as such by the Exchange and Clearing Members.

190.15 Delinquency in performance and default.

(A) Delinquency in Performance

(1) Failure to Comply with Rules Constituting Delinquency in Performance; Period of Delinquency

(a) A seller or buyer shall be delinquent in performance if he fails to perform an obligation relating to delivery or payment within the time set forth in these rules.

(b) A seller or buyer who is delinquent in performance, and who does not perform the obligation with respect to which he is delinquent within five days of such delinquency, shall be in default and may no longer perform such obligation provided, however, that a buyer who has defaulted in making payment shall make such payment.

(2) Charge for Delinquency in Performance

(a) A party who is delinquent in peformance shall pay to the other party $100.00 per contract for each day of delinquency, not exceeding five days. The Exchange shall bill the delinquent party for such charges and, when collected, shall remit them to the other party.

(b) A party who is delinquent in performance shall pay to the Exchange an amount equal to 10% of the contract value for each contract for each day of delinquency not exceeding five days. Said charges may be waived or reduced by the Board of Governors if it shall determine that the delinquency in performance was due to causes or circumstances not within the control of the delinquent party or that there are other mitigating circumstances which justify such waiver or reduction.

(3) Disciplinary Proceedings for Delinquency

The imposition of the charges for delinquency in performance set forth in this rule shall be governed by the provisions of this rule and shall be independent of the Rules governing disciplinary proceedings. A delinquency in performance shall be deemed a violation of a rule of the Exchange and shall be subject to provisions of the Rules governing disciplinary proceedings provided, however, that no fine, in addition to the charges provided for in this rule, shall be imposed in any disciplinary proceeding solely by reason of a delinquency in performance referred to in this rule.

(B) Default

(1) Failure to Comply with the Rules Constituting Default

A seller or buyer shall be in default if he is delinquent in performance pursuant to these rules, and does not perform the obligation with respect to which he is delinquent within five days of such delinquency.

(2) Damages for Default

The seller or buyer in default shall pay to the other party, as liquidated damages in lieu of all other damages, including consquential damages, 10% of the contract value for each contract in default. The Exchange shall bill the defaulting party for such damages and, when collected, shall remit them to the other party. Payment of damages for default shall be in addition to any other payments due from the seller or buyer to the other party pursuant to these rules.

(3) Disciplinary Proceedings for Default

A default shall be deemed a violation of a rule of the Exchange and shall be subject to the Rules governing disciplinary proceedings provided, however, that no fine, in addition to the charges payable to the Exchange provided for in the Delinquency in Performance Rule, shall be imposed in

any disciplinary proceeding solely by reason of a default referred to in this rule.

(C) Definitions

As used in this rule:

(1) The term "contract value" shall mean the value of the contract computed on the basis of the last settling price for the delivery month.

(2) The term "other party" shall mean the corresponding buyer(s) where the seller is delinquent in performance or has defaulted, and the corresponding seller(s) where the buyer is delinquent in performance or has defaulted.

(3) The term "day of delinquency" and variations thereof shall mean a business day in the case of a delinquency in performance with respect to an obligation which can, pursuant to the rules, be performed on a business day only and a calendar day in the case of a delinquency in performance with respect to an obligation which can, pursuant to the rules, be performed on a non-business day as well as a business day. The first day of a delinquency shall be the day following the last day on which a party may perform his obligation under the rules without being delinquent in performance. The day on which a party who is delinquent in performance subsequently performs his obligation under the rules is a day of delinquency, provided, however, that a party may not perform such obligation except an obligation to make payment after he is in default.

190.16 Margins.

(A) All margins shall be recommended by the Clearing House Committee and approved by the Board of Governors except as provided in (B) below and may be changed from time to time.

(1) Clearing Member's margins shall be deposited with the Clearing House.

(2) Customer's margins may be equal to but not less than Clearing Member's margins and shall be deposited with the Clearing Member.

(3) A straddle margin shall be required on a straddle transaction. When one side of the straddle is undone, the remaining side shall carry regular margin requirements.

(B) Additional margins may be required of each Clearing Member and each customer on all open trades in such futures and in such amount as the President may deem necessary.

(C) Maintenance Margins.

When the customer's margins are impaired to the extent of 30 percent, they must be restored to the initial amount required by the foregoing, except that if the requirement at prevailing prices varies from that required when the trades were initiated, either the margin originally deposited or the prevailing margin rate, whichever is lower, may be used as the basis for calculation of the point at which restoration is necessary. Equities in accounts may be withdrawn only to the extent that such equities exceed the margin requirements at the prevailing level.

(D) Penalties for Failure to Deposit Margins.

Additional margin or the replenishment of original or additional margin may be demanded by a carrying broker on and during any business day when debits (exclusive of commissions) so require. Any customer who, for any reason, fails to respond to a call from his carrying broker to deposit required margin will confer upon the broker the right to close out all or such part of the open trades of such customer as will leave any remaining unliquidated contracts fully margined, and the customer shall be liable for any loss or deficiency resulting therefrom. The customer's response to a margin call from his broker must be full and complete. Failure of the broker to receive such margin in readily available U.S. funds, within a reasonable time, or to be notified that margin has been sent, shall require the carrying broker, without prejudice to his interest, to liquidate or reduce the account or accounts involved to a fully margined basis.

190.17 References to seller and buyer.

References in these rules to the "seller" and "buyer" shall mean the short Clearing Member and the long Clearing Member respectively.

Petroleum Product Futures Contracts—New York Harbor, Leaded Regular Gasoline and Unleaded Regular Gasoline

Supplement No. 1—Official List of Approved Certifiers

Certifier and Address

Charles Martin Inspectors of Petroleum, Inc., 109 Aldene St., Roselle, N.J. 07203, 212–269–0246.

James J. Mullin Inc., 555 Madison Ave., New York, N.Y. 10022, 212–838–4135.

E. W. Saybolt & Co., Inc., 400 Swenson Dr., Kenilworth, N.J. 07033, 201–245–3100.

Superintendence Co., Inc., 17 Battery Park North, New York, N.Y. 10004, 212–952–6350.

* * * * *

Other materials submitted by NYME in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145, as amended at 45 FR 26953–4 (April 22, 1980)). Requests for copies of such materials should be made to the POI, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submitted by NYME in support of its application for contract market designation, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by June 8, 1981. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on April 2, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 81-10455 Filed 4-6-81; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

NAVSTAR GPS Navigation Satellite Systems Status

Notice is hereby given that the Department of Defense's NAVSTAR GPS program is now in the Full Scale Development phase. This phase focuses on engineering development and testing of prototype military user equipments, satellites and ground control equipment. There are R&D GPS satellities in orbit serving as a test bed in support of the development and testing efforts. Plans now call for an 18-satellite operational constellation by late 1987, which can be expanded to 24 satellites. During the development phase of the program, the satellites may transmit both the precise (P) and coarse acquisition (C/A) signals which are intended only for military or other Federal agency testing purposes. Other possible users are cautioned that the system is developmental and that availability of the signals, or the accuracy possible, are subject to change without advanced warning. Therefore, until NAVSTAR GPS is declared operational, the signals may be subject to variations and any application thereof is at the user's risk.

The latest DoD policy concerning NAVSTAR GPS is that when the system is declared operational, the highest possible level of C/A signal accuracy will be made available to the worldwide civil/commercial community within the

limits of national security considerations. It is projected that this will be an accuracy of 200M Spherical Error Probable (SEP). This level of accuracy will be reviewed by DoD annually and the level modified to accommodate any changes commensurate with our national security posture. It is anticipated that this non-military accuracy may be increased as time passes. The DoD is also considering the possibility of charging users of the NAVSTAR GPS worldwide positioning/navigation system for the service provided.

M. S. Healy,

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

April 1, 1981.

[FR Doc. 81-10375 Filed 4-6-81; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Advisory Panel on Financing Elementary and Secondary Education

AGENCY: Advisory Panel on Financing Elementary and Secondary Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Panel on Financing Elementary and Secondary Education. It also describes the functions of the Panel. Notice of this meeting is required under the Federal Advisory Committee Act, Section 10(a)(2). This document is intended to notify the general public of its oppoortunity to attend.

DATE: April 23 and 24, 1981.

TIME: 9:00 a.m. to 5:00 p.m.

ADDRESS: Room 6104, 400 Maryland Avenue, S.W., Washington, D.C.

ALTERNATE SITE: Capitol Holiday Inn, Apollo Room, 550 C Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Will S. Myers, Executive Director, Advisory Panel on Financing Elementary and Secondary Education, P.O. Box 19128, Washington, D.C. 20036; (202) 653-8278.

SUPPLEMENTARY INFORMATION: The Advisory Panel on Financing Elementary and Secondary Education was established by Section 1203, Title XII of the Education Amendments of 1978 (P.L. 95-561). The Panel provides the Secretary and the Congress with advice and counsel concerning public policies on raising and distributing revenues to support elementary and secondary education. The Advisory Panel also provides advice to the Secretary concerning the conduct of studies authorized by Section 1203. The Advisory Panel will make interim reports to the President and the Congress in 1981 and 1982. The Advisory Panel will also provide recommendations for legislation or other appropriate action to Congress.

AGENDA:

1. Discussion of grant consolidation
2. Discussion with Secretary T. H. Bell
3. Discussion of public support of private schools
4. Status report on the School Finance Project

Records are kept of all Advisory Panel proceedings and are available for public inspection at the office of the Advisory Panel on Financing Elementary and Secondary Education located at 1200 19th Street, N.W., Room 724-A, Washington, D.C.

Signed at Washington, D.C. on April 2, 1981.

Will S. Myers,

Executive Director, Advisory Panel on Financing Elementary and Secondary Education.

[FR Doc. 81-10365 Filed 4-6-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket Number ERA-TA-80-11]

Barber Heavy Oil Process, Inc., Houston, Tex.; Issuance of Final Decision and Order

On February 19, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Barber Heavy Oil Process, Inc. (HOPCO) that would, pursuant to 10 CFR 212.78, permit HOPCO to recover certain additional expenses, in addition to those otherwise recoverable under a Decision and Order issued to HOPCO on March 31, 1980, for its enhanced oil recovery project known as the Kern River Heavy Oil Process Project located in Kern County, California. The Proposed Decision and Order was published in the **Federal Register** on February 23, 1981, (46 FR 13551). No comment was received during the prescribed period. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the Department of Energy Reading Room, 1E-190, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10458 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-12]

Carmel Energy, Inc., Houston, Tex.; Issuance of Final Decision and Order

On February 19, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Carmel Energy, Inc. (Carmel) that would, pursuant to 10 CFR 212.78 designate Carmel as a qualified producer and permit Carmel to recover certain expenses, under § 212,78, incurred by its enhanced oil recovery project known as the Vernon County, Missouri, Modified In-Situ Combustion Project located in Vernon County, Missouri. The Proposed Decision and Order was published in the **Federal Register** on February 23, 1981, (46 FR 13552). No comments were received during the prescribed period. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E-190, James 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 (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10459 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

Enterprise Oil & Gas Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

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: March 23, 1981. Comments by: May 7, 1981.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement Department of Energy, 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (Phone) 816–374–5932.

SUPPLEMENTARY INFORMATION: On March 23, 1981, the Office of Enforcement of the ERA executed a Consent Order with Enterprise Oil and Gas Company, Inc. of Detroit, Michigan. Springfield, Missouri. 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

Enterprise Oil and Gas Company (Enterprise) with its home office located in Detroit, Michigan, is a firm engaged in the marketing of middle distillates and residual fuel oils to resellers and end-users, 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 Enterprise the Office of Enforcement, ERA, and Enterprise entered into a Consent Order.

The Consent Order encompasses Enterprise's sales of covered products during the period November 1, 1973, through June 30, 1976.

II. Disposition of Refunded Overcharges

In this Consent Order, Enterprise 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. above, the sum of two hundred thousand dollars ($200,000.00) by December 31, 1982. Refunds of overcharges of $180,901.06 will be in the form of a cash or credit allowances to identifiable end-users who purchased middle distillates and residual fuel oils.

Refunds of overcharges to resellers of $19,098.94 will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These refunds 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. 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 the 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 William D. Miller, Central District Manager of Enforcement, Department of Energy 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816–374–5932.

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 Enterprise Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on May 7, 1981. 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 Kansas City, Missouri on the 27th day of March 1981.

Dated March 30, 1981.

William D. Miller,

District Manger of Enforcement.

David H. Jackson,

Chief Enforcement Counsel.

[FR Doc. 81-10471 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-13]

Houston Natural Gas Corp., Houston, Tex.; Issuance of Final Decision and Order

On February 24, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Houston Natural Gas Corporation (HNG) that would, pursuant to 10 CFR 212.78(e)(3) permit HNG to recover certain expenses, in addition to those otherwise recoverable under § 212.78 incurred by its enhanced oil recovery project known as the Warner Sand Heavy Oil Project located in Vernon County, Missouri. The Proposed Decision and Order was published in the **Federal Register** on February 26, 1981, (46 FR 14155). One comment was received during the prescribed period. HNG requested a more suitable payment plan for an equipment item to be included in the Order. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B–110, 2000 M Street NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E–190, James 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, (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10460 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-81-01]

Pennzoil Producing Co., Houston, Tex.; Issuance of Final Decision and Order

On February 24, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Pennzoil Producing Company that would, pursuant to 10 CFR 212.78(e)(3) permit Pennzoil to recover certain expenses, in addition to those otherwise recoverable under § 212.78 incurred by its enhanced oil recovery project known as the Tinsley Field Project located in Yazoo County, Mississippi. The Proposed Decision and Order was published in the **Federal Register** on February 26, 1981, (46 FR 14156). No comments were received during the prescribed period. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E-190, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10461 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-10]

Shell Oil Co., Houston, Tex.; Issuance of Final Decision and Order

On February 19, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Shell Oil Company (Shell) that would designate certain expense incurred by its enhanced oil recovery project located in the Coalinga Field in Fresno County, California as allowed expenses pursuant to 10 CFR 212.78(e)(3). The Proposed Decision and Order was published in the **Federal Register** on February 23, 1981, (46 FR 13555). No comments were received during the prescribed period. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E-190, James 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 (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10462 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-81-03]

Shell Oil Co., Houston, Tex.; Issuance of Final Decision and Order

On February 26, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Shell Oil Company (Shell) of Houston, Texas, that would, pursuant to 10 CFR 212.78(e)(3) permit Shell to recover certain expenses, in addition to those otherwise recoverable under § 212.78, incurred by its enhanced oil recovery project known as the Tatums Hefner and Dunbar Project located in Carter County, Oklahoma. The Proposed Decision and Order was published in the **Federal Register** on February 27, 1981, (46 FR 14723). No comments were received during the prescribed period. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E-190, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10463 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-81-02]

Tenneco Oil Exploration and Production Co.; Issuance of Final Decision and Order

On February 20, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Tenneco Oil Exploration and Production Company (Tenneco) that would, pursuant to 10 CFR 212.78(e)(3) designate Tenneco as a qualified producer and permit Tenneco to charge uncontrolled prices for incremental production at its enhance oil recovery project known as the Pettit Reservoir (old Lisbon Field Project), located in Claiborne and Lincoln Parishes, Louisiana. The Proposed Decision and Order was published in the **Federal Register** on February 26, 1981 (46 FR 14168). No comments were received during the prescribed period. Accordingly, a final Decision and Order substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E-190, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10472 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-08]

Texaco, Inc.; Issuance of Final Decision and Order

On February 20, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Texaco, Incorporated (Texaco) that would, pursuant to 10 CFR 212.78(e)(3) permit Texaco to recover certain expenses, in

addition to those otherwise recoverable under § 212.78, incurred by its enhanced oil recovery projects known as the No. 8 Sand, and the Lower 9000-Foot Sand Reservoir M Projects on the Paradis Field located in St. Charles Parish, Louisiana. The Proposed Decision and Order was published in the **Federal Register** on February 26, 1981 (46 FR 14171). One comment was received during the prescribed period. The comment was from Texaco and discussed some technical corrections which were needed. Accordingly, a final Decision and Order, substantially as proposed, has been issued taking into account the information in the comment.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B–110, 2000 M Street NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E–190, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10473 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-80-14]

Texaco, Inc.; Issuance of Final Decision and Order

On February 20, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Texaco, Incorporated (Texaco) that would, pursuant to 10 CFR 212.78 permit Texaco to sell at market prices incremental crude oil produced by its enhanced oil recovery project known as the Texaco R–1 Sand, Segment G, Lake Barre Field Project located in Terrebonne Parish, Louisiana. The Proposed Decision and Order was published in the **Federal Register** on February 26, 1981, (45 FR 14169). One comment was received during the prescribed period from Texaco which discussed two technical corrections. Accordingly, a final Decision and Order, substantially as proposed, has been issued including the corrections.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B–110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E–190, James 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 (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 81-10474 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-TA-81-05]

Texaco, Inc.; Issuance of a Final Decision and Order

On February 26, 1981, the Economic Regulatory Administration issued a Proposed Decision and Order to Texaco, Incorporated (Texaco) that would, pursuant to 10 CFR 212.78(e)(3) designate Texaco as a qualified producer and permit Texaco to recover certain expenses, in addition to those otherwise recoverable under § 212.78 incurred by its enhanced oil recovery project known as the Wayside Canyon Unit located in Los Angeles, California. The Proposed Decision and Order was published in the **Federal Register** on February 27, 1981, (46 FR 14724). No comments were received during the prescribed period. Accordingly, a final Decision and Order, substantially as proposed, has been issued.

A copy of the final Decision and Order is available in the Public Affairs Office, Room B–110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday (except Federal holidays), and in the DOE Reading Room, 1E–190, James 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, (except Federal holidays).

Issued in Washington, D.C., on March 31, 1981.

T. Wendell Butler,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR. Doc. 10475 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Conservation Panel, Energy Research Advisory Board; Notice of Meeting

Notice is hereby given of the following meeting:

Name: Conservation Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770).

Date and time: April 17, 1981, 9:30 am to 4:30 pm

Place: Department of Energy, Forrestal Building, Room 4A–104, 1000 Independence Avenue, S.W., Washington, D.C. 20585

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER–431, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252–8933

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda:

—Discussion of Conservation Budget for FY 1982

—Preliminary Planning for R&D Panel Study

—Discussion of Activities for the Coming Year

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 am and 4:00 pm Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on March 31, 1981.

Antionette G. Joseph,

Associate Director, Field Operations Management, Office of Energy Research.

[FR Doc. 81-10364 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RE81-100-000]

Arkansas Power & Light Co., Application for Exemption

April 1, 1981.

Take notice that Arkansas Power & Light Company (AP&L), on March 16, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of

cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in Part 290, Subpart D § 290.401(b) Load Data by Retail Regulatory Jurisdiction.

In its application for exemption, AP&L states that the load data for the 1982 filing for the Missouri jurisdiction will not be useful for the analytical purposes for which it is intended under PURPA. The number of customers for the Missouri jurisdiction is insignificant to that of AP&L's primary jurisdiction, and is of little use for the purposes intended under PURPA. Further, reporting information by separate jurisdiction is excessively burdensome from a cost viewpoint in view of the fact that the information is insignificant when compared to the primary AP&L jurisdiction.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Arkansas Power & Light Company, Attention: Mr. Steve L. Riggs, P. O. Box 551, Little Rock, Arkansas 72203.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10379 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-109-000]

Central Vermont Public Service Corp.; Application for Exemption

April 1, 1981.

Take notice that Central Vermont Public Service Corporation (CVPS), on March 18, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in §§ 290.403 and 290.404. An alternate data collection and reporting period is sought.

In its application for exemption, CVPS states that it should not be required to file the specified data for the following reasons:

(1) CVPS proposes to conduct joint load research with Green Mountain Power Corporation.

(2) The customer load characteristics of Central Vermont Public Service Corporation and Green Mountain Power Corporation are very similar as is demonstrated by the Vermont Load Study conducted in 1973 through 1975 in cooperation with the Vermont Public Service Board.

(3) Joint research will allow the use of a larger sample at lesser expense, thus advancing PURPA's goals of producing accurate data and maintaining reasonable rates to consumers.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22 1981. Within that 45-day period such person must also serve a copy of such comments on: Central Vermont Public Service Corporation, Attention: Mr. Steven J. Allenby, 77 Grove Street, Rutland, Vermont 05701.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10380 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-107-000]

City of Pasadena, California; Application for Exemption

April 1, 1981.

Take notice that the City of Pasadena, California (Pasadena), on March 18, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in parts of Subparts C and D.

In its application for exemption, Pasadena states that it should not be required to file the specified data for the following reasons:

(1) Pasadena is a small electric utility operated by the City, with a Utility Advisory Commission representing the ratepayers participating in all proceedings pertaining to electric rates.

(2) Pasadena plans to become a purchaser of its power requirements as soon as it is feasible.

(3) Pasadena plans to provide an alternate means of compliance to serve the purposes of Section 133 of PURPA.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: City of Pasadena, Water and Power Department, Attention: Mr. Karl A. Johnson, General Manager, 100 North Garfield Avenue, Pasadena, California 91109.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10381 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-98-000]

Eastern Edison Co.; Application for Exemption

April 1, 1981.

Take notice that Eastern Edison Company (EEC), on March 17, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in § 290.404(g)(1).

In its application for exemption, EEC states that it should not be required to file the specified data for the following reasons:

EEC, a retail electric utility, resulted from the merger in 1980 of Brockton Edison Company and Fall River Electric Light Company. It is now in the process of reviewing the load data requirements under PURPA and developing a plan to fulfill these.

EEC's previous load research plans were oriented towards the State requirements (Order 18810) set out prior

to PURPA, and these do not adequately meet the PURPA regulations.

EEC wishes to economize on the costs of undertaking the load research. To do so it wishes to do research on a cyclic basis using up to the four-year period provided by the regulations, as well as participate in any degree possible with joint load research with other utilities.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Eastern Edison Company, attention: Mr. Robert E. Maguire, Vice Chairman, P.O. Box 471, Brockton, Maine 02403.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10382 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-102-000]

Kansas City Board of Public Utilities; Application for Exemption

April 1, 1981.

Take notice that Kansas City Board of Public Utilities (KCB), on March 16, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in certain parts of §§ 290.201(j), 290.302 (a) and (b), and 290.403(b).

In its application for exemption, KCB states that it should not be required to file the specified data for the following reasons:

(1) No record is kept of common utility plant and expenses.

(2) No accounting distination is made between fixed versus variable maintenance.

(3) KCB's load research program is still in the formative stages and the accuracy level specified in Section 290.403(b) will not be possible.

Copies of the application for exemption are on file with the Commission and are available for public inspection. And person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Kansas City Board of Public Utilities, Attention: Mr. George Hildebrand, 700 Minnesoata Avenue, Kansas City, Kansas 66101.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10383 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-60-000]

Long Island Lighting Co.; Application for Exemption

April 1, 1981.

Take notice that the Long Island Lighting Company (LILCO), on March 3, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from part of the requirement to file on or before June 30, 1982, information of the costs of providing electric service as specified in § 290.304.

In its application for exemption LILCO, states that it should not be required to file the specified data for the following reasons:

1. The major portion of LILCO's records of transmission plant are kept on the basis of whether facilities are above or below 69kv—further breakdowns are not made.

2. LILCO cannot separate out the AFUDC because the records do not segregate AFUDC in that manner.

3. LILCO's records are not kept in a manner which allows for segregation of the expenditures for replacement.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Long Island Lighting Company, 250 Old Country Road, Mineola, New York, 11501.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10384 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-105-000]

Muscatine Power and Water; Application for Exemption

April 1, 1981.

Take notice that Muscatine Power and Water (Muscatine) on March 16, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in Subparts B, C, D and E.

In its application for exemption, Muscatine states that it should not be required to file the specified data for the following reasons:

(1) Muscatine is a municipally owned utility serving 8498 residential customers.

(2) Although Muscatine does barely exceed the 500 million kilowatt threshold for reporting under Section 133, 80% of its load is from industrial accounts.

(3) Full compliance would be a heavy burden on its consumers estimated to be between $8 and $12 per customer.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Muscatine Power and Water, Attention: Mr. Clyde L. Bowen, General Manager, P.O. Box 899, Muscatine, Iowa 52761.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10385 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-104-000]

Power Authority of the State of New York; Application for Exemption

April 1, 1981.

Take notice that the Power Authority of the State of New York (PASNY), on March 17, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in Section 290.201(a), 290.202(a), 290.302(a)(21), 290.303 (a) and (c), 290.304(a)(1), 290.306(f), 290.402(b), 290.403(a)(4), 290.404(g)(1) and 290.404(g)(5).

In its application for exemption, PASNY states that it should not be required to file the specified data for the following reasons:

(1) PASNY is a very unique electric utility, owns no distribution system, and the detailed cost information is not available by plant account. Functional plant is currently being classified.

(2) PASNY proposes an alternate method of compliance that it states will serve the purposes of Section 133.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Power Authority of the State of New York, Attention: Mr. Robert A. Hiney, Senior Vice President, 10 Columbus Circle, New York, New York 10019.

Kennth F. Plumb,

Secretary.

[FR Doc. 81-10386 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-94-000]

San Diego Gas and Electric Co.; Application for Exemption

April 1, 1981.

Take notice that San Diego Gas and Electric Company (SDG&E), on March 16, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in Sections 290.202(a), 290.205, 290.303(a), 290.404(d)(3) and 290.404(d)(5).

In its application for exemption, SDG&E states that it should not be required to file the specified data for the following reasons:

(1) The California Public Utilities Commission (CPUC) is working with the regulated California electric utilities to develop a single reporting format that would satisfy the reporting requirements of this Commission, the CPUC and the California Energy Commission.

(2) Certain data sought have been neither required nor used in developing either existing rates, marginal cost based rates, time-of-use rates, or other rates in California.

(3) SDG&E does not have the systems in operation to generate or collect these data.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: San Diego Gas and Electric Company, Attention: Mr. Ralph L. Meyer, Vice President—Regulatory Services, P.O. Box 1831, San Diego, California 92112.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10387 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 31, 1981.

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
-AMERADA HESS CORPORATION		RECEIVED: 03/11/81 JA: NM					
8121417		3002503384	108	STATE WEF #3	EUMONT	10.3	PHILLIPS PETROLEUM C
-AMOCO PRODUCTION CO		RECEIVED: 03/11/81 JA: NM					
8121442		3004523737	103	FEDERAL GAS COM D NO 1E	BASIN DAKOTA	59.0	EL PASO NATURAL GAS
8121434		3004523882	103	FEDERAL GAS COM E NO 1E	BASIN DAKOTA	59.0	EL PASO NATURAL GAS
8121455		3004524172	103	GALLEGOS CANYON UNIT NO 187E	BASIN DAKOTA	59.0	EL PASO NATURAL GAS
8121454		3004524174	103	GALLEGOS CANYON UNIT NO 199E	BASIN DAKOTA	59.0	EL PASO NATURAL GAS
8121453		3004524337	103	LOBATO GAS COM E NO 1E	BASIN DAKOTA	59.0	EL PASO NATURAL GAS
8121425		3002526340	102	MCQUATTERS #3	HARDY(DRINKARD)	359.5	INTERNORTH INC
8121426		3002526338	102	MCQUATTERS #4	HARDY(DRINKARD)	35.7	GETTY OIL CO
8121427		3002526531	102	MCQUATTERS #5	HARDY(DRINKARD)	3.6	WARREN PETROLEUM CO
8121441		3002526116	103	SOUTH HOBBS (GSA) UNIT #121	HOBBS (GSA)	153.3	PHILLIPS PETROLEUM C
8121444		3002526119	103	SOUTH HOBBS (GSA) UNIT #124	HOBBS GSA	47.0	PHILLIPS PETROLEUM C
8121458		3002526341	102	STATE C TRACT 11 #11	HARDY (DRINKARD)	109.0	GETTY OIL CO
8121424		3002526109	102	STATE C TRACT 11 #9	HARDY(DRINKARD)	12.8	GETTY OIL CO
8121415		3001523198	102	STATE IE COM #1	UND MORROW	950.0	EL PASO NATURAL GAS
-BASS ENTERPRISES PRODUCTION CO		RECEIVED: 03/11/81 JA: NM					
8121418		3002527072	103	MONTIETH NO 2	N E LOVINGTON (PENN)	182.5	GAS CO
-BELCO PETROLEUM CORPORATION		RECEIVED: 03/11/81 JA: NM					
8121428		3001523340	102	CASSIDEY 1	LOVING	0.0	EL PASO NATURAL GAS
8121429		3001523351	102	LAKEY 1	LOVING	0.0	EL PASO NATURAL GAS
-CAULKINS OIL COMPANY		RECEIVED: 03/11/81 JA: NM					
8121430		3003922284	103	STATE A 268 E	BASIN DAKOTA	30.0	GAS CO OF NEW MEXICO
-COQUINA OIL CORPORATION		RECEIVED: 03/11/81 JA: NM					
8121446		3001500000	108	STATE 16 #1	SOUTH CARLSBAD MORROW	18.0	NATURAL GAS PIPELINE
-DEPCO INC		RECEIVED: 03/11/81 JA: NM					
8121416		3000560321	108	DERRICK FEDERAL NO 1	BUFFALO VALLEY	13.8	TRANSWESTERN PIPELIN
-DOYLE HARTMAN OIL OPERATOR		RECEIVED: 03/11/81 JA: NM					
8121457		3001523418	102	SOUTH EMPIRE STATE COM NO 1	MORROW	400.0	EL PASO NATURAL GAS
-EL PASO NATURAL GAS COMPANY		RECEIVED: 03/11/81 JA: NM					
8121431		3004521319	108	ALLISON UNIT #18	BASIN DAKOTA	19.0	EL PASO NATURAL GAS
-ENSERCH EXPLORATION INC		RECEIVED: 03/11/81 JA: NM					
8121423		3004120531	102	AMOCO STATE NO 1	NORTH PETERSON	80.0	TRANSWESTERN PIPELIN
8121422		3004120544	102	AMOCO-STATE NO 2	NORTH PETERSON	43.0	TRANSWESTERN PIPELIN
-EXXON CORPORATION		RECEIVED: 03/11/81 JA: NM					
8121452		3001523217	103	NEW MEXICO CY STATE COM	ATOKA	329.0	
-GETTY OIL COMPANY		RECEIVED: 03/11/81 JA: NM					
8121420		3003922350	103	FARMING E WELL NO 3E	BASIN DAKOTA	110.0	EL PASO NATURAL GAS
8121435		3002527010	102	GETTY 25 STATE WELL NO 1	E GRAMA RIDGE - MORROW	912.5	EL PASO NATURAL GAS
8121436		3002526986	102	GETTY 32 STATE COM WELL NO 1	MORROW	912.5	EL PASO NATURAL GAS
-GIFFORD MITCHELL & WISENBAKER		RECEIVED: 03/11/81 JA: NM					

JC NO	JA CKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121451		3002526877	103		BUFFALO HUMP WELL NO 1	COMANCHE STATELINE TANSI	8.0	EL PASO NATURAL GAS
8121450		3002526987	103		BUFFALO HUMP WELL NO 2	COMANCHE STATELINE TANSI	15.0	EL PASO NATURAL GAS
8121449		3002527127	103		BUFFALO HUMP WELL NO 5	COMANCHE STATELINE TANSI	7.0	EL PASO NATURAL GAS
8121448		3002527128	103		BUFFALO HUMP WELL NO 6	COMANCHE STATELINE TANSI	7.0	EL PASO NATURAL GAS
8121440		3002527129	103		BUFFALO HUMP WELL NO 8	COMANCHE STATELINE TANSI	7.0	EL PASO NATURAL GAS
-GULF OIL CORPORATION					RECEIVED: 03/11/81 JA: NM			
8121433		3002526962	103		ARNOTT RAMSAY (NCT-B) WELL NO 10	LANGLIE MATTIX	0.0	EL PASO NATURAL GAS
8121414		3002500000	108		E A STITCHER WELL NO 2	DRINKARD	2.5	EL PASO NATURAL GAS
-HARVEY E YATES COMPANY					RECEIVED: 03/11/81 JA: NM			
8121447		3001523242	102		TRAVIS 24 STATE COM #1	S EMPIRE MORROW	180.0	EL PASO NATURAL GAS
-INTERNORTH INC					RECEIVED: 03/11/81 JA: NM			
8121419		3001523207	103		CARLSBAD ST COM NO 1	UND S CARLSBAD	120.0	LLANO INC
-JEROME P MCHUGH					RECEIVED: 03/11/81 JA: NM			
8121438		3003922496	103		JELLY DOG JERRY #1	S BLANCO PICTURED CLIFFS	365.0	EL PASO NATURAL GAS
8121439		3003922495	103		JELLY DOG JERRY #2	SOUTH BLANCO PICTURED CL	365.0	EL PASO NATURAL GAS
8121445		3003922494	103		JO ANNS JEWEL #2	SOUTH BLANCO PICTURED CL	450.0	EL PASO NATURAL GAS
-LEWIS B BURLESON					RECEIVED: 03/11/81 JA: NM			
8121421		3002526755	103		HUFF #1	LANGLIE MATTIX	35.0	EL PASO NATURAL GAS
-NORTHWEST PIPELINE CORPORATION					RECEIVED: 03/11/81 JA: NM			
8121413		3003907884	108		SAN JUAN 30-5 #35	BLANCO MESAVERDE	22.2	EL PASO NATURAL GAS
-ODESSA NATURAL CORPORATION					RECEIVED: 03/11/81 JA: NM			
8121456		3004523659	103		BURROUGHS STATE 2-E	BASIN DAKOTA	0.0	EL PASO NATURAL GAS
-PHILLIPS PETROLEUM COMPANY					RECEIVED: 03/11/81 JA: NM			
8121432		3002525437	108		PHILLIPS ST-E #30	MALJAMAR GRAYBURG/SAN AN	3.3	EL PASO NATURAL GAS
-SINCLAIR DEVELOPMENT CORP					RECEIVED: 03/11/81 JA: NM			
8121412		3002500000	108		H S RECORD #1	JALMAT YATES	0.0	EL PASO NATURAL GAS
-SOUTHLAND ROYALTY CO					RECEIVED: 03/11/81 JA: NM			
8121437		3004523335	108		HUBBARD #5	BLANCO	9.0	SOUTHERN UNION GATHE
-SUN OIL COMPANY (DELAWARE)					RECEIVED: 03/11/81 JA: NM			
8121443		3000500000	108		NEW MEXICO -H- STATE #5	CATO	0.4	CITIES SERVICE CO
-TRANS DELTA OIL & GAS CO INC					RECEIVED: 03/11/81 JA: NM			
8121411		3004500000	108		MCDANIEL UNIT #1	SOUTH BIANCO	4.8	EL PASO NATURAL GAS
OHIO DEPARTMENT OF NATURAL RESOURCES								
-AMERICAN WELL MANAGEMENT COMPANY					RECEIVED: 03/12/81 JA: OH			
8121512		3408923885	103		JAMES PAELTZ NO 1	BOWLING GREEN	18.0	
8121594		3412724820	103		MELVIN HANN NO 1	HOPEWELL	0.0	
-APPALACHIAN PETROLEUM CORP					RECEIVED: 03/12/81 JA: OH			
8121636		3416725237	103		BETTY M NEUMAN #2	ADAMS	3.5	COLUMBIA GAS TRANSMI
8121590		3412122419	103		BOYD WAGNER #1	JACKSON	3.5	COLUMBIA GAS TRANSMI
8121591		3412122423	103		CARROL CARREL #1	JACKSON	3.5	COLUMBIA GAS TRANSMI
8121589		3412122418	103		EARL WAY #1	JACKSON	3.5	COLUMBIA GAS TRANSMI
-BEREA OIL AND GAS CORPORATION					RECEIVED: 03/12/81 JA: OH			
8121618		3415521373	102		MEEKER #1	BROOKFIELD	10.0	COLUMBIA GAS TRANSMI
-BEST WAY					RECEIVED: 03/12/81 JA: OH			
8121531		3411922290	108		JOHNSON #1		5.0	COLUMBIA GAS TRANS C
8121575		3411923555	108		JOHNSON WELL #2	PERRY	5.0	COLUMBIA GAS
-CALTEK MINERALS CORP					RECEIVED: 03/12/81 JA: OH			
8121631		3416724526	107		DEUCHER #1 WELL	INDEPENDENCE	23.7	COLUMBIA GAS TRANSMI
8121634		3416724801	107		FLOYD S & MARY DEPUY #1 WELL	LAWRENCE	23.7	COLUMBIA GAS TRANSMI
8121632		3416724613	107		FOREST TAYLOR #1 WELL	INDEPENDENCE	0.0	COLUMBIA GAS TRANSMI

JD NO	JA PKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121633		3416724719	107		LYLE T FICKIESEN #1 WELL	NEWPORT	22.7	COLUMBIA GAS TRANSMI
8121630		3416724525	107		R A MEYERS #1 WELL	INDEPENDENCE	21.8	COLUMBIA GAS TRANSMI
8121638		3416725549	107		WILLIAM DEPUY #1 WELL	LAWRENCE	18.3	COLUMBIA GAS TRANSMI
-CARL M POSTON			RECEIVED: 03/12/81 JA: OH					
8121479		3405320615	103		BRIGGS & WHITE NO 1	CHESHIRE	19.0	
8121505		3407322378	103		COLUMBIA GAS TRANSMISSION CORP #1	BRENHOLTS	36.0	
8121478		3405320562	103		E & P THOMPSON NO 3	CHESHIRE	19.0	
8121504		3407322377	103		LEON P KIEFFER NO 5	BRENHOLTS	36.0	
8121480		3405320625	103		OHIO POWER COMPANY NO 1	CHESHIRE	19.0	
-CARLTON OIL CORP			RECEIVED: 03/12/81 JA: OH					
8121635		3416725063	103		EDGAR #1	NEWPORT	50.0	
8121637		3416725376	103		GERBER #1	NEWPORT	50.0	
8121522		3411122019	103		HARMON #1	WASHINGTON	50.0	
8121523		3411122020	103		HARMON #2	WASHINGTON	50.0	
8121525		3411122056	103		HILL #1	BENTON	50.0	
8121524		3411122022	103		RING #1	WASHINGTON	50.0	
-CHARLES L WOOD			RECEIVED: 03/12/81 JA: OH					
8121499		3405922632	108	D	WOOD #1		12.0	COLUMBIA GAS TRANSMI
-CHARLES O LIGHTHIZER			RECEIVED: 03/12/81 JA: OH					
8121563		3411922897	108		CONSOLIDATED COAL #1		6.0	COLUMBIA GAS TRANS C
8121576		3411923566	108		ESCHMAN #2		5.0	COLUMBIA GAS TRANSMI
8121573		3411923397	108		FORAKER #1	PERRY	0.5	COLUMBIA GAS TRANS C
8121562		3411922838	108		HOOPER #1		14.0	COLUMBIA GAS TRANSMI
8121581		3411923705	108		KING WELL #1		13.0	COLUMBIA GAS TRANSMI
8121583		3411923798	108		KING WELL #2		13.0	COLUMBIA GAS TRANSMI
8121578		3411923596	108		LACY #3	MADISON	10.0	COLUMBIA GAS TRANS C
8121580		3411923598	108		LYNN #1	MADISON	9.0	COLUMBIA GAS TRANS C
8121556		3411922524	108		MILLER #1		12.0	COLUMBIA GAS TRANS C
8121566		3411923038	108		MILLER #2		12.0	COLUMBIA GAS TRANS C
8121579		3411923597	108		RICHARDS #1	MADISON	5.0	COLUMBIA GAS TRANS C
8121567		3411923103	108		SKINNER #1		10.0	COLUMBIA GAS TRANS C
8121577		3411923567	108		SPIKER #1	MADISON	6.0	COLUMBIA GAS TRANSMI
8121582		3411923725	108		THOMAS #1		14.0	COLUMBIA GAS TRANS C
8121565		3411923007	108		VAN REECH #2		8.0	COLUMBIA GAS TRANS C
8121574		3411923426	108		YOUNG #1	PERRY	6.0	COLUMBIA GAS TRANS C
-CHRIS OIL CO			RECEIVED: 03/12/81 JA: OH					
8121496		3405921474	108	D	BENEN		14.0	EAST OHIO GAS CO
8121497		3405921566	108	D	BENEN-SIGMAN		22.0	EAST OHIO GAS CO
8121485		3405921327	108	D	BENNETT-STEVENS		11.0	COLUMBIA GAS TRANSMI
8121568		3411923185	108	D	BINION #2		12.0	EAST OHIO GAS CO
8121569		3411923197	108	D	BINION #3		12.0	EAST OHIO GAS CO
8121555		3411922516	108	D	BROWN		11.0	EAST OHIO GAS CO
8121484		3405921285	108	D	CAMP B		10.0	COLUMBIA GAS TRANSMI
8121564		3411922951	108	D	CHAPPELEAR		5.0	EAST OHIO GAS CO
8121489		3405921396	108	D	FABIAN		11.0	EAST OHIO GAS CO
8121490		3405921397	108	D	GIBSON		12.0	EAST OHIO GAS CO
8121494		3405921435	108	D	HAGUE		32.0	EAST OHIO GAS CO
8121627		3415721386	108	D	HURSEY #2		16.0	EAST OHIO GAS CO
8121491		3405921398	108	D	JACOBS		9.0	EAST OHIO GAS CO
8121492		3405921399	108	D	LOADER		7.0	COLUMBIA GAS TRANSMI
8121493		3405921400	108	D	LOADER-LYONS		34.0	COLUMBIA GAS TRANSMI
8121572		3411923256	108	D	OKEY		5.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121487		3405921356	108	D	PATTERSON		21.0	COLUMBIA GAS TRANSMI
8121495		3405921468	108	D	ROBERTSON		11.0	EAST OHIO GAS CO
8121486		3405921347	108	D	RORICK-BENNETT		19.0	COLUMBIA GAS TRANSMI
8121626		3415721367	108	D	SCHUPP		21.0	EAST OHIO GAS CO
8121628		3415721387	108	D	TAYLOR		20.0	EAST OHIO GAS CO
8121570		3411923242	108	D	TUMBLIN		3.0	EAST OHIO GAS CO
8121625		3415721340	108	D	WILSON		35.0	EAST OHIO GAS CO
8121571		3411923244	108	D	WILSON		4.0	EAST OHIO GAS CO
-CLINTON OIL CO					RECEIVED: 03/12/81 JA: OH			
8121476		3403124135	103		A C & M L MIKESELL #3-534	PERRY	100.0	
8121603		3413322418	103		BRUGMANN SAND & GRAVEL #2-557	SHALERSVILLE	224.0	
8121584		3411925253	103		ED ARCHER #2-511	CASS	100.0	
-COLLINS-MCGREGOR OPERATING COMPANY					RECEIVED: 03/12/81 JA: OH			
8121481		3405520296	103		GRANDVIEW-JOHNSON #4	CLARIDON	15.0	EAST OHIO GAS CO
-DALTON & HANNA CO					RECEIVED: 03/12/81 JA: OH			
8121643		3416921109	108	D	C DONALD ELFVIN #2		2.0	COLUMBIA GAS TRANSMI
8121641		3416920767	108	D	CLYDE LEATHERMAN #1		0.8	
8121642		3416921109	108	D	CLYDE LEATHERMAN #2		3.0	COLUMBIA GAS TRANSMI
-DERBY OIL & GAS CORP					RECEIVED: 03/12/81 JA: OH			
8121501		3405927750	103		JERRY PALMER #1		12.0	COLUMBIA GAS TRANSMI
8121502		3405922776	103		JERRY PALMER #2	SPENCER	12.0	COLUMBIA GAS TRANSMI
8121500		3405922774	103		R W HOWELL #4	SPENCER	12.0	COLUMBIA GAS TRANSMI
-DORAN & ASSOCIATES INC					RECEIVED: 03/12/81 JA: OH			
8121595		3412724936	103		HOUSEHOLDERS #4	JACKSON	12.0	COLUMBIA GAS TRANSMI
-EDCO DRILLING & PRODUCING INC					RECEIVED: 03/12/81 JA: OH			
8121509		3407522910	103		DETE BL-1A	RICHLAND	18.0	
8121477		3403124204	103		KAMM FARMS BL-1A	CLARK	18.0	
-ENNEY OILFIELD RENTAL CO					RECEIVED: 03/12/81 JA: OH			
8121613		3415121958	108	D	BACHTEL UNIT #1	NIMISHILLEN	0.2	
8121539		3411922424	108	D	BLACKFORD #2		3.5	NATIONAL GAS CORP
8121553		3411922499	108	D	BOETCHER #1		2.6	NATIONAL GAS
8121532		3411922349	108	D	DRUMM #1		1.9	NATIONAL GAS CORP
8121538		3411922417	108	D	FORSYTHE-WHITMIRE #1		3.5	NATIONAL GAS CORP
8121550		3411922465	108	D	FOSTER #1		2.0	NATIONAL GAS CORP
8121537		3411922416	108	D	FRICK #1		4.0	NATIONAL GAS CORP
8121545		3411922441	108	D	GIBBS #1		2.4	NATIONAL GAS CORP
8121544		3411922438	108	D	GIBBS #2		2.6	NATIONAL GAS CORP
8121554		3411922503	108	D	HOUK #1		1.1	NATIONAL GAS CORP
8121533		3411922380	108	D	HOUK #2		2.5	NATIONAL GAS CORP
8121551		3411922466	108	D	HOUKA 3		2.1	NATIONAL GAS CORP
8121559		3411922726	108	D	J STAKER #1		4.7	NATIONAL GAS CORP
8121540		3411922433	108	D	L DETRICK #2		2.2	NATIONAL GAS CORP
8121530		3411922257	108	D	L DIETRICK #1		2.5	NATIONAL GAS CORP
8121558		3411922668	108	D	LEE JOHNSON #1		4.4	NATIONAL GAS CORP
8121552		3411922468	108	D	MCCUTCHEON #3		0.7	NATIONAL GAS
8121548		3411922445	108	D	MCCUTCHEON #4		4.2	NATIONAL GAS CORP
8121560		3411922754	108	D	MCCUTCHEON-#1		1.0	NATIONAL GAS CORP
8121611		3415121907	108	D	MILLER #3	NIMISHILLEN	0.2	
8121612		3415121908	108	D	MILLER #4		0.1	
8121546		3411922442	108	D	MYERS #3		3.5	NATIONAL GAS CORP
8121547		3411922443	108	D	MYERS #4		1.4	NATIONAL GAS CORP
8121549		3411922446	108	D	MYERS #5		2.9	NATIONAL GAS CORP

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121557		3411922560	108	D	PARMITER #1		3.5	NATIONAL GAS CORP
8121528		3411922099	108	D	PERKINS #1		3.7	NATIONAL GAS CORP
8121541		3411922434	108	D	R STAKER #2		1.2	NATIONAL GAS CORP
8121535		3411922408	108	D	R STAKER #3		1.7	NATIONAL GAS CORP
8121536		3411922409	108	D	R STAKER #4		3.5	NATIONAL GAS CORP
8121610		3415121900	108	D	SHOEMAKER #1	NIMISHELLEN	0.3	
8121534		3411922396	108	D	SOLLER #1		2.1	NATIONAL GAS CORP
8121561		3411922771	108	D	SPILLMAN #1		4.0	NATIONAL GAS CORP
8121529		3411922208	108	D	STARRETT #1		0.3	NATIONAL GAS CORP
8121542		3411922435	108	D	STARRETT #2		11.5	NATIONAL GAS CORP
8121543		3411922436	108	D	STARRETT #3		7.2	NATIONAL GAS CORP
-ENTERPRISE GAS & OIL INC					RECEIVED: 03/12/81 JA: OH			
8121473		3401911399	103		COPELAND #1	ORANGE	18.2	MB OPERATING CO INC
8121503		3405922885	103		E K REED #4	SPENCER	36.5	COLUMBIA GAS TRANSMI
-EVERFLOW EASTERN INC					RECEIVED: 03/12/80 JA: OH			
8121516		3409920760	108	D	DAVID #2	GOSHEN	3.0	AMERICAN ENERGY SERV
-EVERFLOW EASTERN INC					RECEIVED: 03/12/81 JA: OH			
8121519		3409920882	108	D	BAIRD - MOSS #1		1.0	AMERICAN ENERGY SERV
8121517		3409920799	108	D	BECK #2	GOSHEN	2.0	AMERICAN ENERGY SERV
8121515		3409920756	108	D	CLINGERMAN #1	ELLSWORTH	6.0	AMERICAN ENERGY SERV
-GIANT PETROLEUM CORPORATION					RECEIVED: 03/12/81 JA: OH			
8121470		3400721654	103		Z&M DAUTARTAS #1	COLEBROCK	20.0	EAST OHIO GAS CO
-GLEN W DICKEN					RECEIVED: 03/12/81 JA: OH			
8121609		3415121139	108	D	DICKEN COMMUNITY WELL #1		3.8	EAST OHIO GAS CO
-GREEN GAS COMPANY					RECEIVED: 03/12/81 JA: OH			
8121483		3405921257	108	D	DAVIS #1		7.0	EAST OHIO GAS CO
8121488		3405921383	108	D	DAVIS #2		4.0	EAST OHIO GAS CO
8121498		3405922478	108	D	J & L KLIES #1		4.0	EAST OHIO GAS CO
-GREENHOUSE ENERGY LTD #1					RECEIVED: 03/12/81 JA: OH			
8121474		3403123916	103		FRITZ #1 (3916)	BLISSFIELD	0.0	
-GREENLAND 1980-1					RECEIVED: 03/12/81 JA: OH			
8121587		3411925555	103		IRWIN #1	RICH HILL	7.5	
8121588		3411925557	103		IRWIN #2		7.5	
-H D COLLINS TRUST					RECEIVED: 03/12/81 JA: OH			
8121617		3415320353	108	D	CARTER JONES #1		12.1	EAST OHIO GAS CO
8121598		3413320432	108	D	POLICHENA #2		9.2	EAST OHIO GAS CO
8121597		3413320156	108	D	TILDEN #1		6.0	EAST OHIO GAS CO
-H I SMITH OIL & GAS INC					RECEIVED: 03/12/81 JA: OH			
8121507		3407522677	103		SUSIE B YODER #2	PRAIRIE	16.0	COLUMBIA GAS TRANSMI
-INLAND DRILLING CO INC					RECEIVED: 03/12/81 JA: OH			
8121608		3414720235	103		ASH #1	JACKSON	0.1	
8121607		3413322487	103		BOWER #2	SHALERSVILLE	0.0	
-IRVIN PRODUCING COMPANY					RECEIVED: 03/12/81 JA: OH			
8121596		3412724995	103		EDMOND LECKRONE #5	MADISON	10.0	COLUMBIA GAS TRANSMI
-JAMES P NOLL					RECEIVED: 03/12/81 JA: OH			
8121593		3412724818	103		CLYDE HENDERSON #2	READING	6870.0	COLUMBIA GAS TRANS C
-JAMES R SMAIL					RECEIVED: 03/12/81 JA: OH			
8121645		3416922537	103		RICHARD L DUTTER ET AL #1	CLINTON	30.0	COLUMBIA GAS TRANSMI
-JOHN G FORAKER					RECEIVED: 03/12/81 JA: OH			
8121585		3411925328	103		SHELLY #1	NEWTON	0.0	NATIONAL GAS & OIL C
-JONSU CORP					RECEIVED: 03/12/81 JA: OH			
8121514		3408923996	103		GRIFFITH #1	FALLSBURY	5.0	
8121475		3403123938	103		PORTS #2	PIKE	4.0	

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-KENOIL					RECEIVED: 03/12/81 JA: OH			
8121644		3416922324	103		JAMES FINNEY #1	CAANAN	6.0	COLUMBIA GAS TRANSMI
-LAKE REGION OIL INC					RECEIVED: 03/12/81 JA: OH			
8121629		3415723562	103		SAM AMISTADI #1	FRANKLIN	30.0	COLUMBIA GAS TRANSMI
-LLOYD J ABRECHT					RECEIVED: 03/12/81 JA: OH			
-MIDLAND OIL CO					RECEIVED: 03/12/81 JA: OH			
8121513		3408923995	103		LEE O HUPP (HUPP HEIRS) #6	BOWLING GREEN	9.0	
-MONROE & KEUSINK INC					RECEIVED: 03/12/81 JA: OH			
8121510		3408322803	103		HIPP #1	GREER	12.0	
-NEW FRONTIER EXPLORATION INC					RECEIVED: 03/12/81 JA: OH			
8121615		3415123435	103		ARCHIE TACCIOLI #1	PIKE	24.0	
8121614		3415123434	103		CHARLES REED #1	PIKE	24.0	
8121616		3415123438	103		WADE VANVOORHIS #1	PIKE	24.0	
-NOBLE OIL CORP					RECEIVED: 03/12/81 JA: OH			
8121605		3413322430	103		KURZ UNIT #1	FREEDOM	20.0	AMERICAN ENERGY SERV
8121600		3413322391	103		LANGE #3	FREEDOM	20.0	AMERICAN ENERGY SERV
8121606		3413322433	103		LANGE #5	FREEDOM	20.0	AMERICAN ENERGY SERV
8121599		3413322274	103		VENTURE #2 (HIRAM COLLEGE)	HIRAM	20.0	HIRAM COLLEGE
8121602		3413322417	103		VOGEL #3	EDINBURG	20.0	GENERAL ELECTRIC CO
8121601		3413322415	103		VOGEL #4	EDINBURG	20.0	GENERAL ELECTRIC CO
8121604		3413322419	103		VOGEL #5	EDINBURG	20.0	GENERAL ELECTRIC CO
-OHIO NATURAL FUEL CO					RECEIVED: 03/12/81 JA: OH			
8121508		3407522847	103		HIDER-ZAJC #1	KNOX	3.0	COLUMBIA GAS TRANSMI
-OHIO OIL & GAS CO					RECEIVED: 03/12/81 JA: OH			
8121620		3415521550	102		JACOBSON #1	JOHNSTON	20.0	COLUMBIA GAS TRANSMI
8121624		3415521665	102		JACOBSON #2	JOHNSTON	20.0	COLUMBIA GAS TRANSMI
8121621		3415521621	102		MACKENDRICK #1	JOHNSTON	20.0	COLUMBIA GAS TRANSMI
8121623		3415521664	102		MORAN #1	JOHNSTON	20.0	COLUMBIA GAS TRANSMI
8121622		3415521635	102		NICULA #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8121619		3415521517	102		SIEMBIEDA #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
-OHIO PURE OIL CORP					RECEIVED: 03/12/81 JA: OH			
8121592		3412122451	107		DAVID L SOBIE #1		36.5	
-PAUL DE CLEVA					RECEIVED: 03/12/81 JA: OH			
8121482		3405520305	103		W F AND M J THOMAS #1	BURTON	73.0	EAST OHIO GAS CO
-QUAKER STATE OIL REFINING CORP					RECEIVED: 03/12/81 JA: OH			
8121471		3400922115	103		DRY DOCK COAL #2		36.5	COLUMBIA GAS TRANSMI
-RICHARD W ULLMAN					RECEIVED: 03/12/81 JA: OH			
8121526		3411521972	103		CLARENCE LEWIS #3	CENTER	12.0	EAST OHIO GAS CO
-SCHRIMSHER OIL & GAS EXPLORATION					RECEIVED: 03/12/81 JA: OH			
8121520		3410322382	103		LICAUSE UNIT #1	GUILFORD	20.0	COLUMBIA GAS TRANSMI
-TEMPLE OIL & GAS CO					RECEIVED: 03/12/81 JA: OH			
8121527		3411522209	103		IVA PORTER #1	DEERFIELD	10.0	
-THE CARTER JONES LUMBER CO					RECEIVED: 03/12/81 JA: OH			
8121472		3401921219	108		D LARRY GARNER #1		16.0	COLUMBIA GAS TRANSMI
-UNITED PETROLEUM CORP					RECEIVED: 03/12/81 JA: OH			
8121518		3409920881	108		D HENDRICKS #1	ELLSWORTH	1.0	AMERICAN ENERGY SERV
-WHITNAM OIL & GAS CORP					RECEIVED: 03/12/81 JA: OH			
8121639		3416725933	107		GEORGE GILL #2	DECATUR	10.0	
8121640		3416725935	107		LADD #1	DECATUR	10.0	COLUMBIA GAS TRANSMI
8121521		3410522049	107		W UPTON #1	OLIVE	10.0	
-WILLIAM F HILL					RECEIVED: 03/12/81 JA: OH			
8121506		3407522029	108		FALB #1		2.0	COLUMBIA GAS TRANSMI

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-ZENITH OIL & GAS INC					RECEIVED: 03/12/81 JA: OH			
8121586		3411925443	103		MCDANIEL #1	HOPEWELL	250.0	
8121511		3408923830	103		VINCENT #1	HOPEWELL	250.0	
WEST VIRGINIA DEPARTMENT OF MINES								
-ALFRED E KNOBLER					RECEIVED: 03/13/81 JA: WV			
8121468		4701100567	107		CLELLAN BIAS #2 K-21	MCCOMAS	4.6	
8121464		4704301716	107		GRACIE MIDKIFF K-31	SHERIDAN	0.0	
8121462		4709901586	107		JOE HAMER K-24	CEREDO	0.0	
8121465		4704301694	107		JOHN ROSS K-23	SHERIDAN	2.5	
8121469		4701100571	107		LONNIE KENNAN K-45	MCCOMAS	7.3	
8121461		4709901587	107		MARTIN/HAMER K-25	CEREDO	0.0	
8121466		4701100565	107		R C CREMEANS K-9	MCCOMAS	3.7	
8121467		4701100570	107		R V LUCAS K-35	MCCOMAS	3.4	
8121463		4704301742	107		WINNIE DAVIS K-34	SHERIDAN	0.0	
-CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 03/13/81 JA: WV			
8121459		4703301200	108		C M LANG (12312)	WEST VIRGINIA OTHER A857	21.0	GENERAL SYSTEM PURCH
-UNION DRILLING INC					RECEIVED: 03/13/81 JA: WV			
8121460		4709702070	103		GASTON GROCERY ET AL #2 (1544)	UNION DISTRICT	0.0	COLUMBIA GAS TRANSMI

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 22, 1981.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10388 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 31, 1981.

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION							
-GRAHAM-MICHAELIS CORP				RECEIVED: 03/13/81 JA: KS			
8121758	K-79-0945	1508100000	108	WHEATLEY #1	HUGOTON FIELD	20.4	AMOCO PRODUCTION CO
LOUISIANA OFFICE OF CONSERVATION							
-MCMORAN EXPLORATION CO				RECEIVED: 03/16/81 JA: LA			
8121759	80-3776	1710922248	102	I B PICOU #1	SUNRISE	1700.0	TRANSCONTINENTAL GAS
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
-SHELL OIL CO				RECEIVED: 03/17/81 JA: NM			
8121757		3002500000	108	STATE #1 (SEC 2)	DRINKARD	0.0	GETTY OIL CO
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES							
-ADOBE OIL & GAS CORPORATION				RECEIVED: 03/12/81 JA: PA			
8121738	6529	3712021201	103	CHARLES ROBERT & IDA C BARR #1	MT PLEASANT	27.0	INDUSTRIAL ENERGY SE
8121736	6527	3712921203	103	CHARLES ROBERT & IDA C BARR #3	MT PLEASANT	28.0	INDUSTRIAL ENERGY SE
8121737	6528	3712921386	103	JAMES C POOLE #1	MT PLEASANT	29.0	INDUSTRIAL ENERGY SE
8121739	6530	3712921327	103	L A SROKA #1	MT PLEASANT	26.0	INDUSTRIAL ENERGY SE
8121735	6526	3712921547	103	SAMUEL PAUL LONG #1	BLAIRSVILLE	29.0	INDUSTRIAL ENERGY SE
8121755	6304	3705120213	103	STANLEY J NOVAK #1	DAWSON	24.0	PEOPLE NATURAL GAS C
8121740	6531	3712921583	103	VERNA S POOLE #1	GREENSBURG	28.0	INDUSTRIAL ENERGY SE
-APPALACHIAN ENERGY INC				RECEIVED: 03/12/81 JA: PA			
8121756	6099	3704921029	102	B WARNER #1 A-E-65	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRANSMI
-ARTHUR BIDDLE				RECEIVED: 03/12/81 JA: PA			
8121744	6504	3705900000	108	BIDDLE	BIDDLE	11.1	COLUMBIA GAS TRANSMI
-BEREA OIL AND GAS CORPORATION				RECEIVED: 03/12/81 JA: PA			
8121749	6453	3704921196	102	C A BROWN UNIT #1	NORTH EAST	25.0	NATIONAL FUEL GAS SU
-CASTLE GAS CO INC				RECEIVED: 03/12/81 JA: PA			
8121750	6498	3712920675	108	H F GARRIGAN #2 C-183 WES-22675	DERRY TWP	15.0	PEOPLES NATURAL GAS
8121712	6467	3706323308	108	HARRY WHITE #1 (C-225) IND-23308	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121719	6474	3706323307	108	HARRY WHITE #2 (C-224) IND-23307	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121713	6468	3706323457	108	HARRY WHITE #2 (C-370) IND-23457	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121720	6475	3706323309	108	HARRY WHITE #3 (C-226) IND-23309	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121721	6476	3706323310	108	HARRY WHITE #4 (C-227) IND-23310	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121714	6469	3706323491	108	HARRY WHITE #4 (C-372) IND-23491	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121722	6477	3706323311	108	HARRY WHITE #5 (C-228) IND-23311	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121715	6470	3706323469	108	HARRY WHITE #5 (C-373) IND-23469	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121723	6478	3706323472	108	HARRY WHITE #6 (C-379) IND-23472	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121716	6471	3706323490	108	HARRY WHITE #6 (C-384) IND-23490	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C

JD NO	JA TXT	API NO	ACC T	WELL NAME	FIELD NAME	PROD	PURCHASER
8121717	6472	3706323492	108	HARRY WHITE #7 (C-385) IND-23492	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121718	6473	3706323488	108	HARRY WHITE #8 (C-386) IND-23488	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121710	6465	3706323540	108	ROCHESTER & PITTSBURGH COAL CO	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121711	6466	3706323541	108	ROCHESTER & PITTSBURGH COAL CO	WHITE TOWNSHIP	13.0	COLUMBIA GAS TRANS C
8121706	6332	3706323885	108	W A GRAHAM #3 (C-115) IND-23885	CENTER TOWNSHIP	18.0	T W PHILLIPS GAS & O
8121751	6499	3712920689	108	W ROCKWELL #1 (C-205) WES-20689	DERRY TOWNSHIP	17.0	PEOPLES NAT GAS CO
-D A DORWARD				RECEIVED: 03/12/81 JA: PA			
8121752	6501	3706522153	108	HORNER (D2-A) O/S 10760	YOUNG TOWNSHIP	20.0	CONSOLIDATED GAS SUP
8121743	6503	3706522155	108	MCMINN 1 (D3-A) O/S 10761	YOUNG TOWNSHIP	20.0	CONSOLIDATED GAS SUP
8121742	6502	3706522154	108	THOMAS (D1-A) O/S 10795	YOUNG TOWNSHIP	20.0	CONSOLIDATED GAS SUP
-DORAN & ASSOCIATES INC				RECEIVED: 03/12/81 JA: PA			
8121741	6536	3706323735	108	B PALMER SR #1 K-L-8	UPPER DEVONIAN SANDS	20.0	PEOPLES NATURAL GAS
-DORSO ENERGY				RECEIVED: 03/12/81 JA: PA			
8121746	6449	3706325856	103	JOHN J WEYANDT #3 (#151)	CRETE	35.0	BETHLEHEM STEEL CORP
8121748	6450	3706325858	103	JOHN J WEYANDT #4 (#152)	CRETE	35.0	BETHLEHEM STEEL CORP
-ENVIROGAS INC				RECEIVED: 03/12/81 JA: PA			
8121708	6421	3704921202	103	G KRESS #3	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS SU
8121707	6420	3704921183	103	J COOK #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS SU
-FAIRMAN DRILLING CO				RECEIVED: 03/12/81 JA: PA			
8121728	6491	3706522154	103	JOHN W TURNAGE NO 1 (F-2885)	BIG RUN	40.0	CONSOLIDATED GAS SUP
8121727	6490	3706522155	103	JOHN W TURNAGE NO 2 (F-2886)	BIG RUN	30.0	CONSOLIDATED GAS SUP
8121726	6489	3703321018	103	SPENCER LAND CO NO 3 (F-2970)	LUMBER CITY	15.0	CONSOLIDATED GAS SUP
8121724	6486	3703320986	103	SPENCER LAND COMPANY NO 1 (F-2898)	LUMBER CITY	15.0	CONSOLIDATED GAS SUP
-FELMONT OIL CORPORATION				RECEIVED: 03/12/81 JA: PA			
8121730	6495	3706325404	103	HARRY C MACK #2 (F-264)	SOUTH PINE	0.0	COLUMBIA GAS TRANSMI
8121729	6494	3706325838	103	HARRY C MACK #3 (F-282)	SOUTH PINE	146.0	COLUMBIA GAS TRANSMI
8121732	6497	3706325837	103	THOMAS CONNELLY #2 (F-284)	SOUTH PINE	73.0	COLUMBIA GAS TRANSMI
8121731	6496	3706325611	103	W A SCHROTH #1 (F-273)	PINETON FIELD	0.0	COLUMBIA GAS TRANSMI
-FOX OIL & GAS INC				RECEIVED: 03/12/81 JA: PA			
8121754	6228	3706325810	103	JACK HAZELET #4	MONTGOMERY TOWNSHIP	2.6	COLUMBIA GAS TRANS C
-GREAT LAKES HYDROGAS INC				RECEIVED: 03/12/81 JA: PA			
8121700	5976	3704900000	102	FRANK C METZ #1	LAKESHORE	18.0	NATIONAL FUEL GAS SU
-HANLEY & BIRD				RECEIVED: 03/12/81 JA: PA			
8121699	5898	3706522064	108	TEXASGULF #3 (SN1662)	KNOXDALE	62.8	NATIONAL FUEL GAS SU
-J C ENTERPRISES				RECEIVED: 03/12/81 JA: PA			
8121705	6263	3706522179	103	JEF-2217 BEYER HEIRS #150-1	ROSSITER	30.0	CONSOLIDATED GAS SUP
-MITCHELL ENERGY CORPORATION				RECEIVED: 03/12/81 JA: PA			
8121725	6487	3703920811	103	LOPER #1-55	MEDINA & WHIRLPOOL	98.0	
-MONROE RESOURCES LTD				RECEIVED: 03/12/81 JA: PA			
8121747	6446	3712328019	103	SWEENEY #1	SUGAR GROVE	20.0	COLUMBIA GAS TRANSMI
-NEA CROSS CO				RECEIVED: 03/12/81 JA: PA			
8121753	5426	3704920987	102	MICHAEL MELNICK #1	MILL VILLAGE	10.0	NATIONAL FUEL GAS SU
-PHILLIPS PRODUCTION CO				RECEIVED: 03/12/81 JA: PA			
8121701	6054	3703320982	103	HOMER A MOTT ET UX #1	BELL	25.0	
8121703	6056	3703320996	103	KATHRYN MOWERY ET AL #1	BELL	25.0	
8121704	6057	3703320993	103	ORRIE L STYERS EXEC	BELL	25.0	
8121702	6055	3703320998	103	RONALD MILLER #1	BELL	35.0	
-SCOTT AND HUSSING				RECEIVED: 03/12/81 JA: PA			
8121709	6451	3705201333	103	PETE TYRONAS #1 (#149)	BELLE VERNON	20.0	COLUMBIA GAS TRANSMI
-VINEYARD OIL & GAS CO				RECEIVED: 03/12/81 JA: PA			
8121745	6408	3704921193	102	MAGEE#1 E-982	MAGEE - LEBOEUF - ROCKDA	150.0	NATIONAL FUEL GAS SU
8121734	6407	3704920847	103	MAZZA #1 (E-793)	MAZZA #1 - NORTH EAST	14.4	NATIONAL FUEL GAS SU

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121733	6506	3704920646	103	WAGNER #1 (E-637)	WAGNER #1 - NORTH EAST	12.0	NATIONAL FUEL GAS SU
WEST VIRGINIA DEPARTMENT OF MINES							
-TEXAS INTERNATIONAL PET CORP				RECEIVED: 02/06/81 JA: WV			
8121698		4705500063	108	POCAHONTAS D-10	ROCK	14.4	CONSOLIDATED GAS SUP
WYOMING OIL & GAS CONSERVATION COMMISSION							
-AMOCO PRODUCTION CO				RECEIVED: 03/12/81 JA: WY			
8121684	NG 7-81	4903721322	103	CHAMPLIN 149 AMOCO J NO 1	BRUFF	1275.0	CITIES SERVICE GAS C
8121696	NG 207-80	4902320284	102	CHAMPLIN 186 AMOCO E WELL #1	VERNE	90.0	CITIES SERVICE GAS C
8121686	NG 9-81	4902320294	102	CHAMPLIN 186 AMOCO G #1	BRUFF	175.0	CITIES SERVICE GAS C
8121685	NG 8-81	4904120336	102	CHAMPLIN 228 AMOCO B NO 1	BRUFF	300.0	CITIES SERVICE GAS C
8121662	NG209-80	4903721396	102	CHAMPLIN 242 AMOCO K WELL #1	ECHO SPRINGS	110.0	CITIES SERVICE GAS C
8121675	NG 230-80	4903721255	102	CHAMPLIN 276 AMOCO C #1	ECHO SPRINGS	223.3	CITIES SERVICE GAS C
8121661	NG208-80	4903721340	102	CHAMPLIN 285 AMOCO F WELL #1	FABIAN DITCH	300.0	CITIES SERVICE GAS C
8121683	NG 6-81	4903721451	102	CHAMPLIN 345 AMOCO B NO 1	ECHO SPRINGS	62.5	CITIES SERVICE GAS C
8121663	NG210-80	4900720447	102	CHAMPLIN 444 AMOCO C NO 1		946.0	CITIES SERVICE GAS C
8121687	NG 11-81	4902320308	102	WHISKEY BUTTES NO 25	WHISKEY BUTTES	60.0	CITIES SERVICE GAS C
-BELCO PETROLEUM CORPORATION				RECEIVED: 03/12/81 JA: WY			
8121677	NG 232-80	4903520560	103	C 73-23	MESAVERDE	0.0	NORTHWEST PIPELINE C
8121673	NG 225-80	4903520561	103	C 74-22	BIG PINEY	0.0	NORTHWEST PIPELINE C
8121671	NG 223-80	4902320359	103	GRBU 71-6	GREEN RIVER BEND UNIT	0.0	NORTHWEST PIPELINE C
8121670	NG 222-80	4903520543	103	MILLS 2-23	TIP-TOP	0.0	NORTHWEST PIPELINE C
8121672	NG 224-80	4902300000	108	WILLOWCREEK #1	WILDCAT	0.0	NORTHWEST PIPELINE C
8121656	NG 200-80	4903520511	103	THOMPSON 3-8 (20511)	MOUNTAIN HOME	0.0	NORTHWEST PIPELINE C
-BURLINGTON NORTHERN INC				RECEIVED: 03/12/81 JA: WY			
8121692	NG 18-81	4900921776	102	41-36 STATE	SCOTT	73.0	CHINOOK CONSTRUCTION
8121693	NG 19-81	4900921777	102	43-36 STATE	SCOTT	73.0	CHINOOK CONSTRUCTION
-CHAMPLIN PETROLEUM COMPANY				RECEIVED: 03/12/81 JA: WY			
8121674	NG 229-80	4903721479	103	#1 UDC 1-23 (18-112)	BRUFF	750.0	MOUNTAIN FUEL SUPPLY
8121695	NG 20-80	4903721683	103	#6 UPRR 4-21	SIBERIA RIDGE	310.0	COLORADO INTERSTATE
-CHEVRON U S A INC				RECEIVED: 03/12/81 JA: WY			
8121660	NG 205-80	4904120271	102	PAINTER RESERVOIR UNIT 21-31B	PAINTER RESERVOIR	500.0	NORTHERN NATURAL GAS
8121659	NG 204-80	4904120246	102	PAINTER RESERVOIR UNIT 32-31B	PAINTER RESERVOIR	300.0	NORTHERN NATURAL GAS
-CIG EXPLORATION INC				RECEIVED: 03/12/81 JA: WY			
8121652	NG 196-80	4903721176	103	STATE 1-36-17-94	WILDROSE	222.0	COLORADO INTERSTATE
-CITIES SERVICE COMPANY				RECEIVED: 03/12/81 JA: WY			
8121665	NG 217-80	4904120301	102	EVANSTON TOWNSITE UNIT D #1	YELLOW CREEK	73.0	MOUNTAIN FUEL SUPPLY
-CONOCO INC				RECEIVED: 03/12/81 JA: WY			
8121649	NG 193	4902906081	108	SOUTH ELK BASIN UNIT NO 19	SOUTH ELK BASIN	14.6	MONTANA-DAKOTA UTILI
8121650	NG 194-80	4902906050	108	SOUTH ELK BASIN UNIT NO 22	SOUTH ELK BASIN	3.3	MONTANA-DAKOTA UTILI
-DAVIS OIL COMPANY				RECEIVED: 03/12/80 JA: WY			
8121668	NG 220-80	4900921616	102	MORTON SCOTT #4	SCOTT FIELD	7.8	PHILLIPS PETROLEUM C
-DAVIS OIL COMPANY				RECEIVED: 03/12/81 JA: WY			
8121647	NG 191-80	4900920410	102	BOWMAN DRAW STATE #1	WILDCAT	2.2	PHILLIPS PETROLEUM C
8121648	NG 192-80	4900921735	102	BOWMAN DRAW STATE #2	SCOTT FIELD	25.2	
8121691	NG 17-81	4900921699	102	BOWMAN DRAW STATE #3	SOUTH SCOTT	1.0	PHILLIPS PETROLEUM C
8121669	NG 221-80	4903721315	102	BUSH LAKE NO 2	WILDCAT	80.4	PANHANDLE EASTERN PI
8121697	NG 5-81	4900525370	103	EAST MATTIE STATE #1-A	GILLETTE	6.0	PHILLIPS PETROLEUM C
8121646	NG 190-80	4900921594	102	M E #1	SCOTT	29.4	PHILLIPS PETROLEUM C

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121651	NG-195-80	4900921619	103		NO 2A STRAND	MIKES DRAW	0.0	PHILLIPS PETROLEUM C
-FMC CORP					RECEIVED: 03/12/81 JA: WY			
8121682	NG 4-81	4902320342	103		HYRUM DITCH #11X-26	ROCKING CHAIR	57.0	FMC CORP
8121680	NG 2-80	4902320239	103		HYRUM DITCH #14-26	ROCKING CHAIR	50.0	FMC CORP
8121681	NG 3-81	4902320340	103		HYRUM DITCH #31X-26	ROCKING CHAIR	4.0	FMC CORP
8121679	NG 1-81	4902320240	103		HYRUM DITCH 13X-24	ROCKING CHAIR	55.0	FMC CORP
-JOHN J CHRISTMANN					RECEIVED: 03/12/81 JA: WY			
8121676	NG 231-80	4903700000	103		CHAMPLIN 1-31	LEUCITE HILLS	109.0	NORTHWEST PIPELINE C
-LUFF EXPLORATION CO					RECEIVED: 03/12/81 JA: WY			
8121678	NG 233-80	4903721772	103		CHAMPLIN #2-17	PINE CANYON	180.0	MOUNTAIN FUEL SUPPLY
-MARATHON OIL COMPANY					RECEIVED: 03/12/81 JA: WY			
8121654	NG-198-80	4900720406	102		CRESTON III UNIT #4	CRESTON III UNIT	37.0	NORTHWEST PIPELINE C
*8121689	NG 15-81	4902920879	103		PAULINE 11 (TENSLEEP FORMATION)	OREGON BASIN FIELD	1.4	COLORADO INTERSTATE
*8121690	NG 16-81	4902920883	103		SIDNEY 14 (TENSLEEP FORMATION)	OREGON BASIN FIELD	4.0	COLORADO INTERSTATE
-PANHANDLE WESTERN GAS CO					RECEIVED: 03/12/81 JA: WY			
8121655	NG 199-80	4900525641	102		WOLFF #2	WILDCAT-WOLFF RANCH AREA	77.0	PANHANDLE EASTERN PI
-TERRAPET CORP					RECEIVED: 03/12/81 JA: WY			
8121657	NG 201-80	4900921614	103		MORTON 1-19	WELL DRAW	10.0	CHINOOK CONSTRUCTION
8121658	NG 202-80	4900921551	103		MORTON 1-20	WELL DRAW	12.0	CHINOOK CONSTRUCTION
-TEXACO INC					RECEIVED: 03/12/81 JA: WY			
8121653	NG 197-80	4903721471	103		A M TRIPP (NCT-1) NO 1	BRUFF	548.0	MOUNTAIN FUEL SUPPLY
8121688	NG-13-81	4903721545	103		WYOMING U (NCT-2) NO 1	BRUFF	402.0	MOUNTAIN FUEL SUPPLY
-TEXAS OIL & GAS CORP					RECEIVED: 03/12/81 JA: WY			
8121664	NG212-80	4903721597	102		AMOCO ANTELOPE FLATS #1	WILDCAT	40.0	CITIES SERVICE GAS C
-UNION OIL COMPANY OF CALIF					RECEIVED: 03/12/81 JA: WY			
8121667	NG 219-80	4900525578	103		JAYSON UNIT #1-6	HILIGHT	20.0	MCCULLOCH GAS PROCES
8121666	NG212-80	4903721597	103		JAYSON UNIT #3-8	HILIGHT	5.0	MCCULLOCH GAS PROCES
8121694	NG 20-81	4904320461	103		WORLAND UNIT #53E-F4	RATTLESNAKE	15.0	MONT DAKOTA UTILITIE

OTHER PURCHASERS VOLUME NO :397

8121689 CODY GAS CO
8121690 CODY GAS CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 22, 1981.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10389 filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 31, 1981.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION								
-ARCO OIL AND GAS COMPANY			RECEIVED: 03/16/81 JA: CO					
8121888	CD0004-81	0506763500	103		SOUTHERN UTE 22-2 32-8 (MV)	IGNACIO BLANCO (MV)	162.0	WESTERN SLOPE GAS CO
8121887	CD 0006-81	0506763090	103		SOUTHERN UTE 23-2 32-9 (MV)	IGNACIO BLANCO	276.0	EL PASO NATURAL GAS
WEST VIRGINIA DEPARTMENT OF MINES								
-ALLEGHENY LAND & MINERAL COMPANY			RECEIVED: 03/16/81 JA: WV					
8121873		4709701573	108		A-470	WASHINGTON DISTRICT	10.5	CONSOLIDATED GAS SUP
8121783		4708300187	103		A-646	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121782		4708300186	103		A-647	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121826		4708300188	103		A-648	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121790		4709701759	103		A-655	BUCKHANNON DISTRICT	0.0	EQUITABLE GAS CO
8121781		4708300230	103		A-763	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121780		4709701876	103		A-780	MEADE DISTRICT	0.0	CONSOLIDATED GAS SUP
8121825		4704102554	103		A-783	COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS SUP
8121786		4709702027	103		A-848	WASHINGTON DISTRICT	0.0	CONSOLIDATED GAS SUP
8121785		4708300293	103		A-858	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121824		4708300338	103		A-870	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121778		4708504855	103		A-876	MURPHY DISTRICT	0.0	CONSOLIDATED GAS SUP
8121779		4708504856	103		A-877	MURPHY DISTRICT	0.0	CONSOLIDATED GAS SUP
8121788		4709702079	103		A-892	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121827		4709702080	103		A-893	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121784		4708300337	103		A-895	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121787		4709702115	103		A-901	UNION DISTRICT	0.0	CONSOLIDATED GAS SUP
-ALPHA DRILLING FUND 1979 LTD			RECEIVED: 03/16/81 JA: WV					
8121801		4708524489	103		ELSIE PRUNTY H-891	UNION DISTRICT	21.0	CONSOLIDATED GAS SUP
8121804		4708524490	103		ELSIE PRUNTY H-892	UNION DISTRICT	20.0	CONSOLIDATED GAS SUP
-BETA DRILLING FUND 79 LTD			RECEIVED: 03/16/81 JA: WV					
8121807		4708524487	103		HARRY MOATS H-885	GRANT DISTRICT	18.0	CONSOLIDATED GAS SUP
8121808		4708524488	103		HARRY MOATS H-886	GRANT DISTRICT	18.0	CONSOLIDATED GAS SUP
-BRAXTON OIL AND GAS CORP			RECEIVED: 03/16/81 JA: WV					
8121877		4700701324	108		BEE NO 1	ASPENAL - FINSTER	2.0	
-CARSON PETROLEUM CORP			RECEIVED: 03/16/81 JA: WV					
8121789		4702102512	108		RUDDELL NO 1-A	LITTLE KANAWHA RIVER	1.1	CONSOLIDATED GAS SUP
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 03/16/81 JA: WV					
8121865		4703302076	108		ALICE V KNISLEY (12597)	WEST VIRGINIA OTHER A857	17.0	GENERAL SYSTEM PURCH
8121855		4704101990	108	D	BENNETT - HALL 11954	WEST VIRGINIA OTHER A-85	14.0	GENERAL SYSTEM PURCH
8121853		4704500123	108	D	BOONE CO COAL CORP 9284	WEST VIRGINIA OTHER A-85	1.0	GENERAL SYSTEM PURCH
8121842		4704700648	108	D	CONSOLIDATION COAL CO 11981	PINEVILLE FIELD AREA A-5	2.0	GENERAL SYSTEM PURCH
8121860		4704700643	108	D	CONSOLIDATION COAL CO 11982	PINEVILLE FIELD AREA A-5	8.0	GENERAL SYSTEM PURCH

JC NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121841		4704700647	108	D	CONSOLIDATION COAL 11980	PINEVILLE FIELD AREA A-5	1.0	GENERAL SYSTEM PURCH
8121870		4701701853	108		E W KREYENBUHL 12356	WEST VIRGINIA OTHER A-85	8.0	GENERAL SYSTEM PURCH
8121857		4704700633	108	D	G M EVANS 11872	PINEVILLE FIELD AREA A-5	20.0	GENERAL SYSTEM PURCH
8121850		4701900298	108	D	GAULEY MTN COAL 12240	WEST VIRGINIA OTHER A-85	11.0	GENERAL SYSTEM PURCH
8121851		4701900297	108	D	GAULEY MTN COAL 12241	WEST VIRGINIA OTHER A-85	11.0	GENERAL SYSTEM PURCH
8121766		4709500486	108		GEORGE T GALE (12427)	W VA OTHER A83772	1.0	GENERAL SYSTEM PURCH
8121868		4704102550	108		JAMES BURNS 12448	WEST VIRGINIA OTHER A857	9.0	GENERAL SYSTEM PURCH
8121846		4709500485	108	D	L H MAPLE 12386	WEST VIRGINIA OTHER A-85	15.0	GENERAL SYSTEM PURCH
8121867		4700500165	108		M E DICKINSON 7702	WEST VIRGINIA OTHER A-85	3.0	GENERAL SYSTEM PURCH
8121809		4703302342	103		N A MCWHORTER (12651)	WEST VIRGINIA OTHERS A85	40.0	GENERAL SYSTEM PURCH
8121852		4703300075	108	D	NORVAL E DAVIS 11049	WEST VIRGINIA OTHER A-85	2.0	GENERAL SYSTEM PURCH
8121864		4704700201	108		OLGA COAL CO 10288	PINEVILLE FIELD AREA A-5	13.0	GENERAL SYSTEM PURCH
8121866		4704700060	108		OLGA COAL CO 10872	PINEVILLE FIELD AREA A-5	15.0	GENERAL SYSTEM PURCH
8121874		4704700516	108		OLGA COAL CO 11397	PINEVILLE FIELD AREA A-5	12.0	GENERAL SYSTEM PURCH
8121862		4704700111	108		OLGA COAL CO 9660	PINEVILLE FIELD AREA A-5	13.0	GENERAL SYSTEM PURCH
8121861		4704700100	108		OLGA COAL CO 9666	PINEVILLE FIELD AREA A-5	12.0	GENERAL SYSTEM PURCH
8121863		4704700113	108		OLGA COAL COMPANY 9697	PINEVILLE FIELD AREA A-5	13.0	GENERAL SYSTEM PURCH
8121760		4704700770	108		POCAHONTAS LAND CORP (12503)	PINEVILLE A59442	15.0	GENERAL SYSTEM PURCH
8121847		4710900737	108	D	POCAHONTAS LAND 11607	PINEVILLE FIELD AREA A-5	4.0	GENERAL SYSTEM PURCH
8121875		4710900738	108		POCAHONTAS LAND 11609	PINEVILLE FIELD AREA A-5	12.0	GENERAL SYSTEM PURCH
8121856		4704700626	108	D	POCAHONTAS LAND 11760	PINEVILLE FIELD AREA A-5	10.0	GENERAL SYSTEM PURCH
8121872		4704700627	108		POCAHONTAS LAND 11762	PINEVILLE FIELD AREA A-5	14.0	GENERAL SYSTEM PURCH
8121844		4705500035	108	D	POCAHONTAS LAND 11765	PINEVILLE FIELD AREA A-5	8.0	GENERAL SYSTEM PURCH
8121869		4705500030	108		POCAHONTAS LAND 11766	PINEVILLE FIELD AREA A-5	13.0	GENERAL SYSTEM PURCH
8121843		4705500031	108	D	POCAHONTAS LAND 11767	PINEVILLE FIELD AREA A-5	8.0	GENERAL SYSTEM PURCH
8121858		4704700635	108	D	POCAHONTAS LAND 11770	PINEVILLE FIELD AREA A-5	8.0	GENERAL SYSTEM PURCH
8121849		4710900746	108	D	POCAHONTAS LAND 11773	PINEVILLE FIELD AREA A-5	0.4	GENERAL SYSTEM PURCH
8121859		4704700636	108	D	POCAHONTAS LAND 11918	PINEVILLE FIELD AREA A-5	8.0	GENERAL SYSTEM PURCH
8121848		4710900753	108	D	POCAHONTAS LAND 12125	WEST VIRGINIA OTHER A-85	1.0	GENERAL SYSTEM PURCH
8121845		4705500038	108	D	POCAHONTAS LAND 12205	PINEVILLE FIELD AREA A-5	20.0	GENERAL SYSTEM PURCH
8121871		4704102036	108		R R HOPKINS 12095	WEST VIRGINIA OTHER A-85	9.0	GENERAL SYSTEM PURCH
8121854		4704101918	108	D	T FAHEY 11639	WEST VIRGINIA OTHER A-85	1.0	GENERAL SYSTEM PURCH
-DEEP FORD GAS CO					RECEIVED: 03/16/81 JA: WV			
8121770		4705900743	108		BROWNING & DYE #1	GLIBERT	11.3	CONSOLIDATED GAS SUP
8121769		4704500839	108		BROWNING AND DYE #4	MANN-OCEANA	6.2	CONSOLIDATED GAS SUP
-DEVON CORPORATION					RECEIVED: 03/16/81 JA: WV			
8121776		4704501072	103		#958 DINGESS RUM COAL CO	ETHEL	36.0	COLUMBIA GAS TRANS C
8121817		4707900968	103		T K PENNINGTON #960	MIDWAY	26.0	DEVON P/L CO & EASON
-ENERGY DEVELOPMENT CORP					RECEIVED: 03/16/81 JA: WV			
8121762		4704700815	103		EDC NO 17 - MCD-815	BIG SANDY	30.0	CONSOLIDATED GAS SUP
-GLEN DANIEL GAS CO					RECEIVED: 03/16/81 JA: WV			
8121880		4708100286	108		JAS C SHUMATE HRS #1	MCGRAW	1.0	CONSOLIDATED GAS SUP
8121879		4708100282	108	D	WESTERN POCAHONTAS #1	MCGRAW	26.0	CONSOLIDATED GAS SUP
-GLENN L HAUGHT & SONS					RECEIVED: 03/16/81 JA: WV			
8121800		4708524485	103		EDNA FOSTER H-870	GRANT DISTRICT	25.0	CONSOLIDATED GAS SUP
8121802		4708524496	103		EDNA FOSTER H-871	GRANT DISTRICT	25.0	CONSOLIDATED GAS SUP
8121805		4708524497	103		EDNA FOSTER H-872	GRANT DISTRICT	21.0	CONSOLIDATED GAS SUP
8121803		4708524498	103		EDNA FOSTER H-873	GRANT DISTRICT	25.0	CONSOLIDATED GAS SUP
8121797		4708524500	103		ELSIE PRUNTY H-898	GRANT DISTRICT	20.0	CONSOLIDATED GAS SUP
8121806		4708524501	103		ELSIE PRUNTY H-899	GRANT DISTRICT	20.0	CONSOLIDATED GAS SUP
8121798		4708524528	103		L W DAVIS H-920	GRANT DISTRICT	20.0	CONSOLIDATED GAS SUP
8121796		4708524529	103		L W DAVIS H-921	GRANT DISTRICT	20.0	CONSOLIDATED GAS SUP

JC NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-J C BAKER & SONS INC					RECEIVED: 03/16/81 JA: WV			
8121821		4700701437	103		CHARLEY WILLISTON #1	SALT LICK	8.0	CONSOLIDATED GAS SUP
8121823		4700701404	103		NOAH KING NO 1	SALT LICK	6.0	CONSOLIDATED GAS SUP
-JAMES F SCOTT					RECEIVED: 03/16/81 JA: WV			
8121777		4701702647	103		JOHN GOLDEN S-303	GREENBRIER DISTRICT	26.0	CONSOLIDATED GAS SUP
8121810		4701702729	103		RUTH ROGERS S-304	GREENBRIER DISTRICT	26.0	CONSOLIDATED GAS SUP
-MOUNTAINEER OIL & GAS CO					RECEIVED: 03/16/81 JA: WV			
8121775		4704102519	103		MURPHY WELL	BUTCHERS FORK COURTHOUSE	547.0	EQUITABLE GAS CO
-P&M OIL CO					RECEIVED: 03/16/81 JA: WV			
8121761		4701700178	108		JESSIE WILLIAMS #3	LONG RUN	6.7	EQUITABLE GAS CO
-PENNZOIL COMPANY					RECEIVED: 03/16/81 JA: WV			
8121876		4701302757	108		A M BENNETT #1	SHERMAN	3.0	CONSOLIDATED GAS SUP
-PETROLEUM DEVELOPMENT CORP					RECEIVED: 03/16/81 JA: WV			
8121763		4709100137	108		E MCCARTNEY #2	PRUNTYTOWN	12.5	CONSOLIDATED GAS SUP
8121765		4700100952	108		E SMITH #1	ELK CREEK	2.0	CONSOLIDATED GAS SUP
8121764		4700100953	108		FLANIGAN-PAUGH #1	ELK CREEK	5.0	CONSOLIDATED GAS SUP
-ROBERT R JONES					RECEIVED: 03/16/81 JA: WV			
8121773		4702103669	103		JONES ND 6-A	GLENVILLE NORTH	60.0	CONSOLIDATED GAS SUP
-ROCKWELL PETROLEUM COMPANY					RECEIVED: 03/16/81 JA: WV			
8121774		4701702800	103		B C NICHOLSON #1	ST CLAIR	20.0	COLUMBIA GAS TRANSMI
8121816		4701702658	103		C NICHOLSON #1	LITTLE INDIAN FORK	10.0	COLUMBIA GAS TRANSMI
8121814		4701702763	103		F BROWN #5B	ST CLAIR	15.0	COLUMBIA GAS TRANSMI
8121772		4702103632	103		JAMES #2	BIG ELLIS	30.0	CONSOLIDATED GAS SUP
8121818		4702103634	103		JAMES #4	BIG ELLIS	30.0	CONSOLIDATED GAS SUP
8121771		4702103624	103		JONES #1A	BIG ELLIS	30.0	CONSOLIDATED GAS SUP
8121819		4702103626	103		JONES #3A	BIG ELLIS	30.0	CONSOLIDATED GAS SUP
8121815		4701702661	103		L NICHOLSON #1	LITTLE INDIAN FORK	20.0	COLUMBIA GAS TRANSMI
8121822		4701702779	103		SEVERIN #1B	ST CLAIR	20.0	CONSOLIDATED GAS SUP
8121820		4701702780	103		SEVERIN #2B	ST CLAIR	10.0	CONSOLIDATED GAS SUP
-STERLING DRILLING AND PROD CO INC					RECEIVED: 03/16/81 JA: WV			
8121878		4701501796	103		ALOI 31 SDP #266	BUFFALO DISTRICT	43.2	EQUITABLE GAS CO
8121839		4701303185	103		CAIN #249	LEE DISTRICT	15.3	COLUMBIA GAS TRANS C
8121838		4701303186	103		CAIN #251	LEE DISTRICT	46.8	COLUMBIA GAS TRANS C
8121837		4708703329	103		FAIR #151	GEARY DISTRICT	33.7	COLUMBIA GAS TRANS C
-UNION DRILLING INC					RECEIVED: 03/16/81 JA: WV			
8121833		4709100187	103		DAVID L BOSELY #1 (1542)	COURTHOUSE DISTRICT	0.0	CONSOLIDATED GAS SUP
8121832		4709702101	103		FLODA DINSER #4 (1577)	MEADE DISTRICT	0.0	COLUMBIA GAS TRANS C
8121834		4709702110	103		GENEVA I MEARNS #1 (1591)	BANKS DISTRICT	0.0	COLUMBIA GAS TRANS C
8121767		4708300322	103		HARRY MCMULLAN JR EST #11 (1586)	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121794		4708300319	103		HARRY MCMULLAN JR EST #12 (1587)	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121793		4708300321	103		HARRY MCMULLAN JR ESTATE #10 (1585)	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121768		4708300320	103		HARRY MCMULLAN JR ESTATE #7 (1549)	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121795		4708300314	103		HARRY MCMULLAN JR ESTATE #8 (1550)	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121813		4708300312	103		HARRY MCMULLAN JR ESTATE #9 (1551)	ROARING CREEK DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121829		4700101320	103		HERMAN J POLING #1 (1581)	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS SUP
8121830		4709702111	103		J K LEWIS #2 (1592)	BANKS DISTRICT	0.0	COLUMBIA GAS TRANS C
8121831		4709702113	103		KELSEL BENNETT #1 (1593)	BANKS DISTRICT	0.0	COLUMBIA GAS TRANS C
8121835		4709702093	103		LAMON & CAROL WIMER #2 (1589)	BANKS DISTRICT	0.0	COLUMBIA GAS TRANS C
8121811		4709702091	103		MAE CARTER #3 (1538)	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121828		4700101337	103		O T MARKS HEIRS #1 (1574)	PLEASANT DISTRICT	0.0	CONSOLIDATED GAS SUP
8121792		4700701439	103		OKEY L DEAN #1 (1460)	OTTER DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121836		4700101396	103		P M DEVITT HEIRS #1 (1580)	VALLEY DISTRICT	0.0	COLUMBIA GAS TRANS C

JC NO	JA CKT	API NO	STC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8121840		4709702057	103	D	ROBERT HOSAFLOOK #1 (1576)	MEADE DISTRICT	0.0	COLUMBIA GAS TRANSMI
8121812		4709702074	103		SHIRLEY ANN WININGER #1 (1579)	BANKS DISTRICT	0.0	COLUMBIA GAS TRANS C
-WARREN R HAUGHT AGENT					RECEIVED: 03/16/81 JA: WV			
8121799		4708524742	103		LAVINA HAUGHT H-876	MURPHY DISTRICT	15.0	CONSOLIDATED GAS SUP
8121791		4708524394	102		RALPH WILSON H-853	GRANT DISTRICT	20.0	CONSOLIDATED GAS SUP
**********								
** U.S. GEOLOGICAL SURVEY - DENVER,CO								
**********								
-ARCO OIL AND GAS COMPANY					RECEIVED: 03/16/81 JA: CO 1			
8121885	CD0014-81	0506706385	103		SOUTHERN UTE 14-2 32-9	IGNACIO BLANCO	388.0	NORTHWEST PIPELINE C
8121886	CD 0007-81	0506706253	103		SOUTHERN UTE 19-1 32-8 (MV)	IGNACIO BLANCO	296.0	EL PASO NATURAL GAS
-CHANDLER & ASSOCIATES INC					RECEIVED: 03/16/81 JA: CO 1			
8121904	CC 491-0	0510308406	103		FORK UNIT #4-12-1-2	DRAGON TRAIL	51.0	NORTHWEST PIPELINE C
8121900	CC 531-0	0510308486	103		FORK UNIT FED 7-14-1-2	N DOUGLAS CREEK	113.0	NORTHWEST PIPELINE C
8121907	CC 530-0	0510308485	103		FORK UNIT FEDERAL 6-14-1-2	N DOUGLAS CREEK	102.0	NORTHWEST PIPELINE C
8121901	CC 468-0	0510308326	103		FORK UNIT 11-12-1-2	DOUGLAS CREEK NORTH	242.0	WESTERN SLOPE GAS CO
8121902	CC469-0	0510308335	103		FORK UNIT 15-12-1-2	DOUGLAS CREEK NORTH	117.0	WESTERN SLOPE GAS CO
8121905	CC467-0	0510308336	103		FORK UNIT 7-12-1-2	DOUGLAS CREEK NORTH	49.0	WESTERN SLOPE GAS CO
8121903	CC 492-0	0510308421	103		N DOUGLAS CREEK 14-4-2-1	MANCOS B	124.0	NORTHWEST PIPELINE C
8121906	CC 489-0	0510308463	103		N DOUGLAS CREEK 3-33-1-1	MANCOS B	55.0	NORTHWEST PIPELINE C
8121908	CC 490-0	0510308462	103		N DOUGLAS CREEK 3-4-2-1	MANCOS B	97.0	NORTHWEST PIPELINE C
-LAWRENCE BARKER JR					RECEIVED: 03/16/81 JA: CO 1			
8121919	CC 532-0	0510307894	103		GOVERNMENT #12	SOUTH DOUGLAS CREEK	53.0	NORTHWEST PIPELINE C
-MITCHELL ENERGY CORPORATION					RECEIVED: 03/16/81 JA: CO 1			
8121891	UC 584-0	0504506237	103		FEDERAL #3-11-8-104	WILDCAT	100.0	
8121892	UC 583-0	0507708215	103		LIPAN WASH UNIT #1-14-2-2	WILDCAT	30.0	NORTHWEST PIPELINE C
8121889	UC 585-0	0507708211	103		PERSIGO WASH UNIT #1-4-10-100	WILDCAT	30.0	NORTHWEST PIPELINE C
8121890	UC 586-0	0507708211	103		PERSIGO WASH UNIT #2-33-9-100	WILDCAT	30.0	NORTHWEST PIPELINE C
-NORTHWEST EXPLORATION COMPANY					RECEIVED: 03/16/81 JA: CO 1			
8121881	CD0020-81	0504506243	102		RULISON 121 (FORMERLY #3)	RULISON WASATCH	54.0	NORTHWEST PIPELINE C
-TEXAS GAS EXPLORATION CORP					RECEIVED: 03/16/81 JA: CO 1			
8121912	CC 518-0	0504506200	103		FEDERAL 12-3 WELL	BRIDLE FIELD	200.0	
8121913	CC 519-0	0504506199	103		FEDERAL 21-4 WELL	BRIDLE FIELD	400.0	
-BELCO PETROLEUM CORPORATION					RECEIVED: 03/16/81 JA: UT 1			
8121917	UC 556-0	4304730290	103		CWU 43-11 (30290)	CHAPITA WELLS UNIT-WASAT	0.0	MOUNTAIN FUEL SUPPLY
8121915	UC566-0	4304730613	103		CWU 46-30 (30613)	CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUPPLY
8121916	UC 557-0	4304730614	103		CWU 47-30 (30614)	CHAPITA WELLS UNIT - WAS	0.0	MOUNTAIN FUEL SUPPLY
8121914	UD0001-81	4304730523	103		NBU-34Y	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTATE
-CIG EXPLORATION INC					RECEIVED: 03/16/81 JA: UT 1			
8121897	UC 485-0	4304730502	103		CIGE 33-27-10-21	BITTER CREEK	239.0	COLORADO INTERSTATE
8121898	UC 486-0	4304730495	103		CIGE 38-4-10-21	BITTER CREEK	164.0	COLORADO INTERSTATE
8121896	UC 484-0	4304730635	103		CIGE 69-19-10-21	BITTER CREEK	95.0	COLORADO INTERSTATE
-COASTAL OIL & GAS CORP					RECEIVED: 03/16/81 JA: UT 1			
8121909	UC 450-0	4304730498	103		CIGE 30-6-10-21	BITTER CREEK	465.0	COLORADO INTERSTATE
8121911	UC 449-0	4304730494	103		CIGE 35-1-10-20	BITTER CREEK	492.0	COLORADO INTERSTATE
8121910	UC 502-0	4304730603	103		NBU 36Y	BITTER CREEK	547.0	COLORADO INTERSTATE
8121893	UC 567-0	4304730452	103		NBU 48-29 (30452)	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTATE
-CONOCO INC					RECEIVED: 03/16/81 JA: UT 1			
8121899	UC 570-0	4304730662	103		CONOCO PAWWINNEE 3 NO 10	OURAY	400.0	MOUNTAIN FUEL SUPPLY
-GETTY RESERVE OIL INC					RECEIVED: 03/16/81 JA: UT 1			
8121894	UC 545-0	4300730048	103		FEDERAL BEARD NO 1-3	PETERS POINT FIELD	105.0	UINTA PIPELINE CORP
-MOUNTAIN FUEL SUPPLY COMPANY					RECEIVED: 03/16/81 JA: UT 1			
8121918	UC 472-0	4304730488	103		ISLAND UNIT WELL 5	ISLAND	358.0	MOUNTAIN FUEL SUPPLY
-NP ENERGY CORPORATION					RECEIVED: 03/16/81 JA: UT 1			
8121895	UD 0115-80	4301930673	103		FEDERAL #13-2	CISCO DOME	0.0	NORTHWEST PIPELINE C
-PACIFIC TRANSMISSION SUPPLY COMPANY					RECEIVED: 03/16/81 JA: UT 1			
8121884	CC 488-0	4304730610	103		PTS 24-22 GLEN BENCH FEDERAL	WILDCAT	150.0	PACIFIC GAS & ELECTR
8121883	UD0012-81	4304730633	102		PTS 4-5 FEDERAL	WILDCAT	150.0	PACIFIC GAS & ELECTR
8121882	UD0011-81	4304730623	102		23-17 FEDERAL	SAND RIDGE II UNIT	65.0	PACIFIC GAS & ELECTR

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before April 22, 1981.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10390 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RM79-34 and ST81-153, et seq.]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Natural Gas Pipeline Company of America; Self-Implementing Transactions

April 1, 1981.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the date lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NPGA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.204(d) of the Commission's Regulations.

An "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" indicates transportation by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

BILLING CODE 6450-85-M

DOCKET NO.	TRANSPORTER/SELLER	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (CENTS/MCF)
ST81-153	NATURAL GAS PIPELINE CO. OF AMERICA	01/30/81	G	-	-
ST81-154	TRANSCONTINENTAL GAS PIPE LINE CORP.	01/26/81	G	-	-
ST81-155	UNITED GAS PIPE LINE CO.	02/03/81	G	-	-
ST81-156	MOUNTAIN FUEL SUPPLY CO.	02/03/81	G	-	-
ST81-157	UNITED GAS PIPE LINE CO.	02/05/81	G	-	-
ST81-158	MOUNTAIN FUEL SUPPLY CO.	02/06/81	G	-	-
ST81-159	COLUMBIA GULF TRANSMISSION CO.	02/05/81	G	-	-
ST81-160	FLORIDA GAS TRANSMISSION CO.	10/30/80	G	-	-
ST81-161	EAST OHIO GAS CO.	02/10/81	G(HT)	-	-
ST81-162	NATURAL GAS PIPELINE CO. OF AMERICA	02/13/81	G	-	-
ST81-163	TENNESSEE GAS PIPELINE CO.	02/13/81	G	-	-
ST81-164	PANHANDLE EASTERN PIPE LINE CO.	02/13/81	G	-	-
ST81-165	LOUISIANA INTRASTATE GAS CORP.	02/12/81	C	07/13/81	20.00
ST81-166	TRANSCONTINENTAL GAS PIPE LINE CORP.	02/13/81	G	-	-
ST81-167	TEXAS EASTERN TRANSMISSION CORP.	02/17/81	B	-	-
ST81-168	UNITED GAS PIPE LINE CO.	02/17/81	G	-	-
ST81-169	TRUNKLINE GAS CO.	02/17/81	G	-	-
ST81-170	COLUMBIA GULF TRANSMISSION CO.	02/17/81	G	-	-
ST81-171	TENNESSEE GAS PIPELINE CO.	02/17/81	G	-	-
ST81-172	COLUMBIA GAS TRANSMISSION CO.	02/17/81	G	-	-
ST81-173	TRANSCONTINENTAL GAS PIPE LINE CORP.	02/02/81	G	-	-
ST81-174	TENNESSEE GAS PIPELINE CO.	02/18/81	G	-	-
ST81-175	UNITED GAS PIPE LINE CO.	02/18/81	B	-	-
ST81-176	MICHIGAN WISCONSIN PIPE LINE CO.	02/18/81	B	-	-
ST81-177	NORTHERN NATURAL GAS CO.	02/18/81	F	-	-
ST81-178	TRANSCONTINENTAL GAS PIPE LINE CORP.	02/19/81	G	-	-
ST81-179	PANHANDLE EASTERN PIPE LINE CO.	02/20/81	G	-	-
ST81-180	UNITED GAS PIPE LINE CO.	02/24/81	B	-	-
ST81-181	TRANSOK PIPE LINE CO.	02/25/81	C	07/25/81	23.20
ST81-182	MICHIGAN WISCONSIN PIPE LINE CO.	12/23/80	B	-	-
ST81-183	MICHIGAN WISCONSIN PIPE LINE CO.	01/07/81	B	-	-
ST81-184	UNITED TEXAS TRANSMISSION CO.	02/26/81	D	-	-
ST81-185	ROCKY MOUNTAIN NATURAL GAS CO., INC.	02/26/81	C	-	-
ST81-186	TRANSCONTINENTAL GAS PIPE LINE CORP.	02/26/81	B	-	-

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* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

[FR Doc. 81-10454 Filed 4-6-81; 8:45 am]
BILLING CODE 6450-85-C

[Docket No. RE81-99-000]

Blackstone Valley Electric Co.; Application for Exemption

April 1, 1981.

Take notice that Blackstone Valley Electric Company (Blackstone), on March 17, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in § 290.404(g)(1).

In its application for exemption, Blackstone states that it should not be required to file the specified data for the following reasons:

Blackstone does not have at present a large specialized staff of employees skilled in load research. It has undertaken to expand its activities in this area and to develop the necessary tools for meeting the PURPA requirements. Such development will, however, require time to implement on a cost-effective basis.

Blackstone is now reviewing its ongoing programs, some of which were started prior to the PURPA Act to assure that the prescribed levels of accuracy and confidence are met.

Blackstone's schedule of actions is such that full compliance will be achieved in 1982 for two of its three Large Rate Classes and that the remaining class will be in full compliance for the 1984 filing.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Blackstone Valley Electric Company, Attention: Mr. Robert E. Maguire, Vice Chairman, Box 1111, Lincoln, Rhode Island 02865.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-10424 Filed 4-6-81; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 4108-000]

City of St. Cloud, Minnesota; Application for Preliminary Permit

March 31, 1981.

Take notice that the City of St. Cloud (Applicant) filed on February 2, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 4108 to be known as St. Cloud Dam located on the Mississippi River in Stearns County, Minnesota. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Sam Huston, Mayor, City Hall, St. Cloud, Minnesota 56301. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) Reconstruction of a powerhouse in the west earth embankment with an installed capacity of 8 MW; (2) an existing reservoir with a surface area of 262 acres and a storage capacity of 3,000 acre-feet; (3) proposed 34.5 kV transmission lines; (4) an existing concrete gravity dam that is 19.5 feet high and 550 feet long; and (5) appurtenant facilities. The dam and property within the project boundary are owned by the City of St. Cloud. The Applicant estimates that the average annual energy output would be 44,000,000 kWh.

Purpose of Project—Energy produced at the proposed project would be sold to the Northern States Power Company.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36 month preliminary permit to prepare a definitive project report, including hydraulic and hydrologic studies, turbine and generator cost estimates, switchyard and other electrical equipment cost estimates, power market and economic feasibility analysis, environmental impacts and engineering studies. The cost of the aforementioned studies along with obtaining agreements with other Federal, State and local agencies, is estimated by the Applicant to be $20,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to St. Cloud Dam Development Ltd Project No. 3609 filed on October 27, 1980. Anyone desiring to file a competing application must submit to the Commission, on or before April 27, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than June 26, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 30, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE

COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4108. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10435 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-250-000]

Columbia Gulf Transmission Co.; Application

April 1, 1981.

Take notice that on March 25, 1981, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP81-250-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 9.71 miles of 10-inch pipeline and appurtenant facilities in offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in order to attach the estimated volumes of up to 40,000,000 Mcf of natural gas per day dedicated to Applicant in Vermilion Area Blocks 144 and 159, offshore Louisiana, it proposes to construct and operate approximately 9.71 miles of 10-inch pipeline and appurtenant facities. It is stated that such facilities would extend from Shell Oil Company's production platform "JA" in Vermilion Area Block 144 to an underwater sidetap on an existing 36-inch Blue Water pipeline which is jointly owned by Applicant and Tenneco Inc. in Vermilion Area Block 147. Applicant asserts that it would maintain 100 percent ownership in the proposed facilities to be $4,257,800 which would be financed by internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the National Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81 10436 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-78-000]

CP National Corp.; Application for Exemption

April 1, 1981.

Take notice that CP National Corporation (CPN), on March 13, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, and all subsequent filing dates, information on the costs of providing electric service as specified in § 290.404(g)(1) of the Commission's regulations.

In its application for exemption, CPN states that it should not be required to file the specified data for the following reasons: CPN bases its proposed exemption on an alternate plan of compliance; it would borrow the load data required by § 290.404(g)(1) from Idaho Power Company. Use of this borrowed data would meet the purposes of Section 133 of PURPA because it is comparable to data which CPN would develop itself, and development of the data by CPN would place an undue and unnecessary burden on its ratepayers in Eastern Oregon.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: CP National Corporation, Attention: Mr. Richard P. Jarrett, P.O. Box 4032, Concord, California 94524.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10425 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-62-000]

Duquesne Light Co.; Application for Exemption

April 1, 1981.

Take notice that Duquesne Light Company (Duquesne) on March 6, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on certain of the costs of providing electric service specified in §§ 290.202(a), 290.303(a), and 290.404(g)(1).

In its application for exemption, Duquesne states that it should not be required to file the specified data for the following reasons: Duquesne has not

maintained a historical record of either hourly average energy costs (§ 290.202(a)) or hourly marginal energy costs (§ 290.303(a)). Duquesne is installing a system to collect such costs, but the system will not be completed in time to collect the data required for the June 1982 filing. Duquesne is also currently implementing an expanded load research program which will provide load data for its General Service Medium and General Sevice Large rate classes (§ 290.404(g)(1)). However, the expanded load research program will not be completed in time to provide complete load data for June 1982 filing. Duquesne states that it expects to be in full compliance with the requirements of these sections for the June 1984 filing.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption must file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Duquesne Light Company, Attention: Larry R. Crayne, Attorney, 435 Sixth Avenue, Pittsburgh, Pennsylvania 15219.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10426 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-243-000]

El Paso Natural Gas Co. and Tenneco Oil Co.; Application

April 1, 1981.

Take notice that on March 17, 1981, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, and Tenneco Oil Company (Tenneco), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-243-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that El Paso as part of its gas acquisition program has contracted for the right to purchase up to 30,000,000 Mcf of Tenneco's uncommitted interest in the reserves underlying Block 60, South Marsh Island area, offshore Louisiana, and for 100 percent of the interest of C&K Petroleum Inc. in reserves underlying Block 237, East Cameron area, offshore Louisiana. It is further stated that Tenneco in its ongoing oil and gas production efforts has acquired ownership or control over certain natural gas reserves located in San Juan and Rio Arriba Counties, New Mexico. Applicants assert that the gas supplies attributable to El Paso's interest in the natural gas reserves underlying Blocks 60 and 237 are not located in close proximity to El Paso's existing interstate pipeline system and that the natural gas supplies owned or otherwise controlled by Tenneco in San Juan and Rio Arriba Counties are not located near the interstate pipeline system of Tenneco's affiliate. Accordingly, it is stated, El Paso and Tenneco have entered into a November 24, 1980, gas exchange agreement whereby said supplies of natural gas can be made available in El Paso's case to augment its general system supply and in Tenneco's case for use in certain plant and refinery operations.

Applicants state that pursuant to the terms and conditions of the exchange agreement, El Paso has agreed to receive for the account of Tenneco for a period continuing until July 1, 1990, up to 25,000 Mcf per day or such lesser quantity as Tenneco may cause to be tendered to El Paso. It is stated that in exchange therefor El Paso has agreed to concurrently cause to be delivered to Tenneco and Tenneco has agreed to receive from El Paso an equivalent quantity of natural gas on a gas-for-gas basis, after giving effect to a 10.0 percent reduction for fuel, shrinkage and other losses, at two existing delivery points located in Terrebonne Parish, Louisiana, and Waller County, Texas (Cocodrie and Katy Delivery Points). Applicants state that El Paso would deliver the natural gas for exchange primarily at the Cocodrie Delivery Point with use of the Katy Delivery Point limited to only that portion of the total quantity of naturel gas to be exchanged that cannot otherwise be accommodated for any reason at the Cocodrie Delivery Point.

Applicants state that they do not anticipate that Tenneco would have quantities of natural gas available to it in excess of those quantities expected to be available to El Paso for exchange, but if such a situation should arise El Paso and Tenneco would promptly meet to determine the method by which such imbalance would be eliminated. It is stated that to the extent El Paso would have available at the Cocodrie and Katy Delivery Points a quantity of natural gas in excess of the quantity Tenneco has tendered for exchange such excess natural gas would be made available to El Paso's interstate pipeline system pursuant to existing and/or future arrangements with third parties.

Applicants assert that no new or additional facilities are required to be constructed or operated by Tenneco in order to effectuate the receipt of gas by El Paso. However, it is asserted that in order to effectuate deliveries to El Paso from Block 237 El Paso intends to construct and operate certain pipeline and metering facilities with appurtenances pursuant to its budget authorization. It is stated that El Paso would utilize Tennessee Gas Pipeline Company, a Division of Tenneco Inc's. existing pipeline and metering facilities in order to effectuate the delivery of natural gas produced from Block 60.

Applicants state that the exchange agreement provides for Tenneco to compensate El Paso as required by payment of the rate in effect and reflected from time to time as the Production Area Charge as set forth in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 or superseding tariff. In addition, it is asserted that the exchange agreement provides that Tenneco would compensate El Paso as required in the amount of 3.49 cents per Mcf for any processing performed by El Paso on Tenneco's behalf. It is stated that the charges would apply to the quantity of gas remaining after giving effect to a 10.0 percent reduction in gas for fuel shrinkage and other losses.

Applicants further request authorization to permit the exchange of natural gas from additional receipt and/or delivery points as may be mutually agreed to from time to time when additional natural gas supplies become available to either El Paso or Tenneco so long as the quantities of naturel gas exchanged under the arrngement do not exceed the aggregate total of 25,000 Mcf daily. Moreover, Applicants request blanket authorization for the deletion by mutual consent of receipt and/or delivery points from the exchange arrangement.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therin must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is requred by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10437 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4207-000]

Enagenics; Application for Preliminary Permit

March 31, 1981.

Take notice that Enagenics (Applicant) filed on February 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4207 to be known as the Roza Diversion Dam Project located on the Yakima River in Kittitas County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Enagenics, 1727 Q Street, N.W., Washington, D.C. 20009. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be located downstream from the existing U.S. Water and Power Resources Service's Roza Diversion Dam and would consist of: (1) an intake structure; (2) a penstock; (3) a powerhouse with a rated capacity of 5.5 MW; (4) a tailrace channel; and (5) approximately 5 miles of 115-kv transmission line to connect to an existing Bonneville Power Administration (BPA) line. The applicant estimates that the average annual energy output would be 20.4 million kWhs.

Purpose of Project—Applicant proposes to sell the project energy to BPA or to local electric users.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks a preliminary permit for a period of 36 months during which it would conduct environmental, engineering, and economical studies to determine the feasibility of constructing and operating the proposed project. Applicant estimates that the cost of the feasibility studies would be about $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to the Kittitas County PUD No. 1 Project No. 3489 filed on September 18, 1980, under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before April 20, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to Project No. 4207. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB Building, Washington, D.C. 20426.

A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10138 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3812-000; 3838-000; and 3911-000]

Enagenics: Mitchell Energy Company, Inc., and Pershing County Water Conservation District of Nevada; Applications for Preliminary Permit

March 31, 1981.

Take notice that Enagenics, Mitchell Energy Company, Inc., and Pershing County Water Conservation District of Nevada (Applicants) filed on December 3, 1980, December 5, 1980, and December 22, 1980, respectively, applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project Nos. 3812, 3838, 3911, to be known as Rye Patch Dam located on Humboldt River in Pershing County, Nevada. The applications are on file with the Commission and are available for public inspection. Correspondence with Enagenics should be directed to: Mr. Thomas H. Clarke, Jr., President,

Enagenics, 1727 Q Street, N.W., Washington, D.C. 20009. Correspondence with Mitchell Energy Company, Inc. should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Correspondence with the Pershing County Water Conservation District should be directed to: Mr. Myron J. Goldsworthy, P.O. Box 218, Lovelock, Nevada 89419. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The project proposed by Enagenics would consist of: (1) a 200-foot penstock connected to the gate chamber of the Water and Power Resources Service's Rye Patch Dam; (2) a power plant containing a 1.3–MW generating unit; and (3) a 2.2 mile long, 69–kV transmission line. Enagenics estimates that the average annual energy output would be 5.4 GWh.

The project proposed by Mitchell Energy Company, Inc. would consist of: (1) a 200-foot penstock connected to the gate chamber of the Water and Power Resources Service's Rye Patch Dam; (2) a power plant containing a 1,247–kW generating unit; and (3) a 2.2 mile long, 69–kV transmission line. Mitchell Energy Company, Inc., estimates that the average annual energy output would be 5.43 GWh.

The project proposed by the Pershing County Water Conservation District would consist of: (1) a 200-foot penstock connected to the gate chamber of the Water and Power Resources Service's Rye Patch Dam; (2) a power plant containing a 1,250–kW generating unit; and (3) a 2.2 mile long, 69–kV transmission line. The Pershing County Water Conservation District estimates that the average annual energy output would be 5.4 GWh.

Purpose of Project—The power generated by the project proposed by Enagenics and the Pershing County Water Conservation District would be sold to the Sierra Pacific Power Company.

The power generated by the project proposed by Mitchell Energy Company, Inc. would be sold to a local utility.

Proposed Scope and Cost of Studies Under Permit—Enagenics and the Pershing County Water Conservation District seek issuance of a preliminary permit for a period of 36 months. Mitchell Energy Company, Inc. seeks issuance of a preliminary permit for a period of 24 months. During the term of the permit each Applicant plans to conduct engineering studies, assess the environmental impact; determine the project feasibility; and consult with necessary agencies. Enagenics estimates the cost of these studies to be $35,000. Mitchell Energy Company, Inc. estimates the cost of these studies to be $50,000. The Pershing County Water Conservation District estimates the cost of these studies to be $35,100.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before June 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 4, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before June 5, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project Nos. 3812, 3838, and 3911. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10439 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-72-000]

Idaho Power Co.; Application for Exemption

April 1, 1981.

Take notice that Idaho Power Company (Idaho), on March 12, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Partial exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in §§ 290.403(b) and 290.404(g)(1).

In its application for exemption, Idaho states that it should not be required to

file the specified data for the following reasons:

(1) Idaho has experienced late delivery of the equipment required to collect, process and analyze group load data.

(2) Idaho will make available additional data as it is developed.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Idaho Power Company, Attention: Mr. Paul L. Jauregui, General Counsel, P.O. Box 70, Boise, Idaho 83707.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10427 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-96-000]

Lower Colorado River Authority; Application for Exemption

April 1, 1981.

Take notice that Lower Colorado River Authority (LCRA), on March 18, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in § 290.304(a) and Subpart D.

In its application for exemption, LCRA states that it should not be required to file the specified data for the following reasons:

(1) The testing of its LC-1 rate class will subject it to a disproportionate and undue cost burden.

(2) It proposes deferred compliance.

(3) It does not maintain transmission expenses and assets accounting records by voltage level.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Lower Colorado River Authority, Attention: Mr. Charles Herring, General Manager, P.O. Box 220, Austin, Texas 78767.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10434 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-101-000]

Montana-Dakota Utilities Co.; Application for Exemption

April 1, 1981.

Take notice that Montana Dakota Utilities Company (MDU), on March 16, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in portions of Subpart D.

In its application for exemption, MDU states that it should not be required to file the specified data for the following reasons:

(1) MDU will meet the June 30, 1982 filing requirement for all end use classes and large rate classes except commercial and industrial service.

(2) MDU will not be able to obtain 12 months of sample metered data for 1981 for this one class.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Montana-Dakota Utilities Company, Attention: Mr. C. Wayne Fox, Assistant Treasurer, 400 North Fourth Street, Bismark, North Dakota 58501.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10428 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-180-000]

Montaup Electric Co.; Filing

March 31, 1981.

The filing company submits the following:

Take notice that on March 3, 1981, Montaup Electric Company submitted for filing a compliance report pursuant to the Commission's order of February 17, 1981, in the above-referenced proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 21, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10440 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4144-000]

New England Hydro; Application for Preliminary Permit

March 31, 1981.

Take notice that New England Hydro (Applicant) filed on February 6, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)-825(r)] for proposed Project No. 4144 to be known as Moore Project located on Great Moose Lake near the Town of Hartland, Somerset County, Maine. The application is on file with the Commission and is availble for public inspection: Correspondence with the Applicant should be directed to: Andre Jaeger, 3 Great Pasture Road, West Redding, Connecticut 06896. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-river project would consist of: (1) An existing 17-foot high, concrete-gravity dam owned by the Town of Hartland; (2) Great Moose Lake with a surface area of 28,230 acres; (3) a new powerhouse containing a single turbine-generator with a rated capacity of 1 MW; and (4) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 3,825,000 kWh.

Purpose of Project—Applicant states that energy produced at the project would be sold to Central Maine Power Company for distribution to its customers.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $36,000. The Applicant has requested a preliminary permit term of 24 months.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before June 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than August 4, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before June 5, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing application, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4144. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10441 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-66-000]

Old Dominion Power Co.; Application for Exemption

April 1, 1981.

Take notice that Old Dominion Power Company (Old Dominion), on March 9, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in Section 290.404(g)(1).

In its application for exemption, Old Dominion states that it should not be required to file the specified data for the following reasons:

(1) Borrowed data for Kentucky Utilities Company's contiguous mountain region will be available. The load characteristics should be very similar to the load characteristics in Old Dominion's territory.

(2) Using borrowed data would result in considerable savings to Old Dominion's payers.

(3) Old Dominion's alternate plan of compliance would implement fully the purposes of PURPA.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Old Dominion Power Company, Attention: Mr. J. W. Bradley, Vice President Rates and Contracts, One Quality Street, Lexington, Kentucky 40507.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10430 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-73-000]

Richmond Power & Light; Application for Exemption

April 1, 1981.

Take notice that Richmond Power & Light (RP&L), on March 12, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, and biennially thereafter, information on the costs of providing electric service as specified in Subparts A, B, C, D and E of Part 290 of the Commission's Regulations.

In its application for exemption, RP&L states that it should not be required to file the specified data for the following reasons:

(1) The data sought is inappropriate and not applicable to the City's electric system operations.

(2) The cost resulting from submitting the required data would be unduly burdensome upon the City's electricity ratepayers and citizens and would not further the purposes of Section 133 of PURPA.

(3) simultaneous metering of all large rate classes would impose substantial financial costs upon RP&L.

(4) RP&L has not engaged in load research and does not have sufficient manpower in this area.

Copies of the application for exemption are on five with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Richmond Power & Light, 2000 U.S. 27, S., P.O. Box 908, Richmond, Indiana 47374.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10431 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-75-000]

Sierra Pacific Power Co.; Application for Exemption

April 1, 1981.

Take notice that Sierra Pacific Power Company (Sierra), on March 13, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in all sections requiring reporting of historic information that has previously been provided in Sierra's 1980 filing. In its application for exemption, Sierra states that it should not be required to file the specified data for the following reasons: That said information has previously been provided in the 1980 PURPA filing and any party wishing to have this information can obtain it from the 1980 filing.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45 day period such person must also serve a copy of such comments on: Sierra Pacific Power Company, P.O. Box 10100, Reno, Nevada 89520.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10429 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-64-000]

Southwestern Public Service Co.; Application for Exemption

April 1, 1961.

Take notice that Southwestern Public Service Company (Southwestern), on March 9, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in Subpart D of Part 290 of the Commission's regulations.

In its application for exemption Southwestern, states that it should not be required to file the specified data for the following reasons:

The Commission has exempted utilities with time of day rates from the load data gathering requirements because, if customer groups are being served on time of day rates, the "collection of sample load data * * * is not likely to carry out the purposes of Section 133 * * * " It is apparent, then, that the gathering of load data is directly related to the imposition of time of day rates. If, however, the imposition of such rates will not be cost effective or will not cause rates to be lower than they otherwise would be, then time of day rates should not be imposed and, *a fortiori*, the gathering of load data should not be required. Applicant asserts, and would show, that time of day rates for its customer groups will not be cost effective. Applicant's daily load factor averages between 85 and 90 percent.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: Southwestern Public Service Company, Attention: Mr. Samuel R. Hunter, Vice President, Rates and Economic Research, Box 1261, Amarillo, Texas, 79107.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10432 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RE81-70-000]

St. Joseph Light & Power Co.; Application for Exemption

April 1, 1981.

Take notice that St. Joseph Light & Power Company (St. Joseph), on March 11, 1981, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirements to file on or before June 30, 1982, information on the costs of providing electric service as specified in §§ 290.403, 290.404 and 290.501 for Large Power General Use.

In its application for exemption, St. Joseph states that it should not be required to file the specified data for the following reasons:

(1) It is a small utility just starting a comprehensive load research effort.

(2) It will use a two-way power line carrier system but technical requirements limit the number and location of usable large power customers.

(3) It proposes to use borrowed data.

(4) It will maintain the highest priority for obtaining the necessary data and will use its own data for the June 1, 1984 filing.

Copies of the application for exemption are on file with the Commission and are available for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, on or before May 22, 1981. Within that 45-day period such person must also serve a copy of such comments on: St. Joseph Light & Power Company, Attention: Mr. E. O. Blakely, Vice President—

Administration, 520 Francis Street, St. Joseph, Missouri 64502.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-10433 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of February 16 through February 20, 1981

During the week of February 16 through February 20, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Apex Oil Company, 2/18/81, BEA-0579

On January 8, 1981, Apex Oil Company filed an Appeal from a denial by the District Manager of the Central Enforcement District of the Economic Regulatory Administration of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemption 5 should be released to the public.

National Consumer Law Center, 2/19/81, BFA-0591

The National Consumer Law Center (NCLC) filed an Appeal from a denial by the Disclosure Officer of the Office of Special Counsel for Compliance of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain of the documents were properly withheld under exemption 5 and that other documents which may be responsive to the NCLC request may exist. The case was accordingly remanded for a search for additional responsive documents.

Ryder Truck Rentals, Inc., 2/19/81, BFA-0592

On January 19, 1981, Ryder Truck Rentals, Inc. filed an Appeal from a determination that had been issued to the firm pursuant to the Freedom of Information Act by the Assistant Administrator for Enforcement of the Economic Regulatory Administration. In that determination, the Assistant Administrator stated that no documents had been found that were responsive to certain portions of a request for information that had been submitted by the Appellant. In considering the Appeal, the Department of Energy found that the Appellant's request for information had been misinterpreted and remanded the matter for further action.

Request for Modification and/or Rescission

Office of Enforcement, 2/19/81, BRR-0101

The ERA Office of Enforcement filed a Motion for Partial Reconsideration of a Decision and Order which was issued to Inexco Oil Company and True Oil Purchasing Company on January 16, 1981. In the January 16 Decision and Order, the DOE had denied the Statements of Objections to a Proposed Remedial Order which had been issued to Inexco on June 13, 1979. However, the DOE had also denied the Office of Enforcement's request that the interest provisions of the Inexco RPO be modified so as to require larger interest payments from Inexco. In considering the Office of Enforcement's Motion for Partial Reconsideration, the DOE determined that the initial request for a modification in the interest provisions of the Inexco PRO had not been made in a timely manner. Accordingly, the Motion for Partial Reconsideration was denied.

Requests for Exception

Atlantic Richfield Company, 2/20/81, BEE-1294

Atlantic Richfield Company filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought an adjustment to the entitlement obligations of domestic refiners so as to increase the entitlement obligations of Chevron U.S.A., Inc. and equalize Chevron's after-entitlement cost of imported crude oil with the national average cost of foreign crude oil. In considering the request, the DOE found that the firm had failed to show that it was suffering either a gross inequity or serious hardship as a result of the operation of the Entitlements Program. Accordingly, exception relief was denied.

Oklahoma Refining Company, 2/20/81, DEE-5901

Oklahoma Refining Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought to terminate its obligation to supply two of its base period purchasers. In its application for Exception, Oklahoma Refining Company contended that its sales of motor gasoline to the two firms during the base period were anomalous and that its other purchasers of motor gasoline would be adversely affected if the firm was required to continue supplying motor gasoline to these two purchasers. In considering the firm's request, the DOE determined that Oklahoma Refining Company's sales to the two purchasers in question appeared to be unrepresentative, and that Oklahoma Refining Company's other purchasers would be severely and adversely affected by the denial of exception relief. Accordingly, exception relief was granted.

Requests for Stay

Adams Oil Company, 2/19/81, BRS-0141

Adams Oil Company filed an Application for Stay from the requirement that it make restitution for overcharges found in a Remedial Order issued to the firm on March 7, 1978. In considering the Application, the DOE determined that in order to allow the firm to exhaust its administrative remedies through the Federal Energy Regulatory Commission, the firm should be granted a stay.

Atlantic Richfield Company, BES-0131; Texaco, Inc., 2/19/81, BES-0132

Arco and Texaco filed Applications for Stay of an Interim Order that was issued to the 341 Tract Unit of the Citronelle Field. The Interim Order granted the Citronelle Unit exception relief on an interim basis to permit the ownership interest of the Unit to undertake a tertiary recovery project on the Citronelle Field. In considering the petitions, the DOE determined that the applicants had not satisfied any of the criteria necessary for the approval of stay relief. Accordingly, the Applications for Stay filed by Arco and Texaco were denied.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an order of the Department of Energy:

Company Name and Case No.

Dow Chemical, U.S.A., BEJ-0187
Koch Industries, Inc., BRJ-0185
Navajo Refining Company/Cities Service Company, BEJ-0184
The 341 Tract Unit of the Citronelle Field, Cities Service Company, Conoco, Inc., Marathon Oil Company, Sun Oil Company of Pennsylvania, Standard Oil Company (OH), Tosco Corporation, BEJ-0186

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

A. Smith Bowman Distillery, BEE-1096
Amerada Hess Corporation, DEA-0463
Atlantic Gasohol Fuels Company, BEE-1358
Burch Thomas, Inc., DEE-5864
Burns Brothers, Inc., BEE-0063
Butler County Oil Company, Inc., DEE-8283
Buttros Shell Mart, BEO-0255
Chevron U.S.A., Inc., BEN-0001
City of Holyoke, DEE-7582
Colberry Corporation, BEE-0937
Commonwealth Oil Refining Company, Inc., BEE-1574; BEL-1574
Courtesy Fuel, Inc., BER-0102
Duncan, Weinberg, & Miller, BFA-0595
Edgington Oil Company, BEE-1525; BEL-1525
Edwin L. Cox, DXE-7976
Energy Reserve Group, Inc., BEE-0290
Exxon Company, U.S.A., BEA-0053
G. G. Decker Enterprises, BEO-0184
Getty Refining and Marketing Company, BEA-0399
Goodies, BEO-1141
Grace Petroleum Corporation, BXE-1626
Gulf Oil Corporation, DEA-0579
Gulf Oil Corporation, DEA-0580
Hillcrest Beverly Oil Corporation, BEE-1122 & BEE-1125
Housley Distributing, Inc., DEE-8113
Hunter, Dave G., DEE-4151
John Johnson, BEE-1232
Johnson's Bait and Tackle, BEO-0966
Kalbow Service Center, DEO-0372
L. H. Smith Oil Corporation, BEE-1523
LeBlanc's Arco, BEX-0121

Mallard Resources, Inc., DEE–6318
Marshall Oil Company, Inc., DEE–7869
Martel's Service Center, BEO–0330
Metro Oil Company, Inc., DEE–3257
Mid-Michigan Truck Service, DXE–5525; BEL–0021
Mineral Production & Development, Inc., BEE–1150
Mountain View Coach Lines, Inc., BEO–1013
Murray Oil Company, DXE–5898
Parry's Volume Arco, BEO–0188
Petro-Thermo's, BEE–1547; BEL–1547
Reilly's Coin-Op Car Wash, DEE–6356
Rhodes, Inc., BEE–0768
Roy's Texaco, BEO–1014
Slop Oil, Inc., DEE–8311
Stanley A. Baltzo, DEE–7507
Stephen M. Shaw, BFA–0581; BFA–0582
Studstill Shell Service Station, BEO–0213
Summit Transportation Company, BEE–0991
U.S. Oil Company, DSG–0059
Union Texas Petroleum Corporation, BEE–1615
Wadsworth Oil Company, Inc., BEE–1022
Watauga Oil Company, BEA–0169
Western Biomass Services, Inc., BEE–0471
Westwood Car Wash, BCX–0153
White Mountain Apache Enterprises, BEE–1631
Wolfe's AM/PM Mini Market, BEX–0093

Copies of the full text of these 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. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: April 1, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 81-10483 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders, Week of February 9, Through February 13, 1981

During the week of February 9 through February 13, 1981, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Butler, Binion, Rice, Cook & Knapp; Washington, D.C., BFA–0564, freedom of information

Butler, Binion, Rice, Cook & Knapp (Butler, Binion) filed an Appeal from a denial by the Deputy General Counsel for Regulation of the Office of General Counsel of a request for information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the documents and portions of documents withheld by the Deputy General Counsel are properly exempt from mandatory disclosure pursuant to Exemptions 4 and 5 of the FOIA, and furthermore, their disclosure would be contrary to the public interest. However, the DOE also found that the Deputy General Counsel failed to identify and release segregable, nonexempt portions of the withheld material pursuant to the provisions of 10 CFR 1004.10(c). Accordingly, the DOE determined that the Butler, Binion Appeal should be granted in part and that the Deputy General Counsel should release to Butler, Binion specific segregable, nonexempt portions of the withheld documents.

Milder Oil Company, Omaha, Nebraska, BFA–0589, freedom of information

On January 16, 1981, Milder Oil Company filed an Appeal from a denial by the DOE District Manager for the Central Enforcement District (District Manager) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the matter should be remanded to the District Manager for a more adequate determination of the applicability of Exemptions 5 and 7A. Important issues that were considered in the Decision and Order were the requirements for an adequate determination of the applicability of Exemption 7A.

Stephen M. Shaw, La Jolla, California, BFA–0594, freedom of information

Stephen M. Shaw filed an Appeal from a denial by the Director of the Office of Freedom of Information and Privacy Acts Activities of a Request for a waiver of fees made in connection with a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that in light of the present record, a waiver of fees was not in the public interest.

Whiting Brothers Oil Company, Phoenix, Arizona, BFA–0549, freedom of information

Whiting Brothers Oil Company filed an Appeal from a partial denial by the District Manager, Office of Enforcement, Western District, of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that for a considerable number of documents, the indexing was not sufficiently specific or the basis for nondisclosure was not given in the determination issued by the District Manager. These documents were therefore remanded to the District Manager. Of the remaining documents, the DOE found that all documents withheld under exemptions 5 and 7 were properly withheld. It also found, however, that certain of the documents that were initially withheld under Exemption 4 should be released to the public. An important issue that was considered in the Decision and Order was the applicability of Exemption 7 to audit workpapers in a case where the requester was not the audited firm.

Request for Modification and/or Rescission

R. W. Tyson Producing Company, Inc., Jones County, Mississippi, BER–0065, crude oil

R. W. Tyson Producing Company, Inc., filed an Application for Modification of a decision that was issued to the firm on April 10, 1980. *R. W. Tyson Producing Co.*, 5 DOE ¶81,251 (1980). In that Decision, exception relief was granted which permitted the applicant to sell certain quantities of the crude oil which it produces from four wells at upper tier price levels. In its Application for Modification, Tyson requested that it be permitted to return excessive revenues that it had received through the approval of exception relief. The firm's request was approved.

Requests for Exception

Champlin Petroleum Company, Washington, D.C., BEE–1095, crude oil

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought additional entitlements benefits to compensate it for the crude oil which it purchased as inventory volumes in connection with the expansion of its refinery. In considering the request, the DOE found that exception relief was necessary to allow the firm to share the benefits of the Entitlements Program which are generally available to other refiners of domestic crude oil. Accordingly, exception relief was granted.

Chevron U.S.A., Inc., San Francisco, California, BXE–1403, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. In order to provide the firm with an incentive to continue its production activities, the DOE granted an extension of exception relief to permit Chevron U.S.A., Inc., to sell at market price levels 100 percent of the crude oil produced from the State Lease PRC 1824, South Flank.

Mobile Bay Refining Company, Chickasaw, Alabama, DPI–0023, crude oil

Mobile Bay Refining Company (Mobile) filed an Application for Exception from the provisions of § 213.35 of the Mandatory Oil Import Program. If granted, Mobile's request would result in the refund to Mobile of $75,886 for license fees paid by the firm with respect to crude oil imported during the period October 1977 through April 1978. In rejecting Mobile's request for retroactive exception relief, the DOE noted that the firm failed to demonstrate that it will incur a severe and irreparable injury in the absence of the requested relief. The DOE also noted that Mobile failed to make a convincing showing that the oil import regulations have been unfairly applied to the firm or that Mobile's business activities were uniquely affected by the provisions of Part 213. The DOE rejected Mobile's contention that the regulations were overly complex and confusing, and noted further that firms active in the petroleum industry have an affirmative obligation to be aware of and in compliance with DOE regulations.

Sage Creek Refining Company, Inc., Cowling, Wyoming, BEE–0604, crude oil

Sage Creek Refining Company, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought an extension of entitlements exception relief. In considering the request the DOE found that the exception relief granted was consistent with the objectives of the Emergency Petroleum Allocation Act of 1973. In addition, the DOE noted that the small refiner bias amendments of May 1979 were not intended to impose an additional limit on entitlement exception relief granted to small refiners. Finally, the DOE determined that it is inappropriate to deny the firm's exception request solely because its prices appear to be slightly lower than some of its competitors. Accordingly, exception relief was granted.

Sawyer's General Store, Raymond, California, DEE-7206, motor gasoline

Sawyer's General Store filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In its Application, Sawyer's General Store contended that the opening of two new man-made lakes near its retail outlet had increased the demand for motor gasoline in its area. In considering the firm's request, the DOE determined that the citizens in the market area of Sawyer's General Store would experience a gross inequity in the absence of exception relief. Accordingly, exception relief was granted.

Southland Oil Company/VGS Corporation, Washington, D.C., BXE-1021, crude oil

Southland requested that it be excused from fulfilling its obligations under the DOE Crude Oil Entitlements Program (10 CFR 211.67). In considering the initial exception request and the Statement of Objections, the DOE concluded that pursuant to the *Delta* standards, Southland should be relieved of its net entitlement purchase obligation for its 1980 fiscal year. Accordingly, Southland received a total of $27,363,436 in entitlement exception relief for its fiscal 1980 year.

York Division, Unitary Products, York, Pennsylvania, BEE-1338, energy testing

York Division Unitary Products filed an Application for Exception from the provisions of 10 CFR Part 430 in which the firm sought exception relief permitting modifications of the test procedures applicable to its newly-developed air-to-air heat pump system. In considering the request, the DOE found that exception relief was necessary to alleviate the gross inequity that the firm would experience in the absence of relief. Accordingly, exception relief was granted.

Requests for Stay

Alabama River Pulp Company, Clairborne, Alabama, BES-0588, BET-0588, petroleum substitutes

Alabama River Pulp Company (Alabama) filed applications for Stay and Temporary Stay from the failure of the Economic Regulatory Administration to designate Alabama as a producer of a petroleum substitute and place Alabama on the Entitlements List. (10 CFR 211.62 and 211.67(a)(5)(i)(F)). In considering the Applications, the DOE determined that Alabama had not made a showing that (i) in the absence of stay relief it would suffer irreparable harm, (ii) a stay was desirable for public policy reasons, or (iii) Alabama had a strong likelihood of success on the merits. Alabama's stay requests were therefore denied.

Atlantic Richfield Company, Chevron U.S.A., Inc., Mobil Oil Corporation; Marathon Oil Company, Conoco, Inc., Washington, D.C., BES-0140

The Petitioners filed an Application for Stay of the requirement specified in a December 18, 1980 discovery determination that they file a Motion for Evidentiary Hearing within ten days of their receipt of certain documents. In considering the stay request, the DOE found that in view of the pendency of a Motion for Reconsideration of the December 18, 1980 discovery determination, it would be inappropriate to require the petitioners to request an evidentiary hearing until the Motion for Reconsideration is decided. Accordingly, the petitioners request for stay was granted.

Hydrotherm, Inc., Stamford, Connecticut, BES-1627, energy testing

Hydrotherm, Inc., filed an Application for Stay from the requirements that it test the energy efficiency of its new pulse combusion boiler in accordance with existing DOE test procedures. (10 CFR Part 430, Appendix N). In considering the Application, the DOE determined that the firm had failed to make a significant showing of either irreparable injury or likelihood of success on the merits. Hydrotherm's stay request was therefore denied.

Motion for Discovery

Ramco Oil Company, West Sacramento, California, BRD-0075, BRH-0075, crude oil

Ramco Oil Company filed Motions for Discovery and an Evidentiary Hearing in connection with a Proposed Remedial Order issued to the firm on December 6, 1978. In considering Ramco's Motions, the DOE determined that the firm had failed to establish that discovery or an evidentiary hearing was warranted, as required by the applicable regulations. Accordingly, Ramco's Motions for Discovery and Motion for an Evidentiary Hearing were denied.

Supplemental Orders

John Johnson, d.b.a. Johnie's Exxon, Dorchester, Massachusetts, BRX-0134, motor gasoline

On October 28, 1980, the Department of Energy issued a Remedial Order to John Johnson d.b.a. Johnie's Exxon. On July 15, 1980, however, a consent order had been entered into between the department of Energy and Johnie's Exxon that disposed of the matters raised in the Proposed Remedial Order which formed the basis for the Remedial Order. Therefore, the Department of Energy found that the Remedial Order should be rescinded.

The 341 Tract Unit of the Citronelle Field, Washington, D.C., BEX-0159, crude oil

The Office of Hearings and Appeals on its own motion implemented the provisions of a Stipulation Agreement that was approved by the United States District Court for the District of Delaware on January 30, 1981. Pursuant to the terms of the Stipulation Agreement, the DOE established a special, interest-bearing escrow account into which were placed a portion of the revenues proviously provided to the Citronelle Unit. The escrow account is to remain under the jurisdiction of the DOE and the district court pending the ultimate resolution of the Citronelle case.

Williams & Sons enterprises, Inc., Lake Shell Knob, Missouri, BRX-0158

On January 27, 1981, the Office of Hearings and Appeals issued a Decision and Order finalizing seven Proposed Remedial Orders as Remedial Orders of the Department of Energy. *Cleeland, Dave d.b.a. Dove's Fina, et al.*, BRW-0071 through BRW-0077 (January 27, 1981). The Office of Hearings and Appeals later determined that an administrative objection proceeding should be held regarding the Proposed Remedial Order issued to Williams & Sons Enterprises, Inc. (Williams). Accordingly, the Office of Hearings and Appeals rescinded the January 27, 1981 Decision and Order with respect to its finalization of the Williams Proposed Remedial Order and initiated an objection proceeding pursuant to Subpart O of the DOE Procedural Regulations.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Monsanto Company, BEN-0081, Houston, TX

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company name and Case No.

Acme, Inc., BEE-0635
Ashland Oil Company, DES-0177
Ben-Al Oil Company, BEO-0631
Bird Oil Company, BEE-0509
Bon Wier Producing Company, BEE-1571; BEL-0067; BEE-1572; BEL-0068; BEE-1573; BEL-0069
C.F.M. #35-03, Inc., BEA-0477
Circle R Convenience Stores, Inc., DEE-7254
Des Moines Independent Community School District, BEE-0675
Eggers, Caryl and Corrigan, BEA-0288
Southern Union Gas Company, BEO-1073
Basile, R. L. and Saldi, J. A., DEE-5913
Acme Rubbish, DEE-5965
American Motohol Supply Corporation, BEE-1421
Asamera Oil (U.S.), Inc., BEE-1599
Brantville Service Station, BRO-1225; BRH-1225; BRD-1225
Thermal Mechanical Heating & Cooling, BEO-0402
Thomas Service Station, BEE-0806
Thriftway Company, DEE-5535
Thurman's Auto Parts, DEE-7200
Tom's Service Center, BEO-0250
Town of Easthampton, DEE-6220
Travelers Construction, BEE-0504

West Virginia Turnpike Commission, BEE–1239
Whale Oil Company, BEE–1569
William J. Meek, BEO–0070
William W. Floyd, Sr., BEO–1140
Wilson's Friendly Service, BEO–0148
K. C. I. Texaco, BEO–0743
Keller-Piasa Terminals, Inc., DEA–0381
Knickerbocker Car Wash, BEO–0612
Marathon Oil Company, BEA–0407
Mike's Mobil Service, BEE–1608
Musolino & Sons, Inc., DEE–6199
Payne's Oil Company, DEE–2431
Petr-All Petro Consultant Corporation, BEE–1363
R. E. Hunt, Inc., BEA–0286
Scullin Oil Company, BEE–0474
Exxon Company U.S.A., BES–0024
Cities Service Company, BES–0044
Sea Shell Car Wash, BXE–1329
Skyline Radio, Taxi, et al., BEA–0421
Sloan's Dixie Oil Company, DEE–2366; DES–2366; DST–2366
Southern Colorado Agri-Fuels Company, DEE–7079
Union Oil Company of California, BEE–1252; BEE–1253; BEE–1254
Union Propane Gas Company, Inc., BEE–1286
Cathey's Valley Mobil, BEE–1499
Dave G. Hunter, DEE–4151
Dick's Auto Repair, BEO–0975
Douglas G. Brooks, BEE–1565
Duffy's Car Wash, Inc., BEX–0097; BCX–0122
Frank's Auto Service, DEE–7093
Gary Baker, BEO–0338
Gasohol of Wisconsin, Inc., BEE–0574
Geib Oil Company, BEE–0397
George H. Coates, BEE–0138
Getty Oil Company, BXE–1576
H & H Gulf, BEO–0109
Highland Heights Mobil, BEO–0219
Hudson Refining Company, BEE–1562; BEJ–0180 thru BEJ–0183
I–80 & Douglas Stand., BEO–0596
Carriage Hills Marathon, BEE–1198
Lakeside Marathon, BEE–1422
Denny's Auto & Towing, BEE–1433
Springer's Marathon, BEE–1460
Ted's Marathon, Baker's Marathon, Arlington Marathon, Foreman & Sons Marathon, Manley's Marathon, BEE–1446; BEE–1448; BEE–1449; BEE–1451
Trent's Marathon, A. J., BEE–1452
Amer & Sons, and Dan's Marathon, BEE–1456; BEE–1470 and BEE–1473
Champlin Petroleum Company, BEN–1095
Christy's Market, Inc., DEE–7389
Cia. Petrolera del Caribe, Inc., DEE–4214
Commonwealth Oil Refining Company, BEN–1308
Dap, Inc., BEE–1182
Endevco, Inc., BEA–0487
Gugino's Amoco Service, BEO–0774
Gulf Oil Company, BEE–1557
Pester Refining Company, BEA–0258; BMR–0034
Hydrotherm, Inc., BXE–1627
Board School Commission Indiana, DEE–7832
J and B Carwash, DEO–0396; BEH–0002
Johnson Oil Company, BER–0100, BES–0135
Keystone Propane Service, Inc., DMR–0077
Lawrence G. Spielvogel, BFA–0593
Marina South Car Wash, BEX–0092
Marine Trades Association of New Jersey, BEE–1283
Mars Oil Company, BEA–0425
Massachusetts Bay Transportation Authority, BEE–0137
O. F. Welker, Inc., DEE–4723
Rawji Texaco Service, DEE–8007
Reedley Car Wash, BEE–1612
School Board of St. Lucie City, BXE–1630
Burton Langley, DEE–6224
Cedar Stock Resort, DEE–7189
Chittick Oil Company, BEE–1539
Corn Belt F.S., Inc., BEE–1563
Davidson Dawn Donuts, Inc., DEE–7758; DES–7758; DST–7758
Earl Williams & Sons, BEE–0790
Ferel Little Oil Company, DMR–0076
Food & Gas Company, BEO–0681
Fuel Oil Supply and Terminaling, Inc., BEN–0080; DEE–6388; BED–0078
Getty Refining and Marketing Company, BXE–1330 thru BXE–1335
Glen Ellyn Standard, BEO–0087
Hurst Chevron Service, DEE–6280
Husky Oil Company, BMR–0021
Indiana Refining, Inc., BEE–1165; BEL–1165
Interstate United, DEE–6173
J.A.L. Oil Company, Inc., et al., DEE–6680
J.E.T. Farms, BEO–0751
Jim's Amoco, BEO–0610
Kirtron, Inc., d.b.a.
Casey's General Store, BEA–0478
Laurel Texaco, BEO–0142
Ludwig Service Center, BEE–1586
M.R.S. Service Center, DEO–0262
Martinoil Company, BEE–0778
McClure Oil Company, BEE–1602 thru BEE–1604
Midwest Solvents Company, BEA–0362
Molycorp, Inc., BEO–0997
Naph-Sol Refining Company, BEE–1145
Navy Oil Company, Inc., BEE–1532
Nelson Oil & Tire Company, BEO–0448
North Tahoe-Truckee Gasoline Retailers, BEE–0124
Northfield Shell Auto Care, BEO–1061
Paul's Quik Pik #2, DEE–7110
Par Mar Oil Company, DEE–5047
Parkway Grocery & Gasoline, BEO–0447
Pleasant Hill Shell, BEO–0657
Power Test Corporation, DEE–7481
Rodolfo Linares, BEO–0537
Seven Up Bottling Company, BEO–0401
Southwest Gas Corporation, BEO–1220
Stroehman Bros. Company, BEO–1046
Sullivan Storage & Transfer, Company BEO–0446
The Woolridge Organization, BEO–0623
Stateline Texaco, BEO–0618
Sunflower Fuel Alcohol Company, BEE–0935
Tony's Lighthouse Chevron, BEO–0621
Seaview Petroleum Company, DEE–6942
Augusta Mall Gulf Service, DEE–6481
A. Lampson & Sons, Inc., BEO–0388
Amfood Industries, Inc., DEE–5085
Atlantic Richfield, BEE–0696
Big Chief Standard, BEO–0454
Britton's Exxon, BEO–0334
Campbell Oil Company, BEE–0743
Cities Service Company, BEE–0637
Cloin Corporation, BEO–0519
Dean Oil Company, BEE–0996
Fairco, Inc., BEE–0744
Frankfort Fuels, Inc., DEE–8306
Freddie Herbert, BEE–1483
Grannis Petroleum Products, Inc., BEA–0500
Hampton Roads Oil Company, DEE–7453
Jeffersonville Exxon, BEO–0287
Lake Shastina Joint Services Committee, BEO–0412
Les Francis Auto Rental, Leasing & Investment Corporation, BCX–0148
National Center for Appropriate Tech., BEG–0043; BEE–1607
North Side Services, DEE–7601
Northland Standard, BEO–0431
Pollution Control, Inc., BEE–1585; BEL–1585
Putnam Fuels, Inc., BEE–0569
Roger's Standard Service, BEO–0257
Russ Interstate Service, BEE–1180
Schrader's Arco Service Station, BEO–0030
Shell Oil Company, BEE–1127

Copies of the full text of these 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. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Director, Office of Hearings and Appeals.
April 1, 1981.

[FR Doc. 81–10484 Filed 4–6–81; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Proposed Decisions and Orders; Week of February 16 through February 20, 1981

During the week of February 16 through February 20, 1981, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made 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 the statement of objections, the aggrieved party must specify each issue of fact or

law that 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., except federal holidays.

Dated: April 1, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

Asamera Oil (U.S.) Inc., Denver, Colorado, BXE-1600, BXE-1601, crude oil

Asamera Oil (U.S.) Inc. (Asamera) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced and sold for the benefit of the working interest owners from the K. W. Carrell and Myrin Ranch Leases located in Duchesne County, Utah, at market price levels. On February 18, 1981, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted.

Witco Chemical Corporation, Arlington, Virginia, BEE-1306, crude oil

Witco Chemical Corporation filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit Witco to receive additional entitlements to substantially equalize its post-entitlements cost of crude oil with that of other refiners. On February 20, 1981, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 81-10462 Filed 4-6-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51249; TSH-FRL 1799-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days ater receipt. This notice announces receipt of four PMN's and provides a summary of each.

DATE: Written comments by:

PMN 81-89: April 21, 1981.

PMN 81-98, 81-99, 81-100: May 1, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMAION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.—
81-89	George Bagley	202-426-3936	E-210.
81-98, 81-99.	Rachel Diamond	202-426-3980	E-221.
81-100	David Dull	202-755-9015	E-229.

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Wasington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 20604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed permanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after prividing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance,he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before the dates shown under "Dates," submit to the Document Control Officer (TS-

793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, D.C. 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51242]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 30, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-89

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 21, 1981.

Manufacturer's Identity. Shell Oil Company, One Shell Plaza, PO Box 4320, Houston, TX 77210.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Epoxy resin/substituted amine adduct.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a way that will release less than 50 kg per year into the environment with a very low potential for exposure to both chemical and non-chemical industrial employees.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Average molecular weight—3,500.

Epoxide equivalent (ASTM D-1625)—850-950.

Viscosity, centipoises (ASTM D-445-74) (40% wt solution in MEK)—17-27.

Color, Pt-Co (40% wt. solution in mek)—200 max.

Phenolic hydroxyl content: eq/100 g—0.003.

Volatiles, % weight—0.3.

Toxicity Data. No data were submitted.

Exposure

Activity and exposure route(s)	Maximum number exposed	Maximum duration		Concentrations (mg/m³)	
		Hours/day	Day/year	Average	Peak
Manufacture: Inhalation	15	8	10	0-1	
Processing: Inhalation	5	8	10	0-1	

[1] Per shift.

Exposure will occur to manufacturing workers during the addition of resin components; to processing workers during solidification, crushing, and bagging of the product.

At a site not controlled by submitter, 16 workers per shift also involving manufacture, processing, and using the new chemical could have inhalation exposure for 8 hr/da, 150-300 da/yr.

Environmental Release/Disposal. The manufacturer states that less than 30 kg/yr of the new substance will be released into the air, land, and water. A baghouse collects dust for recycling and accidental discharge to the chemical sewer system is removed at a clarifier and disposed of in a controlled, on-site landfill.

PMN 81-98

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 31, 1981.

Manufacturer's Identity. Andrews Paper & Chemical Co., Inc., 1 Channel Drive, P.O. Box 509, Port Washington, NY 11050.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: 4-Diazo-2,5-diethoxymorpholino phenyl sulfonate salt.

Use. The manufacturer states that the PMN substance will be used in an industrial and commercial use for diazo reproduction paper and film.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	250	2,500
2d year	500	5,000
3d year	800	7,000

Physical/Chemical Properties

Physical appearance—Yellow-orange powder.

Molecular weight—524.

Decomposition range—144°C-149°C.

Solubility—Soluble in water, alcohol at pH 7.

Other information—Nonflammable, sensitive to UV light, reacts with couplers in alkaline media to give azo dyes.

Toxicity Data. No data were submitted.

Exposure. The submitter states that two manufacturing workers could have accidental skin and inhalation exposure to the PMN chemical for 1 hr/da, 10 da/yr, at average and peak concentrations of 0 to 1 mg/m³ during drum filling, filtering, drying, and packing.

At approximately 20 sites not controlled by the submitter, 20 processing workers could have skin and inhalation exposure 0.1 hr/da, 50 da/yr, while weighing the new chemical and adding it to a solution.

Environmental Release/Disposal. The manufacturer states that none of the new chemical will be released into the air from any site, and that less than 20 kg/yr will be released into the water of a publicly owned treatment works (POTW) or into the water of disposal companies.

PMN 81-99

The following information is taken from data submitted by the importer in the PMN.

Close of Review Period. May 31, 1981.

Importer's Identity. Sandoz Colors and Chemicals, Route 10, East Hanover, NJ 07936.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disazo dye.

Use. The importer states that the PMN substance will be used in an industrial use as dyestuff for coloring anodized aluminum.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Physical form—Powder.

Bulk density—625 g/l.

Water solubility—30 g/l at 20°C; 75 g/l at 80°C.

pH at 10 g/l in water—5.5-6.0 in deionized water.

Environmental Test Data

Biological elimination—Mean value 61% (TOC) (static method).

Fish toxicity LC_{50}—320 mg/l.

Toxicity Data

Acute oral toxicity LD_{50} (rats)—5,000 mg/kg.

Eye irritation (rabbits)—Non-irritating.

Skin irritation (rabbits)—Slightly irritating, non-corrosive.

Exposure. The importer states that the PMN substance will be imported, stored, and shipped in sealed containers; no worker exposure is anticipated. A

maximum of 42 processing workers at 21 sites not controlled by the importer could have skin and inhalation exposure for 0.5 hr/da during transferring and weighing of the dye powder, pasting it with water, and transferring the slurry into a vat.

Environmental Protection/Disposal. The importer staes that none of the PMN substance will be released into the environment at their site.

At 21 sites not controlled by the importer, less than 30 kg/yr will be released into the environment.

PMN 81-100

The following information is taken from data submitted by the importer in the PMN.

Close of Review Period. May 31, 1981.

Importer's Identity. Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Hydroxymethylheteromonocycle.

Use. The importer states that the PMN substance will be used in an industrial use as a site-limited chemical intermediate for agricultural pesticide with minimal skin and eye exposure and no anticipated release to the environment.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Melting point—188–190°C (decomposition).

Water solubility—0.8 g/100 g at 25°C.

pK_a in water—5.0.

Does not sublime at a pressure of 15 Torr. Has an extremely low vapor pressure at room temperature.

Toxicity Data

Acute oral LD_{50} (male, albino rats)—5.1 g/kg.

Acute dermal LD_{50} (male, albino rabbits)—5.0 g/kg.

[FR Doc. 81-10404 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51246; TSH-FRL 1799-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of four PMN's and provides a summary of each.

DATE: Written comments by:

PMN 81-111, 81-113: May 4, 1981

PMN 81-114, 81-115: May 5, 1981

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-111	Rick Green	202-426-8816	E-208.
81-113, 81-115	George Bagley	202-426-3936	E-210.
81-114	Rachel Diamond	202-426-3980	E-221.

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 20604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Initial Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Intitial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commerical purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Intermin Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use discription, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of

the date taken from the PMN is published herein.

Interested persons may, on or before the dates shown under "dates," submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51246]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: April 1, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-111

The following information is taken from data submitted by the importer in the PMN.

Close of Review Period. June 3, 1981.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. 4-[[4-Chloro-6-[[8-hydroxy-3,6-disulfo-7-[(2-sulfophenyl)azo]-1-naphthalenyl]amino]-1,3,5-triazin-2-yl]amino]benzenesulfonic acid, tetrasodium salt.

Use. The importer states that the PMN substance will be used in a commercial use as a dye for cellulosic fibers.

Import Estimates

	Kilograms per year	
	Minimum	Maximum
1st year		10,000
2d year		15,000
3d year		20,000

Physical/Chemical Properties

Appearance—Heavy red brown powder.

Solubility in water at 25°C—80%.

Purity—78.7%.

Impurities:

Sodium chloride—14.5.%

Sodium sulfate—2.0%.

Water—4.8%.

Toxicity Data

TLm_{48} (fish: orange medaka,—>1,000 ppm.

Exposure. No data were submitted. The importer states that the PMN substance will present minimal exposure to workers. It is non-volatile, dustless, remains fast in dyed fibers, and workers will not touch the PMN substance.

Environmental Release/Disposal. No data were submitted.

PMN 81-113

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 3, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of: Styrene, butyl acrylate, hyroxy ethyl acrylate, dimethylamine propyl methacrylamide.

Use. Claimed confidential business information.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	3,500	10,000
2d year	15,000	30,000
3d year	30,000	100,000

Physical/Chemical Properties

	Polymer solution	Dried polymer
Solid content	57.5	
Specific gravity	0.99	1.11.
Solubility in water		Not soluble.
Number average molecular weight.	4,659-4,774	
Weight average molecular weight.	17,976-18,604	
Flash point:		
Closed cup	72°F	>212°F.
pKa	7.1	7.25.
Chemical oxygen demand (μO/g).	2,150	
Elemental analysis	%C=72.8.	
	%H=8.3.	
	%N=2.9.	
	%O=16.0.	

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that 11 workers manufacturing and disposing of the PMN substance will have skin and inhalation exposure 4-8 hr/da, 2-20 da/yr, at an average concentration of 0-1 ppm and a peak concentration of 1-10 ppm. Exposure will occur during mixing, quality control sampling, filtering, and drum filling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr of the new chemical will be released into the air 12 hr/da, 20 da/yr. Vapors are cleaned by a scrubber. Scrubber water goes to the sewer. Cleaning solvents are reclaimed; sludge is removed by state licensed carriers to a state licensed landfill.

PMN 81-114

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 4, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Manufacturing site—Middle Atlantic U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified epoxy resin.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use that will release more than 50 but less than 500 kg per year into the environment with potential skin and eye exposure to chemical industry employees and skin, eye, and inhalation exposure to non-chemical industry employees. No potential exposure to consumers.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	25,000	50,000
2d year	50,000	100,000
3d year	100,000	230,000

Physical/Chemical Properties

% Total solids—48.8

Epoxy equivalent—Infinity.

Milliequivalent—0.801

Viscosity at 25°C—100,000 cps.

(Values are determined on a solution of the new substance at % solids shown).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that at three sites, 90 manufacturing and processing workers could have skin and eye exposure 6 hr/da, 5-38 da/yr, during quality control sampling, container filling, filtering, and cleanup. At the site of a typical user, six workers could have skin and eye exposure 2 hr/da, 50 da/yr.

Environmental Release/Disposal. The manufacturer states that at three sites, less than 60 kg/yr of the new chemical will be released into the air and water and up to 200 kg/yr into the land. Particulate emissions are controlled by a baghouse; vapors are cleaned by a scrubber; sludge from distilled cleaning solvent is incinerated. At the site of a typical user, less than 20 kg/yr will be

released into the air and water and up to 100 kg/yr into the land.

PMN 81-115

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 4, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—Between $10 million and $99,000,000.

Manufacturing site—West-North Central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. 1,4-Cyclohexanedimethanol, 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 1,3-benzene dicarboxylic acid polymer.

Use. The manufacturer states that the PMN substance will be used in a commercial use as baking enamels.

Production Estimates

	Pounds per year	
	Minimum	Maximum
1st year	100,000	250,000
2d year	400,000	500,000
3d year	500,000	750,000

Physical/Chemical Properties

Non-volatile—99±1.

Acid number—50±5.

Viscosity—Solid.

Color—Light amber.

Weight/gallon—9.10 lbs.

Melting point—125±2°C.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that approximately 10 workers manufacturing, processing, using, and disposing of the new chemical could have inhalation exposure 1–8 hr/da, 251 da/yr, at a peak concentration of 1–10 ppm when the polymer is transferred and while pigment is added. At 15–30 sites controlled by others, an unknown number of users of the new chemical could have inhalation exposure 8 hr/da, 251 da/yr, at a peak concentration of 1–10 ppm.

Environment Release/Disposal. The manufacturer states that less than 10 kg/yr of the new chemical will be released into the air; none will be released into the water. At a site not controlled by the submitter, an unknown amount will be released into the air and water, 8 hr/da, 251 da/yr.

[FR Doc. 81-10410 filed 4-6-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51244; TSH-FRL 1800-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of seven PMN's and provides a summary of each.

DATE: Written comments by:

PMN 81-102—May 2, 1981.

PMN 81-104, 81-105, 81-106, 81-107, 81-108 & 81-109—May 4, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT:

For PMN No.	Notice manager	Telephone	Room No.
81-102, 81-104, 81-106, 81-107, 81-108, 81-109.	Rachel Diamond.	(202-426-3960)	E-221
81-105	George Bagley.	(202-426-2936)	E-210

Mail address of notice managers: Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, 401 M, St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 20604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availablity of the Initial Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558–Initial) and July 29, 1980 (45 FR 50544–Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 6, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the **Federal Register** nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after, notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an

additional 90 days. If EPA determined that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN is published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51244]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

[Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)]

Dated: April 1, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 81-102

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 1, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Manufacturing site—Middle Atlantic U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Urethane polymer from polyester polyol and diisocyanate.

Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in an open use that will release more than 50 but less than 500 kg per year into the environment with potential for skin and eye exposure to both chemical and non-chemical industry employees. No consumer exposure is anticipated.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	3,400	14,000
2d year	7,400	30,000
3d year	15,000	45,000

Physical/Chemical Properties

Isocyanate equivalent—Infinity.

Percent non-volatiles at 105° C—74%.

Viscosity—Z-5.

Density—8.74 lb/gal.

(Values determined on a solution of the new chemical at percent non-volatiles given (74%)).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that 16 workers could be exposed to the new chemical during manufacture 6 hr/da, 4 da/yr and that at two processing sites, 78 workers could be exposed 6 hr/da, 6-39 da/yr. Exposure may be through the skin and eyes.

Potential exposure could occur while filling reactor vessels and shipping and storage containers, and during extraction and testing for quality control.

At the site of a typical user, 12 workers using the new chemical could have skin and eye exposure 2 hr/da, 250 da/yr.

Environmental Release/Disposal. The manufacturer states that at the three sites, less than 60 kg/yr of the new chemical will be released into the air and water and up to 100 kg/yr into the land. Vapors are passed through a Venturi scrubber before release into the air and sludge from distilled solvents is incinerated, sold as fuel, or landfilled.

At the site of a typical user, less than 20 kg/yr will be released into the air and water, and up to 100 kg/yr into the land.

PMN 81-104

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 3, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Annual sales—In excess of $500 million.

Manufacturing site—West-South Central U.S.

Standard Industrial Classification Code—280, "Industrial Chemicals".

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Ammonium salts of substituted alkyl phosphoric acid.

Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in a contained use that will release less than 50 kg per year into the environment with potential for skin exposure to chemical industrial employees. No consumer exposure is expected.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Vapor pressure at 20° C—$<0\text{-}1^{-3}$ torr.

Density (liquid)—>1.1 gm/cc.

Solubility in water—>10 gm/l.

Melting point—>100° C.

Boiling point—>200° C.

Toxicity Data

Primary skin irritation (albino rabbits)—Slightly irritating.

Eye irritation (albino rabbits)—Non-irritant.

Ames *Salmonella* Mutagenicity Test (with and without microsomal enzyme activation)—Non-mutagenic.

Acute oral LD_{50} (albino rat)—2.8-3.8 g/kg.

Acute dermal LD_{50} (albino rabbit)—>2 g/kg.

Skin sensitization—Not a skin sensitizer.

Acute Toxity

	No discernible effect	LC_{50}
Daphnia (48 hours)	600	770
Rainbow trout (96 hours)	220	430
Bluegill sunfish (96 hours)	240	310

Exposure. The manufacturer states that at two sites, 68 manufacturing and processing workers could have skin exposure to the new substance for 8 hr/da, 250 da/yr, during accidental spills or splashes out of the closed system.

Environmental Release/Disposal. The manufacturer states that less than 60 kg/yr of the new chemical will be released into the air, water, and land of a licensed, secure landfill.

PMN 81-105

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 3, 1981.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkoxylated alkylphenol substituted sulfosuccinate, isopropylamine salt.

Use. Surfactant.

Production Estimates

	Approximate pounds
1st year	100,000
2d year	200,000
3d year	500,000

Physical/Chemical Properties

Specific gravity at 25°C—1.0885.
Weight per gallon at 25°C—9.08 lbs.
Moisture content K.F.—0.5% max.
pH (5% in 50/50 isopropanol/water)—5.5–6.5.
Viscosity CPS at 25°C—Brookfield LVF—43,400.
Pour point ASTM D97–66—9°C.
Flash point (Setaflash Closed Test, ASTM D3278–73—>200°F.
Solubility 5% solution—Water, xylene.

Environmental Test Data

Ames *Salmonella* mutagenicity—Non-mutagenic.
96 hr LD_{50} (fathead minow)—14.36 mg/1.
48 hr EC_{50} *(Daphnia)*—17.6mg/1.

Toxicity Data

Acute oral toxicity LD_{50} (male, female albino rats)—>5.0 g/kg.
DOT skin corrosivity (male, female albino rabbits)—Non-corrosive.
Primary eye irritation (albino rabbits)—Irritating.
Skin sensitization (male albino guinea pigs)—Not a strong skin sensitizer.
Exposure. The manufacturer states that approximately 10 workers could have skin exposure to the new chemical 8 hr/da, 5 da/yr.
Environmental Release/Disposal. The manufacturer states that none of the new chemical will be disposed of by the submitter.

PMN 81–106

The following information is taken from data submitted by the manufacturer in the PMN.
Close of Review Period. June 3, 1981.
Manufacturer's Identity. Claimed confidential business information. Organizational description provided:
Manufacturing site–Middle Atlantic U.S.
Standard Industrial Classification Code–285; e.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polymer of carbomonocyclic anhydride, glyceride oil, substituted alkanediol, and an alkanoic ester.
Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in an open use that will release more than 100 but less than 1,000 kg per year into the environment with potential skin and eye exposure to chemical industry employees and skin, eye, and inhalation exposure to non-chemical industry employees. No consumer exposure is anticipated.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	10,000	26,500
2d year	20,000	50,000
3d year	50,000	106,000

Physical/Chemical Properties

Weight solids—81–83%.
Acid value—<1.
Viscosity—Z1–Z3.
Color—<9.
Flash point—80°F.
(Values are on a solution of the new substance at weight solids indicated).
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that at two sites, 81 manufacturing workers could have skin and eye exposure to the new chemical 6hr/da, 5 to da/yr, during quality control sampling, container filling, filtering, and cleanup operations. At a processing site, 25 workers could have skin and eye exposure 4 hr/da, 23 da/yr, during mixing tank and shipment container filling and during quality control sampling. At the site of a typical user, 25 workers using the new substance could have skin, eye, and inhalation exposure for 8 hr/da, 250 da/yr.
Environmental Release/Disposal. The manufacturer states that at three sites, less than 60 kg/yr of the new substance will be released into the air and water and up to 1,000 kg/yr into the land. Vapors will be passed through a scrubber; sludge from distilled cleaning solvent will be incinerated. At the site of a typical user, less than 20 kg/yr will be released into the air and water and up to 10,000 kg/yr into the land.

PMN 81–107

The following information is taken from data submitted by the manufacturer in the PMN.
Close of review Period. June 3, 1981
Manufacturer's Identity. Claimed confidential business information. Organizational description provided:
Manufacturing site-Middle Atlantic U.S.
Standard Industrial Classification Code—258; e.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified water–borne, linseed fatty acid based alkyd.
Use. Claimed confidential business information . Generic use information provided: The submitter states that the PMN substance will be used in an open use that will relase more than 5,000 but less than 50,000 kg per year into the environment with potential skin and eye exposure to chemical industry employees and skin, eye, and inhalation exposure to nonchemical industry employees. No consumer exposure is anticipated.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	22,000	135,000
2d year	44,000	160,000
3d year	110,000	270,000

Physical/Chemical Properties

% Total solids—29.
Acid value—11.0 MEQ KOH/gm.
Hydroxyl value—5.0 MEQ KOH/gm.
% Total neutralization—50.
Viscosity—Z1–Z2.
Color value—12 (maximum).
(Values are on a solution of the new substance at the % total solids shown).
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that at two sites, 81 manufacturing workers could have skin and eye exposure to the new chemical 4 hr/da, 6 to 32 da/yr, during quality control sampling, container filling, and cleanup operations. At a processing site, 15 workers could have skin and eye exposure 4 hr/da, 135 da/yr, during mixing tank and shipment container filling and during quality control sampling.
At the site of a typical user, 100 workers using the new substance could have skin, eye, and inhalation exposure 8 hr/da, 230 da/yr.
Environmental Release/Disposal. The manufacturer states that at three sites, less than 60 kg/yr of the new substance will be released into the air and water and up to 1,000 kg/yr into the land. Vapors will be passed through a scrubber; sludge from distilled cleaning solvent will be incinerated.
At the site of a typical user, less than 20 kg/yr will be released into the air and water and more than 10,000 kg/yr into the land.

PMN 81-108

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 3, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Manufacturing site—Middle Atlantic U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified soya alkyd.

Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in an open use that will release more than 5,000 but less than 50,000 kg per year into the environment with potential skin and eye exposure for chemical industry employees and skin, eye, and inhalation exposure for nonchemical industry employees. No consumer exposure is anticipated.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	200,000	2,000,000
2d year	1,000,000	2,000,000
3d year	1,500,000	2,000,000

Physical/Chemical Properties

% Total solids—80.0.

Acid value—1.0.

Viscosity—Y-Z1.

Color—10 max.

Flash point (Penskey-Martins)—80°F.

(Values on a solution of the new substance at solids indicated).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that at two sites, 81 manufacturing workers could have skin and eye exposure to the new chemical 6 hr/day, 9-138 da/yr during quality control sampling, container filling, and cleanup operations. At a processing site, 13 workers could have skin and eye exposure 6 hr/da, 85 da/yr, during tank filling and clean-up operations. At the site of a typical user, 12 processing workers would have skin, eye, and inhalation exposure 8 hr/da, 100 da/yr.

Environmental Release/Disposal. The manufacturer states that at the three sites, less than 60 kg/yr of the new substance will be released into the air and water and up to 10,000 kg/yr into the land. A baghouse and vapor scrubber will be used; sludge from distilled cleaning solvent will be incinerated. At the site of a typical user, less than 20 kg/yr will be released to the air and water and up to 10,000 kg/yr into the land.

PMN 81-109

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 3, 1981.

Manufacturer's Identity. Claimed confidential business information. Organizational description provided:

Manufacturing site—Middle Atlantic U.S.

Standard Industrial Classification Code—285; e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified alkyd from a substituted alkanediol, a substituted alkanoic acid, and a carbomonocyclic anhydride.

Use. Claimed confidential business information. Generic use information provided: The submitter states that the PMN substance will be used in an open use that will release more than 50 but less than 5,000 kg. per year with potential skin and eye exposure for chemical industry and commercial employees and skin, eye, and inhalation exposure for consumers.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st year	4,550	6,630
2d year	4,550	6,630
3d year	4,550	6,630

Physical/Chemical Properties

% Total solids—64-66.

Acid value—16-18.

Viscosity—Z2-Z3.

Color—12 max.

Flash point—130°F.

(Tests runs on liquid solution at % total solids indicated).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that at two sites 47 workers manufacturing and processing the new chemical could have skin and eye exposure 5 to 8 hr/da, 6 to 9 da/yr, while filtering, sampling for quality control, filling containers, and cleaning.

Environmental Release/Disposal. The manufacturer states that at both sites, less than 40 kg/yr of the new chemical would be released into the air and water and up to 1,000 kg/yr into the land. Vapors will be cleaned by a scrubber; sludge from distilled cleaning solvents will be incinerated.

[FR Doc. 81-10411 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51247; TSH-FRL1800-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of four PMN's and provides a summary of each.

DATES: Written comments by: PMN 80-308, 80-309—May 12, 1981. PMN 80-356, 80-357—May 19, 1981.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, (202-426-2610).

FOR FURTHER INFORMATION CONTACT: Rick Green, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M St., SW., Washington, DC 20460 (202-426-8816).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA a least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premenufacture notification rules and forms in the **Federal Register** issues of January 10,

1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before the dates shown under "DATES", submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51247]" and the specific PMN number. Comments received may be seen in Rm. E-106 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

[Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)]

Dated: April 1, 1981.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80-308

The following information is taken from data submitted by the importer in the PMN.

Close of Review Period. May 27, 1981.

Importer's Identity. Marubeni America Corp., 200 Park Ave., New York, NY 10166.

Specific Chemical Identity. (Cuprate(3-),[3-[[5-hydroxy-4-[[1-hydroxy-6-(phenylamino)-4-sulfo-2-naphthalenyl]azo]-2-methyl-phenyl]azo]-1,5-naphthalenedisulfonato-(5)], trisodium.

Use. Dye.

Import Estimates

	Pounds
1st year	10,000
2d year	15,000
3d year	20,000

Physical/Chemical Properties

Solubility in pure water—90% at 80° C.; 15% at 20° C.

No other data submitted.

Toxicity Data. TLm_{96} (fish, orange medaka)—>1,000 ppm. No other data submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 80-309

The following information is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. May 27, 1981.

Importer's Identity. Marubeni America Corp., 200 Park Ave., New York, NY 10166.

Specific Chemical Identity. (Cuprate(6-), [μ-[[3,3'-iminobis[[1-hydroxy-3-sulfo-6,2-naphthalenediyl]azo(5-hydroxy-2-methyl-4,1-phenylene)azo]]bis[1,5-naphthalene-disulfonato]](10-)]]di-hexasodium.

Use. Dye.

Import Estimates

	Pounds
1st year	10,000
2d year	15,000
3d year	20,000

Physical/Chemical Properties

Solubility in pure water—100% at 80° C.; 15% at 20° C.

No other data submitted.

Toxicity Data. TLm_{96} (fish, orange medaka)—>1,000 ppm. No other data submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 80-356

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. June 3, 1981.

Importer's Identity. Marubeni America Corp., 200 Park Ave., New York, NY 10166.

Specific Chemical Identity. Benzoic acid, 2-[[2-amino-5-hydroxy-6-[[4'-[[1-hydroxy-8-[[(4-methylphenyl)sulfonyl]amino]-3,6-disulfo-2-naphthalenyl]azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]azo]-7-sulfo-1-naphthalenyl]azo]-5-nitro-, trisodium salt.

Use. Dye.

Import Estimates

	Pounds
1st year	10,000
2d year	15,000
3d year	20,000

Physical/Chemical Properties

Solubility in ion-exchanged water—45% at 80° C.

No other data submitted.

Toxicity Data. TLm_{48} (fish, orange medaka)—>1,000 ppm.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 80-357

The following summary is taken from data submitted by the importer in the PMN.

Close of Review Period. June 3, 1981.

Importer's Identity. Marubeni America Corp., 200 Park Ave., New York, NY 10166.

Specific Chemical Identity. Benzoic acid, 2-[[2-amino-6-[[4'-[[5-[[2,5-disulfophenyl]azo]-1-hydroxy-6-(phenylamino)-3-sulfo-2-naphthalenyl]azo]-3,3'-dimethoxy[1,1'-biphenyl]-4-yl]-azo]-5-hydroxy-7-sulfo-1-naphthalenyl]azo]-5-nitro-, tetrasodium salt.

Use. Dye.

Import Estimates

	Pounds
1st year	10,000
2d year	15,000
3d year	20,000

Physical/Chemical Properties

Solubility in ion-exchanged water—35% at 80° C.

Toxicity Data. No other data submitted.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

[FR Doc. 81-10412 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-31-M

[OPP-180581; PH-FRL 1800-2]

Mississippi; Issuance of Specific Exemption for Bolero and Propanil in Rice Fields

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Mississippi Deparatment of Agriculture and Commerce (hereafter referred to as the "Applicant") for use of Bolero (thiobencarb) alone or in a tank mixture with propanil to control barnyard grass in 50,000 acres of dry-seeded rice fields in Mississippi. The specific exemption expires on June 30, 1981.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: According to the Applicant, barnyard grass is very competitive with rice and can severely reduce rice yields. The Applicant claims that currently registered pesticides have limitations resulting in ineffective control. Bolero, which contains the active ingredient (a.i.) thiobencarb, is an unregistered product manufactured by the Chevron Chemical Company. Propanil is currently registered for use on rice and is manufactured by several chemical companies. The Applicant estimates that a total savings of close to $2 million can be realized from the proposed use of Bolero alone or in combination with propanil through more efficient weed control resulting in increased efficacy of other production inputs and the reduced number of herbicide applications needed.

EPA has determined that residues of thiobencarb and its metabolites should not exceed 0.2 part per million (ppm) on rice grain, 1.0 ppm on rice straw, 0.05 ppm in milk, and 0.2 ppm in eggs, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep from the proposed use. Residues of propanil are not expected to exceed those levels already established from use of the proposed Bolero and propanil tank mixture. These levels have been judged to be adequate to protect the public health.

EPA has required consultations with the State Fish and Game Department and the Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, to safeguard against potential hazards to nontarget organisms and federally designated endangered and threatened species.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticides named above until June 30, 1981, subject to the following conditions:

1. The Applicant is responsible for ensuring that all provisions of this specific exemption are met. It is also responsible for providing information in accordance with 40 CFR 166.5. This information must be submitted to EPA Headquarters through the EPA Regional Office. Information provided in accordance with paragraph (a) of this section must include the exact location of the places of application. A report summarizing the results of this program, as required in paragraph (d), must be submitted by December 31, 1981.

2. The product Bolero 8 EC, manufactured by Chevron Chemical Co., may be applied alone or in a tank mixture with propanil. EPA-registered propanil products, as emulsifiable concentrates 3 or 4 pounds a.i. per gallon, which are registered for use on rice, may be used.

3. Bolero 8 EC must be shipped under the most recently accepted labeling in connection with this product's use under an experimental use permit or under the label submitted with the request for this specific exemption.

4. Bolero 8 EC may be applied at a rate of 4 pints of formulation (4.0 pounds a.i.) per acre as a late pre-emergence or early post-emergence application. Bolero 8 EC may also be used in a tank mixture with propanil at a rate of 3 pints of formulation (3.0 pounds a.i.) of Bolero 8 EC and 3 pounds a.i. propanil per acre and applied as an early post-emergence application. Applications are to be made in accordance with the labeling submitted.

5. A maximum of 25,000 gallons of Bolero 8 EC may be applied to 50,000 acres of dry-seeded rice.

6. Applications may be made with aerial equipment using a minimum of 10 gallons of spray mixture per acre, or with ground equipment using 10 to 20 gallons of spray mixture per acre.

7. All applications will be made by commercial or private applicators certified in this category of pest control.

8. Precautions will be taken to avoid spray drift to nontarget areas. The pesticide will not be applied when weather conditions favor drift.

9. Crops other than rice may not be planted in treated fields for 6 months following treatment.

10. Second-crop (stubble crop) rice may not be treated.

11. Phytotoxicity may occur from this use.

12. Only a single application of Bolero 8 EC (late pre-emergence or early post-emergence) is permitted.

13. A fish/wildlife monitoring program must be carried out. The results of this program must be detailed and forwarded to EPA Headquarters as soon as they become available, but no later than December 31, 1981.

14. All applicable directions, restrictions, and precautions on the proposed labeling for Bolero 8 EC and on the EPA-registered propanil label must be followed.

15. The available data indicate that nontarget aquatic invertebrates and fish larvae could potentially be adversely

impacted from this use pattern. The agricultural requirement for frequent flushings as well as the label requirement for flushing after treatment would increase the likelihood of Bolero contaminating aquatic environments downstream from rice fields. Consultations must be held regarding measures to safeguard against potential hazards to nontarget organisms and federally designated endangered/threatened species with the State Fish and Game Department and the Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, respectively. Bolero must not be used in areas where impact on endangered/threatened species is likely.

16. Residues of thiobencarb and its metabolites resulting from the above application are not expected to exceed 0.2 ppm on rice grain, 1.0 ppm on rice straw, 0.05 ppm in milk, and 0.2 ppm in eggs, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep. Residues of propanil are not expected to exceed those levels already established. Commodities with residues not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Deparatment of Health and Human Services, has been advised of this action.

17. The EPA shall be immediately informed of any adverse effects resulting from the use of Bolero alone or with propanil in connection with this exemption.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: March 24, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 81-10403 filed 4-6-81; 8:45 am]

BILLING CODE 6560-32-M

[RD-FRL-1771-1]

Ambient Air Monitoring Reference and Equivalent Methods; Reference Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11255), has designated another reference method for the measurement of ambient concentrations of carbon monoxide. The new reference method is an automated method (analyzer) which utilizes a measurement principle based on non-dispersive infrared spectrometry. The method is: RFCA-0381-051, "Dasibi Model 3003 Gas Filter Correlation CO Analyzer," operated on the 0-50 ppm range, with a sample particulate filter installed on the sample inlet line, and with or without any of the following options:

3-001 Rack Mounting
3-002 Remote Zero and Span
3-003 BCD Digital Output
3-004 4-20 Milliamp Output

This method is available from Dasibi Environmental Corporation, 616 E. Colorado Street, Glendale, California 91205.

A notice of receipt of application for this method appeared in the **Federal Register**, Volume 45, November 13, 1980, page 76514.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method.

The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 of Appendix C to Part 58 (44 FR 27585).

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operational manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a referece or equivalent method designation applicable to the analyzer has been cancelled, or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modified an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified, or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring Systems Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under Part 58. Additional information concerning this action may be obtained by writing to the address given above. Technical questions concerning the method should be directed to the manufacturer.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it establishes no new regulatory requirements. It merely provides States and other control agencies with an

additional method of monitoring carbon monoxide acceptable to EPA under 40 CFR Part 58.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at EPA's office of research and Development, Research Triangle Park, NC 27711.

Richard M. Dowd,

Assistant Administrator for Research and Development.

February 27, 1981.

[FR Doc. 81-10429 Filed 4-6-81; 8:45 am]

BILLING CODE 6560-35-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-28]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: March 31, 1981.

Cut-Off Date: May 11, 1981.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after May 11, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on May 11, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the close of business on May 11, 1981.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on May 11, 1981.

BP-801022AB (KHOB), Hobbs, New Mexico, The Smith Corporation, Has: 1390 kHz, 5 kW, D; Req: 1390 kHz, 500 W, 5 kW-LS, DA-N., U

BP-801202AA (new), West Jordan, Utah, Western Broadcasting Inc., Req: 1510 kHz, 10 kW, DA-D

BP-810127AJ (KBEC), Waxahachie, Texas, Faye and Richard Tuck, Inc., Has: 1390 kHz, 0.5 kW, D; Req: 770 kHz, 1 kW, DA-N, U

BP-810220AB (WQBA), Miami, Florida, Sequehanna Broadcasting Company, Has: 1140 kHz, 5 kW, 10 kW-LS, DA-2, U; Req: 1140 kHz, 10 kW, 50 kW-LS, DA-2, U

BP-810312AE (new), Greenwood, Mississippi, LeFlore-Dixie, Inc., Req: 1540 kHz, 1 kW, D

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-10500 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-200, 81-201; File Nos. BPH-791211AA; BPH-800418AL]

American Aircasting Corp. and Red Rock Broadcasting Consolidated Hearing Designation Order on Stated Issues

In re applications of American Aircasting Corporation, Sedona, Arizona, Req: 100.1 MHz, Channel 261 0.450 Kw (H&V), 790 feet, BC Docket No. 81-200, File No. BPH-791211AA; Dean A. Leptich & John B. Stodelle, d/b/a/ Red Rock Broadcasting, Sedona, Arizona, Req: 100.1 MHz, Channel 261, 0.347 KW (H&V), 764 feet, BC Docket No. 81-201, File No. BPH-800418AL; for a construction permit for a New FM Station.

Adopted: March 20, 1981.

Released: April 3, 1981.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by American Aircasting Corporation and Red Rock Broadcasting (Red Rock).

2. *Red Rock.* Analysis of the financial data submitted by Red Rock reveals that $96,963 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$55,786
Buildings	12,000
Miscellaneous	13,000
Operating Costs (3 months)	16,177
Total	96,963

Red Rock plans to finance construction with a $100,000 loan from the United California Bank and from funds loaned by the general partners Dean A. Leptich and John B. Stodelle. However, the bank letter fails to comply with Paragraph 4(e) of Section III in that it does not specify the interest rate of loan, the terms of repayment, or collateral or security required. Moreover, the balance sheet of Dean A. Leptich, general partner does not segregate current liabilities (i.e. amounts payable within one year) from long-term liabilities. Accordingly, we must assume that all liabilities shown are current. Since these liabilities exceed current assets, we find no funds available from this source. In addition, the balance sheet of John B. Stodelle shows net liquid assets of only $1,000, an amount insufficient to meet his commitment. Since the applicant has only shown $1,000 in financing, an amount insufficient to meet proposed costs of $96,963, a financial issue will be specified.

3. Since no determination has been reached that the antenna proposed by Red Rock would not constitute a menace to air navigation, an issue regarding this matter is required.

4. Data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Red Rock:

(a) The source and availability of funds over and above the $1,000 indicated; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Red Rock would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparitive basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

8. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-10487 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-202, 81-203; File Nos. BPH-800306AE, BPH-800827AB]

Countryside Broadcasters, Inc. and Admiral Broadcasting Corp.; Consolidated Hearing Designation Order on Stated Issues

Adopted: March 16, 1981.

Released: April 6, 1981.

In re applications of Countryside Broadcasters, Inc., Kirksville, Missouri, Req: 93.5 MHz, Channel 228A, 3.0 kW (H&V), 300 feet, BC Docket No. 81-202, File No. BPH-800306AE; Admiral Broadcasting Corporation, Kirksville, Missouri, Req: 93.5 MHz, Channel 228A, 0.908 kW (H&V), 505 feet, BC Docket No. 81-203, File No. BPH-800827AB; for construction permit for a New FM Station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Countryside Broadcasters, Inc. (Countryside) and Admiral Broadcasting Corporation.

2. *Countryside.* Analysis of the financial data submitted by Countryside reveals that $70,715 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$40,000
Land	1,300
Operating Costs (3 months)	29,415
Total	70,715

Countryside plans to finance construction and operation with $16,000 cash, $13,400 in prepaid equipment, $3,860 in prepaid expenses, and a $75,000 bank loan from the First National Bank of Kirksville, Missouri. However, applicant has failed to submit a commitment from the bank. Since applicant has only shown $33,260 in financing, an amount insufficient to meet proposed costs of $70,715, a limited financial issue will be specified.

3. Data submitted by the applicants indicate that there would be a significant difference in the size of areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.[1]

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Countryside:

(a) The source and availability of additional funds over and above the $33,260 indicated; and

(b) Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either should be granted.

6. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-10488 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Countryside, in response to Section V-B, Paragraph 11 of FCC Form 301, incorrectly stated power dissipation within the transmission line to be .306 kilowatts and the effective radiated power, horizontal and vertical, as 3.0 kilowatts. The correct figures are .3689 kilowatts power dissipation and 2.905 kilowatts effective radiated power. For the purposes of determining comparative coverage, the corrected figures will be employed.

[Report No. A-25]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: April 3, 1981.

Cut-Off Date: May 22, 1981.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after May 22, 1981. An application, in order to be considered with any application appearing on the attached list or with any application on file by the close of business on May 22, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on May 22, 1981.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on May 22, 1981.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

-810324AA (KSJU), Collegeville, Minnesota, St. John's University, Has: 89.1 MHz; Channel No. 206DS, ERP: .01 kW; HAAT: Has: 89.1 MHz; Channel No. 206A, ERP: .155 kW; HAAT: 480 Ft. (CP), Req: 89.1 MHZ; Channel No. 206A, ERP: 7.71 kW; HAAT: 480 Ft.

BPH-801222AF (new), Marana, Arizona, Saguard Broadcasting Company, Req: 98.3 MHz; Channel No. 252A, ERP: 3 kW; HAAT: 144 Ft.

BPH-801229AF (KAYY), Fairbanks, Alaska, Interior Broadcasting Corp., Req: 101.1

MHz; Channel No. 266C, ERP: 25 kW; HAAT: 370 Ft.

BPH–801230AH (new), Hudson Falls, New York, Premier Broadcasting Corp., Req: 101.7 MHz; Channel No. 269A, ERP: 3 kW; HAAT: 248 Ft.

BPH–810223AD (new), Greenwood, Mississippi, Leflore-Dixie, Inc., Req: 99.1 MHz; Channel No. 256C, ERP: 100 kW; HAAT: 220 Ft.

BPED–790927AA (KSJC–FM), Stockton, California, San Joaquin Delta Comm College Dist., Has: 89.5 MHz; Channel No. 208D, TPO: .01 kW. (Lic), Req: 89.3 MHz; Channel No. 207B, ERP: 3 kW; HAAT: 270 Ft.

BPED–791105AS (WWEB), Wallingford, Connecticut, Choate Rosemary Hall Foundation, Inc., Has: 89.9 MHz; Channel No. 210D, TPO: .01 kW. (Lic), Req: 98.1 MHz; Channel No. 251DS, ERP: .01 kW; HAAT: Ft.

BPED–791217AF (KOHL), Fremont, California, Fremont-Newark Community College Dis., Has: 89.3 MHz; Channel No. 207DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 89.3 MHz; Channel No. 207A, ERP: .100 kW; HAAT: —62 Ft.

BPED–791221AB (new), Hoffman Estates, Illinois, James B. Conant High School, Req: 88.7 MHz; Channel No. 204D, ERP: .017 kW; HAAT: 74 Ft.

BPED–791226BC (KMAH), Atherton, California, Menlo Atherton High School, Has: 88.9 MHz; Channel No. 205DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 89.1 MHz; Channel No. 206A, ERP: .1 kW; HAAT: 76 Ft.

BPED–791226BN (WICR), Indianapolis, Indiana, Indiana Central University, Has: 88.7 MHz; Channel No. 204D, TPO: .01 kW. (Lic), Req: 88.7 MHz; Channel No. 204B, ERP: 10 kW; HAAT: 500 Ft.

BPED–791227AT (WVSU–FM), Birmingham, Alabama, Samford University, Has: 91.1 MHz; Channel No. 216DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 91.1 MHz; Channel No. 216A, ERP: .125 kW; HAAT: 88 Ft.

BPED–791227AY (WMPG), Gorham, Maine, University of Maine, Has: 91.1 MHz; Channel No. 216D, TPO: .01 kW. (Lic), Req: 91.7 MHz; Channel No. 219A, ERP: .179 kW; HAAT: 223 Ft.

BPED–791231AE (KOJH), Stockton, Calif., Western Apostolic Bible College, Has: 90.1 MHz; Channel No. 211DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 90.1 MHz; Channel No. 211A, ERP: 3 kW; HAAT: 230 Ft.

BPED–791231AH (WHSN), Bangor, Maine, Husson College, Has: 89.3 MHz; Channel No. 207D, TPO: .01 kW. (Lic), Req: 89.3 MHz; Channel No. 207A, ERP: .125 kW; HAAT: 68.6 Ft.

BPED–791231BG (new), Auburn, New York, Booker T. Washington Community Cntr., Req: 105.9 MHz; Channel No. 290D, ERP: .019 kW; HAAT: 65 Ft.

BPED–800102AF (WDJM–FM), Framingham, Massachusetts, Framingham State College, Has: 91.3 MHz; Channel No. 217D, TPO: .01 kW. (Lic), Req: 91.3 MHz; Channel No. 217A, ERP: .100 kW; HAAT: 92 Ft.

BPED–800102AR (WIQH), Concord, Massachusetts, Concord-Carlisle Regional Sch. Dist., Has: 88.3 MHz; Channel No. 202D, TPO: .01 kW. (Lic), Req: 88.3 MHz; Channel No. 202A, ERP: .167 kW; HAAT: 27 Ft.

BPED–800124AJ (KOJC), Cedar Rapids, Iowa, Oak Hill-Jackson Economic Devel. Cor., Has: 89.7 MHz; Channel No. 209D, TPO: .01 kW. (Lic), Req: 89.7 MHz; Channel No. 209A, ERP: .202 kW; HAAT: 28 Ft.

BPED–800201AQ (KALU), Langston, Oklahoma, Langston University, Has: 90.7 MHz; Channel No. 214DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 87.9 MHz; Channel No. 200A, ERP: .125 kW; HAAT: 190 Ft.

BPED–800206AD (new), Columbus, Ohio, Worthington Christian School, Req: 91.5 MHz; Channel No. 218B, ERP: 18.7 kW; HAAT: 300 Ft.

BPED–800214AF (new), Gaffney, South Carolina, Limestone College, Req: 91.1 MHz; Channel No. 216C, ERP: 98 kw; HAAT: 577 Ft.

BPED–800220AM (KBSU), Boise, Idaho, Boise State University, Has: 90.1 MHz; Channel No. 211DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 91.3 MHz; Channel No. 217A, ERP: 3 kW; HAAT: 284 Ft.

BPED–800220AP (WVAC), Adrian, Michigan, Adrian College Corporation, Has: 88.1 MHz; Channel No. 201DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 107.9 MHz; Channel No. 300D, ERP: .013 kW, HAAT: 80 Ft.

BPED–800225AV (WPSR), Evansville, Indiana, Evansville-Vanderburgh School Corp, Has: 90.7 MHz; Channel No. 214B, ERP: 14 kW; HAAT: 130 Ft. (Lic), Req: 90.7 MHz; Channel No. 214B, ERP: 13.8 kW; HAAT: 164 Ft.

BPED–800303AB (WUAG), Greenboro, North Carolina, the Univ. of N.C. at Greensboro, Req: 106.1 MHz; Channel No. 291D, TPO: .01 kW;

BPED–800305AC (new), Morgantown, West Virginia, West Virginia Board of Regents, Req: 91.7 MHz; Channel No. 219A, ERP: .384 kW; HAAT: 30 Ft.

BPED–800307AJ (KPSH–FM), Palm Springs, California, Palm Springs Unified School Dist., Has: 88.3 MHz; Channel No. 202D, TPO: .01 kW; (lic), Req: 88.5 MHz; Channel No. 203DS, ERP: .018 kW; HAAT: Ft.

BPED–800314AF (KDSU), Fargo, North Dakota, North Dakota State University, Has: 91.9 MHz; Channel No. 220A, ERP: 1.2 kW; HAAT: 110 Ft. (Lic), Req: 91.9 Mhz; Channel No. 220A, ERP: 100 kW; HAAT: 992 Ft.

BPED–800327AD (new), Humble, Texas, Something Better Educ. Foundation, Inc., Req: 88.1 MHz; Channel No. 201C, ERP: 100 kW; HAAT: 823 Ft.

BPED–800328AE (WKCC), Grayson, Kentucky, Kentucky Christian College, Has: 91.5 MHz; Channel No. 218DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 96.7 MHz; Channel No. 244D, ERP: .013 kW; HAAT: —154 Ft.

BPED–800402AE (KCPR), San Luis Obispo, California, California Polytechnic State Univ., Has: 91.3 MHz; Channel No. 217A, ERP: 2 kW; HAAT: —350 Ft. (Lic), Req: 91.3 MHz; Channel No. 217B, ERP: 3 kW; HAAT: 1412 Ft.

BPED–800407AE (KOCC), Oklahoma City, Oklahoma, Oklahoma Christian College, Has: 88.9 MHz; Channel No. 205A, ERP: 3 kW; HAAT: 300 Ft. (Lic), Req: 88.5 MHz; Channel No. 203A, ERP: 3 kW; HAAT: 300 Ft.

BPED–800521AF (new), Santa Barbara, California, University of Southern California, Req: 88.7 MHz; Channel No. 204B, ERP: 6 kW; HAAT: 883 Ft.

BPED–800605AB (KRDC–FM), St. George, Utah, Dixie College, Has: 90.1 Mhz; Channel No. 211DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 99.3 MHz; Channel No. 257D, TPO: .010 kW; HAAT: —171 Ft.

BPED–800617AB (KCCM–FM), Moorhead, Minnesota, Minnesota Public Radio, Inc., Has: 91.1 MHz; Channel No. 216C, ERP: 94 kW; HAAT: 300 Ft. (Lic), Req: 91.1 MHz; Channel No. 216C, ERP: 66.6 kW; HAAT: 656 Ft.

BPED–800715AD (KBES), Ceres, California, Bet Nahrain, Inc., Has: 89.5 MHz; Channel No. 208DS, ERP: .03 kW; HAAT: 135 Ft. (Lic), Req: 88.3 MHz; Channel No. 202A, ERP: 3 kW; HAAT: 133 Ft.

BPED–800716AA (KNLU), Monroe, Louisiana, Northeast Louisiana University, Has: 88.7 MHz; Channel No. 204DS, ERP: .01 kW; HAAT: Ft. (Lic), Req: 88.7 MHz; Channel No. 204A, ERP: 4.27 kW; HAAT: 140.6 Ft.

BPED–800728AJ (new), Ladson, South Carolina, The Holy Spirit Church and Bible Collg., Req: 91.5 MHz; Channel No. 218A, ERP: 3 kW; HAAT: 89 Ft.

BPED–800729AI (WEFT), Champaign, Illinois, Prairie Air, Inc., Req: 90.1 MHz; Channel No. 211A, ERP .955 kW; HAAT: 146.5 Ft.

BPED–801031AB (WKYU–FM), Bowling Green, Kentucky, Western Kentucky University, Has: 88.9 MHz; Channel No. 205C, ERP: 88 kW; HAAT: 720 Ft. (Lic), Req: 88.9 MHz; Channel No. 205C, ERP: 100 kW; HAAT: 721 Ft.

BPED–801208AG (new), Morgan Hill, California, Morgan Hill Unified School Dist., Req: 89.9 MHz; Channel No. 210A, ERP: .1 kW; HAAT: —256 Ft.

BPED–810121AB (new), Institute, West Virginia, Kanawha Economic Develop. Corp., Req: 90.9 MHz; Channel No. 215B, ERP: 5 kW; HAAT: 428 Ft.

BPED–810123AC (new), Oklahoma City, Oklahoma, Oklahoma Education Television Auth., Req: 89.3 MHz; Channel No. 207C, ERP: 100 kW; HAAT: 766 Ft.

BPED–810123AE (new), Cheyenne, Oklahoma, Oklahoma Educ. Tele. Authority, Req: 91.3 MHz; Channel No. 217C, ERP: 100 kW; HAAT: 866 Ft.

BPED–810112AC (KSOR), Ashland, Oregon, State of OR-State Bd. of High Educ., Has: 90.1 MHz; Channel No. 211C, ERP: 1.95 kW; HAAT: 1340 Ft. (Lic), Req: 90.1 MHz; Channel No. 211C, ERP: 35.5 Kw; HAAT: 2690 Ft.

BPED–800721AA (KUCI), Irvine, California, The Regent of the University of LA, Has: 89.9 MHz; Channel No. 210, ERP: 10 kW; HAAT: —190 Ft; (Lic), Req: 89.9 MHz; Channel No. 205, ERP: 10 kW; HAAT: —190 Ft.

[FR Doc. 81-10492 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[FCC 81-108; BC Docket Nos. 81-159, 81-160; File Nos. BPH-9176, BPH-9566]

Hampshire County Broadcasting Co., Inc. and Amherst Broadcasting, Inc.; Memorandum Opinion and Order; Consolidated Hearing on Stated Issues

Adopted: March 11, 1981.

Released: March 16, 1981.

By the Commission: Chairman Ferris not participating; Commissioner Quello concurring in the result.

In re applications of Hampshire County Broadcasting Co., Inc., Amherst, Massachusetts, Requests: 100.9 MHz, Channel 265, 3.0 kW (H&V), 300 feet, BC Docket No. 81-159, File No. BPH-9176; Amherst Broadcasting, Inc., Amherst, Massachusetts, Requests: 100.9 MHz, Channel 265, 3.0 kW (H&V), 105 feet, BC Docket No. 81-160, File No. BPH-9566; for a construction permit for a New FM Station.

1. The Commission has under consideration the above-captioned mutually exclusive applications of Hampshire County Broadcasting Co., Inc. (hereinafter Hampshire) and Amherst Broadcasting Inc. (hereinafter Amherst), a proposed amendment to the Amherst application, tendered for filing March 9, 1979, a petition for reconsideration of the action dismissing Amherst's application, and related pleadings.[1]

2. *Preliminary Matters.* This proceeding, commenced in May, 1973, resulted in a *Memorandum Opinion and Order* FCC 78-912, released January 8, 1979, (hereinafter *Order*), in which the Commission found that the public interest would not be served by granting Amherst's request for waiver of the minimum mileage separation requirements of § 73.207 of our rules. Instead, Amherst was provided thirty days within which to amend its application to comply with that rule or face dismissal. Amherst requested an extension of time in which to amend that was opposed by Hampshire in a pleading accompanied by a request to dismiss the Amherst application. Since the *Order*, additional submissions in this proceeding include (i) an amendment filed on February 26, 1979 by Amherst, which was voluntarily withdrawn on March 8, 1979, (ii) a second amendment filed by Amherst on March 9, 1979 together with a petition for acceptance of that amendment due to the expiration of time under the *Order*,[2] and (iii) pleadings related thereto.[3] By Broadcast Bureau letter dated August 1, 1979, the Amherst amendment was found to have resulted in a change in coverage area in excess of 50 percent. Accordingly, that amendment was determined to constitute a major change as defined by § 73.3573(a)(1) of the rules and, because it was filed after Hampshire's cut-off date, was returned as unacceptable for filing. Since Amherst was unable to file an acceptable amendment by the deadline specified in the *Order*, the application was dismissed. That action touched off another round of pleadings, including a petition for reconsideration and reinstatement of the application, as amended, filed by Amherst.[4]

3. The basis of the Hampshire objection is that Amherst's amendment was filed after the thirty day period provided in the *Order* without an appropriate showing of good cause, in disregard of established Commission rules and policies, and contrary to Hampshire's rights as an applicant.[5] Hampshire further argues that Amherst's claims of public interest should be balanced against the countervailing consideration that excessive delay has deprived the community of Amherst, Massachusetts, of a second radio voice.[6] Amherst's petition for reconsideration of the Commission action dismissing its application is based on the engineering claim that a 50 percent change was not involved.[7] Amherst argues that the staff's "major change" determination was based on discovery of errors contained in Amherst's initial 1975 proposal. Amherst claims that other errors in the 1975 proposal, which it has subsequently discovered, result in a less than 50% change in the 1 mV/m contour. Thus, Amherst claims that just as the Commission's discovery and correction of errors in the prediction of the 1975 1 mV/m contour were grounds for staff dismissal of its application, so, then, Amherst's discovery and correction of other errors in the 1975 contour prediction indicating a less than 50% change constitutes good cause for reconsideration and reinstatement of its application.[8] Hampshire, in Exhibit 1 of its opposition to the petition, includes an engineering study of Amherst's second amendment purporting to show a net change of more than 50 percent from the 1 mV/m contour contained in Amherst's application as originally filed. Hampshire asserts, therefore, that § 73.3573(b) requires a new file number be assigned to the application and, further, that the application be dismissed as untimely, pursuant to §§ 1.227(b) (1) and (5), and 73.3573(d) of the rules. Based upon the pleadings before us, it appears that a substantial and material question of fact exists with respect to the calculation of Amherst's 1 mV/m contour predictions, Amherst's claim of good cause for amendment after the deadline specified in the Commission's *Order*, and the applicability of the major change and new file number requirements of the rules. Accordingly, an issue will be specified to determine whether Amherst has complied with the Commission's *Order*, whether its amendment resulted in a major change, and whether it is entitled to comparative consideration.

4. Amherst indicates it will have 10 full-time employees. In its *Report and Order* in Docket No. 20550, concerning non-discrimination in the employment

[1] In its opposition to Amherst's petition for acceptance of amendment, and supplement thereto, Hampshire asserts that Amherst has failed to comply with Commission directives and repeatedly ignored or deliberately violated applicable rules. These allegations essentially seek specification of issues questioning Amherst's motives and use of Commission processes. Pursuant to the Commission's *Report and Order* in re *Revised Procedures for the Processing of Contested Applications*, 72 FCC 2d 202, 45 RR 2d 1220 (1979), which directed the deletion of all issue pleadings in pending cases, these matters sought to be raised by Hampshire have not been considered in this order. However, pursuant to § 1.229, the opportunity to raise an abuse of process issue will be afforded the parties post-designation.

[2] Amherst's amendment, due to the fact that it was tendered after the thirty day period provided for in the *Order*, also contained a petition for acceptance of the amendment. In a proffered showing of good cause, Amherst alleged: (1) The unavailability of counsel and consulting engineers; (2) unforseen problems in acquiring a suitable site location; (3) lack of any prejudice, injury or harm to the opposing applicant; and (4) public interest considerations inherent in the opportunity to select between competing applicants (an argument previously raised and rejected in the *Order*).

[3] Additional pleadings include the following: An opposition to Amherst's petition for acceptance, filed by Hampshire; a reply to the opposition, filed by Amherst; a supplement to the opposition, filed by Hampshire; a petition for leave to file a supplement to the opposition and a supplement to the opposition, filed by Hampshire; an erratum and addendum to the supplement, filed by Hampshire; and a supplement to the amendment, filed by Amherst.

[4] Other pleadings include: Hampshire's request for extension of time for filing an opposition; a comment on Hampshire's request for extension of time, filed by Amherst; Hampshire's request for further extension of time due to Amherst's comment; an opposition to Amherst's petition for reconsideration and reinstatement of application, filed by Hampshire; Amherst's request for extension of time in which to respond to the Hampshire opposition; and Amherst's reply to Hampshire's opposition.

[5] In support of this contention, Hampshire cites the Administrative Procedure Act, 5 U.S.C. 555(b), 706; *Nader v. FCC* 520 F. 2d 182, 35 RR 2d 187 (1975); and *Fidelity Television v. FCC* 502 F. 2d 443, 30 RR 2d 1597 (1974).

[6] Presently, AM Station WTTT, operated by Amherst, is the town's sole broadcast outlet.

[7] Section 73.3573(a)(1) provides, in pertinent part: "A major change for FM stations * * * is any change * * * which would result in a change of 50 percent or more in the area within the station's predicted 1 mV/m field strength contour."

[8] Amherst cites no authority for this proposition in specific or for its petition in general.

policies and practices of broadcast licensees, FCC 76–426, 60 FCC 2d 226 (1976), the Commission required broadcast applicants with five or more full-time employees to develop a plan to afford equal opportunity and to refrain from discrimination in employment and related benefits for all qualified persons. See § 73.2080 of the Commission's rules. In that *Report and Order*, the Commission adopted a ten-point Equal Employment Opportunity program, included in Section VI of Form 301, to serve as a model to assist non-exempt broadcast applicants. Because Amherst is a non-exempt applicant and has failed to file the required EEO program, an appropriate issue will be specified.

5. While Amherst proposes to duplicate some of the programming of its commonly owned station, WTTT, Hampshire proposes independent programming. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inefficiency. See *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 2d 114 (1967).

6. Further, Amherst proposes to operate 126 hours per week and duplicate twelve hours daily of the programming of WTTT. The population of Amherst is 26,300, according to the 1970 U.S. Census Report. Section 73.242(c) of the rules prohibits an FM station licensed to a community of over 25,000 population from devoting more than 25 percent of its average program week to such duplicated programming. Accordingly, an issue will be specified to determine whether Amherst's proposal violates § 73.242(c) of the Rules and, if so, whether circumstances exist which warrant a waiver of that section.

7. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to one of the applicants.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place specified in a subsequent Order, upon the following issues:

1. To determine with respect to the application of Amherst Broadcasting, Inc.:

(a) Whether it has complied with the Commission's directive contained in paragraphs 11 & 12 of the *Memorandum Opinion and Order*, FCC 78–912, released January 8, 1979; and

(b) Whether the March 9, 1979 amendment would result in a major change of the application pursuant to § 73.3573(a)(1) of the Commission's Rules, and if so, whether circumstances exist which warrant a waiver of said section.

(c) Whether, in light of the evidence adduced pursuant to (a) and (b), above, the applicant is entitled to a comparative hearing.

2. To determine whether Amherst has complied with the requirements of Section VI of FCC Form 301.

3. To determine whether Amherst's proposal to duplicate programming is violative of § 73.242(c) of the rules, and, if so, whether circumstances exist which warrant a waiver of said section.

4. To determine which of the proposals would, on a comparative basis, better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, that Amherst's August 31, 1979 petition for reconsideration and reinstatement of its application and Hampshire's opposition thereto are granted to the extent indicated herein, and are denied in all other respects.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of the Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-10496 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 81–190]

Hearing Designation Order on Stated Issues

Adopted: March 26, 1981.

Released: April 2, 1981.

In the matter of application of Matthew L. Haith, 14016 South Albertson Street, Compton, California 90220, for citizens band radio station license, PR Docket No. 81–190.

1. The Chief, Private Radio Bureau, has under consideration the application of Matthew L. Haith for a Citizens Band radio station license. The application is dated May 8, 1980.

2. Information before the Commission indicates that on April 3, 1980, May 9, 1980, May 10, 1980, May 15, 1980, May 16, 1980, May 19, 1980, and July 7, 1980, Haith made radio transmissions on the frequency 27.255 MHz. The information indicates that on May 8, 1980, Haith made radio transmissions on the frequency 27.235 MHz, and on August 14, 1980, he made radio transmissions on the frequency 27.265 MHz. Frequencies 27.235 MHz, 27.255 MHz and 27.265 MHz have all been assigned for use by Citizens Band radio stations. Haith did not possess a license authorizing the use of those frequencies.[1] Thus, the operations were apparently in violation of Section 301 of the Communications Act of 1934, as amended.

3. The information further indicates that in all of the instances noted above, Haith's transmissions were either unidentified or identified only by the pseudonym "Black Governor." In addition, all of the transmissions were apparently accomplished by use of a transmitter whose power output exceeded 4 watts (carrier power). When his station was inspected on May 8, 1980, Haith was discovered in

[1] Although Haith's CB application is dated May 8, 1980, he did not request temporary operating authority while it was being processed. Since he was the subject of legal action concerning the operation of a radio station at the time, he was not eligible for a temporary permit.

possession of two linear amplifiers. The information also indicates that on April 3, 1980, May 8, 1980, and August 14, 1980, Haith was communicating with or attempting to communicate with, CB stations located more than 250 kilometers away from his station.

4. The conduct described above calls into question Haith's qualifications to be granted a Citizens Band radio station license. Section 309(e) of the Communications Act of 1934, as amended, provides that the Commission shall designate applications for hearing when it cannot find that the public interest would be served by a grant of the application. Accordingly, it is ordered, pursuant to Section 309(e) of the Communications Act and §§ 1.973(b) and 0.331 of the Commission's rules, that Haith's application for a Citizens Band Radio Station license is designated for hearing on the issues specified below.

5. It is further ordered, That if Haith wishes to be heard on this matter, he must file a written appearance, in triplicate, with the Commission within 20 days of the date this Order is released.[1] [2] The time, place and Presiding Judge for the hearing will be specified by subsequent order.

6. It is further ordered, that this proceeding shall be resolved upon the following issues:

(a) To determine whether the transmissions on April 3, May 8, May 9, May 10, May 15, May 16, May 19, July 7, and/or August 14, 1980, were in willful and repeated violation of Section 301 of the Communications Act of 1934, as amended.

(b) To determine whether the transmissions on April 3, May 8, May 9, May 10, May 15, May 16, May 19, July 7, and/or August 14, 1980, were either unidentified or identified by the pseudonym "Black Governor."

(c) To determine whether Haith's transmitter power output on April 3, May 8, May 9, May 10, May 15, May 16, May 19, July 7, and/or August 14, 1980, exceeded 4 watts (carrier power).

(d) To determine whether on April 3, May 8, May 9, May 10, May 15, May 16, May 19, July 7, and/or August 14, 1980, Haith used and/or had attached a linear amplifier at his radio station.

(e) To determine whether on April 3, 1980, May 8, 1980, and/or Augut 14, 1980, Haith communicated with, or attempted to communicate with, CB stations located more than 250 kilometers away from his station.

(f) To determine, in light of the evidence adduced pursuant to Issues (a), (b), (c), (d) and (e), whether Matthew L. Haith has the requisite qualifications to be a Commission licensee.

(g) To determine whether a grant of the application of Matthew L. Haith for a Citizens Band radio station license will serve the public interest, convenience and necessity.

7. It is further ordered, that a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the applicant at his address of record (shown in caption).

W. Riley Hollingsworth, Jr.,

Acting Chief, Compliance Division.

[FR Doc. 81-10495 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[1] The enclosed forms should be used to file an appearance. They should be mailed to the Federal Communications Commission, Washington, D.C. 20554.

[2] In the absence of a showing good cause, if an appearance is not filed within 20 days, the application will be dismissed with prejudice for failure to prosecute (§ 1.221(c) of theCommission's rules).

[CC Docket Nos. 81-207, 81-208; File Nos. 5514-CM-P-80, 10384-CM-P-80]

Northstar Communications and Kravetz Media Corp.; Memorandum Opinion and Order; Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: March 20, 1981.

Released: April 2, 1981.

In re application of Northstar Communications, CC Docket No. 81-207, File No. 5514-CM-P-80; and Kravetz Media Corporation, CC Docket No. 81-208, File No. 10384-CM-P-80; for construction permits in the Multipoint Distribution Service for a New Station at Roseburg, Oregon.

1. The Commission has before it the above-referenced application of Northstar Communications, filed on April 28, 1980 (accepted on Public Notice of May 20, 1980) and the application of Kravetz Media Corporation, filed on July 21, 1980 (accepted on Public Notice of August 12, 1980). These applications are for a construction permit in the Multipoint Distribution Service and they propose operations on Channel 1 in Roseburg, Oregon. The applications are therefore mutually exclusive under present procedures and require comparative consideration. There are no petitions to deny or objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 CFR 309(e) and § 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Northstar Communications, Kravetz Media Corporation and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 81-10490 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Consideration of these factors shall be in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

[CC Docket Nos. 81-209—81-211; File Nos. 5516-CM-P-80, etc.]

Northstar Communications, et al.; Memorandum Opinion and Order; Consolidated Hearing on Stated Issues

Adopted: March 20, 1981.

Released: April 3, 1981.

In re Applications of Northstar Communications, CC Docket No. 81-209, File No. 5516-CM-P-80; and Vistec, Incorporated, CC Docket No. 81-210, File No. 6824-CM-P-80; and Kravetz Media Corporation, CC Docket No. 81-211, File No. 10380-CM-P-80; for construction permits in the Multipoint

Distribution Service for a New Station at Myrtle Beach, South Carolina.

1. The Commission has before it the above-referenced application of Northstar Communications, filed April 28, 1980 (accepted on Public Notice of May 20, 1980), the application of Vistec, Incorporated, filed on June 27, 1980 (accepted on Public Notice of July 15, 1980) and the application of Kravetz Media Corporation, filed on July 21, 1980 (accepted on Public Notice of August 12, 1980). These applications are for a construction permit in the Multipoint Distribution Service and they propose to operate on Channel 1 in the Myrtle Beach, South Carolina area. The applications are therefore mutually exclusive under present procedures and require comparative consideration. These applications have been amended as a result of informal requests by the Commission staff for additional information, and no petitions to deny or other objections to any of the applications have been filed.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 CFR 309(e) and § 0.291 of the Commission's rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidation proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Northstar Communications, Vistec Incorporated, Kravetz Media Corporation and the Chief, Common Carrier Bureau, are made parties to the proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 81-10489 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 81-212-81-214; File Nos. BPH-791213AD, etc.]

Powell Valley Broadcasting Corp., et al.; Hearing Designation Order on Stated Issues

Adopted: March 25, 1981.
Released: April 6, 1981.

In re applications of Powell Valley Broadcasting Corporation, LaFollette, Tennessee, Req: 104.9 MHz, Channel 285, 0.625 kW (H&V), 683 feet, BC Docket No. 81-212, File No. BPH-791213AD; LaFollette Broadcasters, Inc., LaFollette, Tennessee, Req: 104.9 MHz, Channel 285, 0.120 kW (H&V), 1240 feet, BC Docket No. 81-213, File No. BPH-800828AG; Primo Communications, Inc., LaFollette, Tennessee, Req: 104.9 MHz, Channel 285, .794 kW (H&V), 600 feet, BC Docket No. 81-214, File No. BPH-800829AC; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Powell Valley Broadcasting Corporation (Powell Valley), LaFollette Broadcasters, Inc. (LaFollette), and Primo Communications, Inc. (Primo).

2. Since no determination has been reached that the antenna proposed by Primo Communications, Inc. would not constitute a menace to air navigation, an issue regarding this matter is required.

3. Powell Valley and Primo propose independent programming while LaFollette proposed to duplicate some of the programming of a new commercial AM broadcast station at LaFollette, Tennessee for which it is an applicant. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inefficiency. *Jones T. Sudbury*, 8 FCC 2d, 360, 10 RR 2d 114 (1967).

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

5. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Primo Communications, Inc. would constitute a hazard to air navigation.

2. To determine which of the proposals would on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the

[1] Consideration of these factors shall be in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

publication of such notice as required by § 73.3594(g) of the rules.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division.

[FR Doc. 81-10407 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 81-140]

William M. Richison; Consolidated Hearing Designation Order on Stated Issues

Adopted: March 23, 1981.

Released: March 31, 1981.

In the matter of the application of William M. Rishison, 1113 East Santa Fe, Fullerton, California 92631, PR Docket No. 81-140, for Amateur Radio Station and Novice Class Operator Licenses.

The Chief, Private Radio Bureau, has under consideration the application of William M. Richison for Amateur radio station and Novice Class Operator licenses.[1]

1. Information before the Commission indicates that Richison operated his CB station on January 16, 1980 on the frequencies 27.505 and 27.515 MHz, which are in the band of frequencies assigned for the use of Industrial Radio Services stations. Richison did not possess a license authorizing him to operate on those frequencies. Thus, the operation was apparently in violation of Section 301 of the Communications Act of 1934, as amended. Richison was issued an Official Notice of Violation concerning this matter on June 10, 1980.[2]

2. Section 309(a) of the Communications Act of 1934, as amended, requires the Commission to determine whether the grant of each application it receives would serve the public interest, convenience and necessity. When the Commission is unable to make that determination, it is required by Section 309(e) of the Act to designate the application for hearing. In view of the information before it, the Commission cannot determine that granting Richison's application would serve the public interest, convenience and necessity. Therefore, the Commission, under the authority of Section 309(e) of the Act and §§ 0.331 and 1.973 of the Commission's rules, designates Richison's application for hearing. The case will be decided upon the following issues:

(a) To determine whether there were transmissions on January 16, 1980, in willful violation of Section 301 of the Act.

(b) To determine whether William M. Richison has the requisite qualifications to be a licensee of the Commission.

(c) To determine whether the public interest, convenience and necessity would be served by the grant of Richison's application.

3. If Richison wants a hearing, he is required by § 1.221(c) of the Commission's rules to file a written appearance stating his intention to appear and present evidence at the hearing. A form is attached for this purpose. If Richison does not file an appearance within 20 days of the mailing of this order, his application may be dismissed with prejudice. If the application is dismissed with prejudice, any new application which may be filed by Richison will not be considered by the Commission until one year after dismissal.

4. Any questions about this matter should be directed to the Compliance Division of the Private Radio Bureau at 202-632-7197. This order is being sent to the licensee by Certified Mail—Return Receipt Requested and Regular Mail.

W. Riley Hollingsworth, Jr.,

Acting Chief, Compliance Division.

[FR Doc. 81-10409 Filed 4-6-81; 8:45 am]

BILLING CODE 6712-01-M

[1] Richison's application was granted on April 8, 1980, and he received a license for Amateur radio station KA6KEO and a Novice Class Operator license. However, that grant was set aside by the Commission's letter of April 28, 1980, and the application was returned to pending status.

[2] Richison was granted a license for Citizens Band radio station KBGU-4170 on April 30, 1978. That license is hereby cancelled at Richison's request made in his letter to the Commission dated May 18, 1980.

FEDERAL MARITIME COMMISSION

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 NW., Room 10216; 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 April 27, 1981, in which this notice appears. 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-3961.

Filing party: Mr. Francis D. Barrett, Curry & Dolan, Counsellors at Law, 716 Southern Building, Washington, D.C. 20005.

Summary: Agreement No. T-3961, between Albany Port District Commission (Landlord) and New Amsterdam Coal, Inc. (Tenant), provides for the lease to Tenant at Rensselaer, New York, of 20 acres for the construction and operation of a harbor facility for use in exporting or importing coal and other minerals or raw materials. The primary term of the agreement will be for 10 years, with options to extend the lease for six successive periods of 5 years each. The Landlord will receive a basic monthly rental of $10,000 plus net metric tonnage rental charges starting at 50 cents per ton of coal and 25 cents per ton of minerals and raw materials other than coal handled at the facility.

Agreement No.: T-3962.

Filing party: Mr. H. H. Wittren, Assistant Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3962, between Port of Seattle (Port) and Sea-Land Service, Inc. (Sea-Land), provides for the month-to-month lease of approximately 184,114 sq. ft. of land located at Terminal 107, Seattle, Washington. The leased premises will be used for the storage of Sea-Land's chassis and empty containers. As compensation, Sea-Land will pay Port $7,365 per month, plus all applicable taxes and port tariff charges. The parties further agree to terms of indemnification, assignment or sublease and other terms and conditions provided for in the agreement. This agreement cancels and supersedes a prior month-to-month lease between the parties.

By Order of the Federal Maritime Commission.

Dated: April 1, 1981.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-10442 Filed 4-6-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Tesoro Petroleum Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Val-Cap Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: March 24, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-10406 Filed 4-6-81; 8:45 am]

BILLING CODE 6775-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Thyssen Aktiengesellschaft is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Patagonia Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Thyssen Aktiengesellschaft. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: March 5, 1981.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 81-10407 Filed 4-6-81; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat and Dental Devices Panel; Meeting; Agenda Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces agenda changes for a meeting of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel on April 13 and 14, 1981. Notice of the meeting was published in the **Federal Register** of March 13, 1981 (46 FR 16727). The following agenda changes are scheduled:

April 13: Closed session from 1 p.m. to 5 p.m. for discussion of premarket approval applications for intraocular lenses. The Commissioner of Food and Drugs, with the concurrence of the Chief Counsel, has determined to close this session to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

April 14: The open committee discussion period will include discussion of petitions for reclassification of 2-hydroxyethyl methacrylate and cellulose acetate butyrate/silicon/polymethyl-methacrylate contact lenses. The Section will also discuss contact lenses and contact lens products in general.

FOR FURTHER INFORMATION CONTACT: Max W. Talbott, Bureau of Medical Devices (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7538.

Dated: April 1, 1981.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 81-10508 Filed 4-3-81; 10:30 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Lincoln Park Zoological Garden, et al.; Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct various activities with Endangered Species:

PRT 2-7809

Applicant: Lincoln Park Zoological Garden, Chicago, IL.

The applicant requests a permit to import one black lemur (*Lemur macaco*) from the Metropolitan Toronto Zoo, Canada, for enhancement of propagation.

PRT 2-7806

Applicant: National Cancer Institute and National Institutes of Health, Bethesda, MD

The applicant requests a permit to take, import, and purchase in interstate and foreign commerce blood, semen, and skin biopsy samples from many endangered mammals held in captivity for scientific genetic research. Live animals will be purchased occassionally in interstate commerce. No animals will be intentionally captured or harmed during any part of the research; all tissue sampling techniques are non-life threatening.

PRT 2-7734

Applicant: Thomas Reid Associates, Palo Alto, CA

The applicant requests a permit to capture, mark and release mission blue butterflies (*Plebejus icarioides missionensis*) on San Bruno Mountain,

California for enhancement of survival and scientific research.

PRT 2-7813

Applicant: John F. Cuneo, Grayslake, IL

The applicant requests a permit to export and reimport six captive-bred tigers (*Panthera tigris*) to and from Canada for enhancement of propagation and survival.

PRT 2-7796

Applicant: San Antonio Zoological Gardens, San Antonio, TX

The applicant requests a permit to import in foreign commerce two giant armadillos (*Priodontes giganteus*) from the Rotterdam Zoo, Rotterdam, Netherlands, for enhancement of propagation and survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before May 7, 1981, by submitting written data, views, or arguments to the Director at the above address.

Dated: March 27, 1981.

Larry LaRochelle,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish & Wildlife Service.

[FR Doc. 81-10446 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before March 27, 1981. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 22, 1981.

Carol Shull,

Acting Chief, Registration Branch.

ARIZONA

Maricopa County

Gila Bend vicinity, *Gillespie Dam Highway Bridge*, NW of Gila Bend

MICHIGAN

Gogebic County

Bessemer, *Gogebic County Courthouse*, Moore St.

NEBRASKA

Seward County

Bee, *States Ballroom*, Off NE 415

OREGON

Grant County

Prairie City, *Sumpter Valley Railway Passenger Station*, Main and Bridge Sts.

[FR Doc. 81-10016 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-03-M

Bureau of Land Management

Carson City District Advisory Council; Meeting

SUMMARY: The Council will meet in Hawthorne, Nevada, on May 7 and 8, 1981. Agenda items include an orientation to mineral resources management.

DATE AND TIME: May 7 at 7:00 p.m.; May 8 at 8:30 p.m.

LOCATION: El Capitan Lodge, 540 F Street; Hawthorne, Nevada.

FOR FURTHER INFORMATION CONTACT: Stephen A. Weiss, Public Affairs Officer, Bureau of Land Management, 1050 East William Street, Suite 335, Carson City, NV 89701, (702) 882-1631.

SUPPLEMENTARY INFORMATION: The agenda is scheduled as follows:

May 7

7:00 p.m.—Call to Order.
7:30 p.m.—Public statements.
8:00 p.m.—Orientation to Mineral Resources Management.
9:00 p.m.—Discussion.

May 8

8:30 a.m.—Subcommittee Reports.
9:00 a.m.—Old business, new business, agenda for next meeting, adjournment.
10:00 a.m.—Field trip to the Stewart Valley Fossil Area, Gabbs Valley Range, and Fisher/Watts Mine.

The Council is chartered by the Secretary of the Interior to provide citizen counsel and advice to the Carson City District Manager regarding planning and management of public lands and resources within the District. The meeting is open to the public. Any person may attend, file a written statement by mail in advance, or appear before the Council at 7:30 p.m., May 7.

Thomas J. Owen,

District Manager.

[FR Doc. 81-10057 Filed 4-6-81; 8:45 am]

BILLING CODE 4130-84-M

[13300]

Colorado; Order Providing for Opening of National Forest Lands in Power Site Classifications 219 and 357

Correction

In FR Doc. 81-6943, published on page 15329, on Thursday, March 5, 1981, in the second column, in paragraph "T.37N., R.5W.", in the second line "Sec. 4, Lots 7, 8, S½, N½, S½;" should be corrected to read "Sec. 4, Lots 7, 8, S½N½, S½;".

BILLING CODE 1505-01-M

[U-30210]

Utah; Order Providing for Opening of Lands

The United States Geological Survey published in the **Federal Register**, Volume 40, No. 138, July 17, 1975, a cancellation of powersite classification 219 of May 13, 1929, and powersite classification 397 of April 5, 1949.

Under the authority delegated by Bureau No. 701 dated July 23, 1964 (29 FR 10526) as amended, the lands described in above cancellation are hereby opened to the operation of the public land laws generally at 10:00 a.m. on April 19, 1981, subject to valid existing rights and the provisions of existing withdrawals.

Dated: March 30, 1981.

Darrell C. Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-10415 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-84-M

[W-74022]

Wyoming; Application

March 30, 1981.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado, filed an application for a right-of-way to construct a 4½ inch O.D. pipeline, pig launcher and related facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 23 N., R. 94 W.,
Sec. 32, SW¼SW¼.
T. 23 N., R. 95 W.,
Sec. 30, lot 4;
Sec. 32, S½NE¼, N½NW¼, and SE¼NW¼;
Sec. 34, N½S½, and SE¼SE¼;
Sec. 36, S½S½.
T. 23 N., R. 96 W.,
Sec. 25, S½S½.

The proposed pipeline and related facilities will serve to transport natural gas from the #2 Gale Unit Well in Section 25, T. 23 N., R. 96 W., to a point in connection with an existing pipeline in Section 32, T. 23 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-10416 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-84-M

Eugene District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 that meetings of the Eugene District Advisory Council will be held on May 12, 1981 and if needed, May 19, 1981.

Both meetings will be held at 9:00 a.m. Pacific Standard Time. The May 12 meeting in Room 227 and the May 19 meeting, if needed, in Room 124 in the Federal Building at 211 E. 7th, Eugene, Oregon.

Both meetings will cover a single agenda. Topics to be covered at the two sessions include: (1) planning priorities for the next decade of operations in the Oregon State Bureau of Land Management, (2) program goals for the Eugene District's Fiscal Year 1982 operations, and (3) further progress on the District's Management Framework Plan (MFP), including a presentation of land-use alternatives for the MFP.

The Council will also discuss subjects for its future attention and make arrangements for the next meeting.

The meetings are open to the public. Interested persons may make statements to the Council between 11:30 a.m. and 12:00 a.m. on May 12, 1981 and/or May 19, 1981, or file written statements for the Council's consideration. To assure that adequate time is allotted for statements, those wishing to make oral statements should notify the District Manager, Bureau of Land Management, 1255 Pearl Street, Eugene, Oregon 97401, by May 5, 1981. Depending on the number of persons wishing to speak, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and production (during regular business hours) by 30 days following the second session.

Dated: March 27, 1981.

Dwight L. Patton,

District Manager.

[FR Doc. 81-10417 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-84-M

[M 46267]

Montana; Proposed Withdrawal and Reservation of Lands

March 27, 1981.

By virtue of the authority contained in Sec. 24 of the Act of October 21, 1976 (43 U.S.C. 1714), the Bureau of Land Management proposes to withdraw the following described land from settlement, sale, location or entry under all the general land laws, including the mining laws (30 U.S.C. Ch. 2), but not the mineral leasing laws, subject to valid existing rights:

Principal Meridian

T. 12 N., R. 13 W.,
Sec. 7, M&B; more particularly described as follows:

Parcel 1

Beginning at a point, the said point being 263.66 feet north and 402.63 feet east of the center quarter corner of said Section 7; thence S 80°39' W a distance of 261.22 feet; thence N 11°12' W a distance of 386.82 feet; thence N 12°38' W a distance of 432.64 feet; thence N 32°29' E a distance of 158.26 feet; thence S 57°03' E a distance of 135.77 feet; thence S 05°20' E a distance of 358.82 feet; thence S 19°52' E a distance of 323.89 feet; thence S 28°28' E a distance of 178.56 feet; to the point of beginning.

Said parcel of land contains 4.0 acres more or less.

Parcel 2

Beginning at a point, the said point being 230.21 feet north and 567.04 feet east of the center quarter corner of said Section 7; thence N 47°11' W a distance of 181.43 feet; thence N 27°38' W a distance of 186.86 feet; thence N 14°54' W a distance of 230.51 feet; thence N 02°23' W a distance of 380.04 feet; thence N 50°01' W a distance of 186.57 feet; thence S 81°38' W a distance of 206.74 feet; thence N 14°21' W a distance of 272.60 feet; thence N 04°00' E a distance of 182.46 feet; thence S 63°51' E a distance of 99.52 feet; thence S 63°27' E a distance of 143.97 feet; thence S 63°46' E a distance of 197.62 feet; thence S 57°23' E a distance of 364.62 feet; thence S 04°45' W a distance of 160.40 feet; thence S 09°32' E a distance of 191.57 feet; thence S 25°43' E a distance of 310.44 feet; thence S 14°52' E a distance of 284.19 feet; thence S 60°18' W a distance of 266.17 feet to the point of beginning.

Said parcel of land contains 11.6 acres more or less.

The area described contains 15.6 acres of public land in Granite and Powell Counties, Montana.

The purpose of the withdrawal is to protect a progeny site dedicated to the development of superior strains of lodgepole pine trees. The Bureau of Land Management, in cooperation with the Inland Empire Tree Improvement Cooperative, is working towards developing straight, strong, more disease-resistant trees.

On or before May 28, 1981, all persons who wish to make comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by May 28, 1981. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to: (1) determine the existing and potential demands for the lands and their resources; (2) insure that the area to be withdrawn is the minimum essential to meet the desired needs; and (3) provide for the maximum utilization of the lands.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the **Federal Register**. A separate notice will

be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the **Federal Register**, the lands will be segregated from location and entry as specified above unless the application is rejected or the withdrawal is approved prior to that date.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-10413 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-84-M

[M 43234]

Montana; Termination of Segregation for Proposed Withdrawal and Reservation of Lands

March 30, 1981.

1. Notice of application, M 43234, for withdrawal and reservation of lands in connection with the Boulder River Watershed Project in Jefferson County, Montana, was published as **Federal Register** Document No. 79-12893 on page 24645 of the issue for April 26, 1979. This publication segregated the lands described from settlement, sale, location, or entry under the public land laws, including the mining laws for 2 years from that date. The lands involved are described as follows:

Principal Meridian

Deer Lodge National Forest

T. 5 N., R. 4 W.,
Sec. 7, SE¼SW¼SW¼SE¼, S½SE¼ SW¼SE¼, E½NE¼SE¼SE¼, E½SW¼SE¼SE¼, SW¼SW¼SE¼SE¼, and SE¼SE¼SE¼;
Sec. 17, N½N½N½NW¼ and S½NE¼ NE¼NW¼; and
Sec. 18, N½N½NE¼NE¼, N½NE¼ NW¼NE¼, and NE¼NW¼NW¼NE¼.

Public Lands

T. 4 N., R. 2 W.,
Sec. 6, Lots 3, 4, 5, 6, and 7 and SE¼NW¼; and
Sec. 18, SE¼SW¼.
T. 5 N., R. 3 W.,
Sec. 32, NW¼NE¼, S½NE¼, and NW¼.
T. 5 N., R. 4 W.,
Sec. 8, SE¼NE¼SW¼NW¼, E½SE¼ SW¼NW¼, S½N½SE¼NW¼, S½SE¼NW¼, E½NE¼SW¼, W½NW¼SW¼SW¼, S½S½SW¼, NE¼SE¼SW¼, S½NW¼SE¼, and NW diagonal ½ of SW¼SE¼; and
Sec. 13, S½ of Lot 3.

The areas described aggregate 72.50 acres of National Forest System lands and 679.06 acres of public lands in Jefferson County, Montana.

2. The 2-year term will expire on April 26, 1981; therefore, in accordance with Sec. 204(b)(1)(c) of the Act of October 21, 1976, 43 U.S.C. 1714 (1976), the segregative effect of that order will end at 8 a.m. on that date. The public land records will be noted as to the termination date of the segregaton period.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-10414 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-84-M

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held at 10:00 a.m., Thursday, May 7, 1981.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92-463 and 94-579. The purpose of the meeting will be as follows: (1) to inform the Board of the progress being made on the Ellis-Pahsimeroi planning efforts; (2) to discuss the revised range improvements for FY 1981; (3) to discuss the 12½% Advisory Board funds, and (4) to discuss sub-division fence problems in relation to AMPS.

The meeting is open to the public. Anyone may make oral statements to the Board or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by April 30, 1981.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Dated: March 31, 1981.

Harry R. Finlayson,

District Manager.

[FR Doc. 81-10418 Filed 4-6-81; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387 (Sub-18)]

Consolidated Rail Corporation Exemption for Contract Tariff ICC-CR-C-0011

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff, together with the contract to be filed, will become effective one day after receipt by this Commission. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: Consolidated Rail Corporation (Conrail) filed on March 24, 1981 a petition for exemption under 49 U.S.C. 10505 from the statutory notice requirements of 49 U.S.C. 10713(e). It requests that we permit it to advance the effective date of tariff ICC-CR-C-0011 to March 25, 1981 so that the effective date would be on one days' notice but in no case later than March 27, 1981.

The purpose of the contract is to maximize the amount of coal loadings prior to the anticipated strike by coal miners scheduled to begin March 27, 1981, thereby permitting the continuous movement of coal during the strike. In order to accomplish this, the shipper must get certain demurrage relief in order to preload coal and allow it to be stored in open hopper cars for some time before movement. This is a short term agreement, covering essentially the period between March 27, 1981 and May 1, 1981.

Conrail states that the statutory notice period would be an undue burden on it and the involved shippers. To allow effectiveness only after a 30-day period would render the dealings between the parties extremely uncertain and would not permit the uniform and consistent movement of this traffic from origin to destination.

Under 49 U.S.C. 10713(e), contracts must be filed to become effective on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under section 10505

exemption authority in exceptional situations.

The petition shall be granted. The coal strike is precisely the exceptional or emergency condition which warrants an exemption. In light of the short term of the contract, the carrier's obligation to provide service to other shippers should not be impaired. Conrail states that it does not expect protests. We thus conclude that authorization of a provisional exemption is warranted, although the lateness of the filing of the petition has precluded an effective date of March 27, 1981.

Conrail has already indicated in its petition a willingness to be bound by the following conditions which have been imposed in similar exemption proceedings:

> If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding, on its own initiative or on complaint, to review this contract and to disapprove it during the periods specified in 49 U.S.C. 10713.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Dated: April 1, 1981.

By the Commission, Division 2, Commissioners Gresham, Trantum, and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-10469 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-2 (Sub-32F)]

Louisville and Nashville Railroad Company: Abandonment Near Bastin and Fleming in Letcher County, KY; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided March 24, 1981, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that the public convenience and necessity permit the abandonment by the Louisville and Nashville Railroad Company of the line of railroad extending between milepost VB 291.5 near Bastin, KY, and milepost VB 297.6 near Fleming, KY, a distance of 6.10 miles in Letcher County, KY, subject to the conditions for the protection of employees developed in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the CNW based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 15 days from the date of publication the Commission further finds that:

> (1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, not later than 10 days from publication of this Notice; and
>
> (2) it is likely that such proffered assistance would:
>
> (a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or
>
> (b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amounts of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interersted persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-10481 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4–2–031

Decided: March 31, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler and Taylor.

MC 24583 (Sub-40), filed March 13, 1981. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. (501) 375–3022. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Great Lakes Chemical Corporation, of El Dorado, AR.

MC 33513 (Sub-3), filed March 20, 1981. Applicant: PADULA BROS. INC., 2400 69th Street, North Bergen, NJ 07047. Representative: Lionel E. Weeks (same address as applicant), (201) 868–7466. Transporting *furniture and fixtures* between points in AL, CT, DC, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, and WV.

MC 107912 (Sub-40), filed March 20, 1981. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood, Memphis, TN 38118. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. (901) 767–5600. Transporting *food and related products*, between points in LA, on the one hand, and, on the other, Jackson, MS.

MC 125463 (Sub-3), filed March 16, 1981. Applicant: KENNETH W. STRAUB III, White Street, Weissport, PA 18235. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. (215) 357–7220. Transporting *waste or scrap materials not identified by industry producing and textile mill products*, between points in the U.S. under continuing contract(s) with S. Levine & Sons, Inc., of Allentown, PA.

MC 143433 (Sub-14) (Correction), filed February 27, 1981, published in the **Federal Register**, issue of March 23, 1981, and republished, as corrected, this issue. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING COMPANY, 310 South First Avenue, Stroud, OK 74079. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034, (405) 348–7700. Transporting *food and related products*, between points in KS, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and DC.

Note.—The purpose of this republication is to correct the territorial description.

MC 145422 (Sub-1), filed March 19, 1981. Applicant: L. B. TRANSPORTATION, INC., 6250 NW. 74th Ave., Miami, FL 33166. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodites* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Ampco Products, Inc., of Hialeah, FL.

MC 145623 (Sub-12), filed March 26, 1981. Applicant: O.K. MESSENGER SERVICE, INC., 9107 Telegraph Road, Taylor, MI 48180. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *building materials* between points in the U.S., under continuing contract(s) with (a) Chandler Corporation, of Walled Lake, MI, and (b) Hansen Corporation, of Boise, ID.

MC 148203 (Sub-3), filed March 17, 1981. Applicant: COPPER CITY TRANSPORT, INC., Old Route 5S, Rd. No. 2, Frankfort, KY 13440. Representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, NY 13501, (315) 797–1970. Transporting such commodities as are dealt in or used by manufacturers and distributors of beer, between points in the U.S., under continuing contract(s) with F. X. Matt Brewing Company, of Utica, NY.

MC 149472 (Sub-2), filed March 25, 1981. Applicant: INTER-COASTAL, INC., 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, between points in the U.S., under continuing contract(s) with Crown, Cork & Seal Co., Inc., of Philadelphia, PA.

MC 149472 (Sub-3), filed March 25, 1981. Applicant: INTER-COASTAL, INC., 131 Beaverbrook Road, Lincoln Park, NJ 07035. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *metal products, rubber and plastic products*, between points in the U.S., under continuing contract(s) with Hedwin Corporation, of Baltimore, MD.

MC 152073, filed March 19, 1981. Applicant: DENVER NETTLES TRUCKING, INC., 1148 Denver Drive, Carpentersville, IL 60110. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602, (312) 236–8225. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of wire products, beanbag chairs, plastic products, steel racks, expanded foam beads, and cardboard cartons, between points in the U.S., under continuing contract(s) with (a) Now Products, Inc., of Bensenville, IL, and (b) Shaped Wire, Inc., of St. Charles, IL.

MC 154372 (correction), filed February 10, 1981, published in the **Federal Register**, issue of March 18, 1981, and republished, as corrected, this issue. Applicant: EXECUTIVE TRAVEL SERVICE, INC., d.b.a. FUGAZY INTERNATIONAL TRAVEL, One Boston Place, Boston, MA 02108. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. (617)742–3530. To engage in operations, in interstate of foreign commerce, as a *broker*, at Boston, MA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the U.S.

Note.—The purpose of this republication is to correct the territorial description.

Volume No. OPY4–058

Decided: April 1, 1981.

By the Commission, Review Board No. 2, Members Fisher, Williams (Carleton not participating.)

FF 547, filed March 24, 1981. Applicant: BENLIN DISTRIBUTION SERVICES, INC., 89 Perry St., Buffalo, NY 14203. Representative: Dennis John Boyle, Jr., 32 Mississippi St., Buffalo, NY 14203, (716) 856–1035. As a freight forwarder, in connection with the transportation of *general commodities*, between points in Erie, Niagara, Chautauqua, Cattaraugus, Alleghany, Wyoming, Genesee, Orleans, Monroe, Livingston and Steuben Counties, NY, on the one hand, and, on the other, points in WA, OR, CA, NV, AZ, UT, CO, IL, TX, and OH.

MC 16557 (Sub-8), filed March 17, 1981. Applicant: J. L. SCHEFFLER TRANSPORT, INC., 1801 W. Fulton St., Chicago, IL 60612. Representative: J. L. Scheffler, Jr. (same address as applicant), (312) 733–47433. Transporting *general commodities* (except classes A and B explosives), between points in WI, on the one hand, and, on the other,

points in Boone, Champaign, Cook, DeKalb, DuPage, Ford, Grundy, Iroquious, Kankakee, kendall, Lake, LaSalle, Lee, Livingston, McHenry, Ogle, Vermilion, Will, and Winnebago Counties, IL, and Boone, Carroll, Cass, Clinton, Elkhart, Fulton, Hancock, Hamilton, Hendricks, Lake, LaPorte, Marion, Marshall, Montgomery, Porter, Pulaski, St. Joseph, Tippecanoe, and White Counties, IN.

MC 39167 (Sub-18), filed March 23, 1981. Applicant: C. J. ROGERS TRANS. CO., a corporation, 2947 Greenfield Rd., Melvindale, MI 48122. Representative: Robert D. Schuler, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013, (313) 645–9600. Transporting *metal products, machinery, transportation equipment, and building materials*, between points in IL, IN, MI, NY, OH, PA, and WI, on the one hand, and, on the other, points in the U.S.

MC 78947 (Sub-23), filed March 19, 1981. Applicant: ELLIOTT BROS. TRUCK LINE, INC., Dysart, IA 52224. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *general commodities* (except classes A and B explosives), between points in Grundy County, IA, on the one hand, and, on the other, points in the U.S.

MC 79687 (Sub-38), filed March 19, 1981. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Rd., Zelienople, PA 16063. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471 1800. Transporting *food and related products*, between points in Allegheny County, PA, and Schenectady County, NY, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, MO, AR, and TX.

MC 109847 (Sub-34), filed March 23, 1981. Applicant: BOSS-LINCO LINES, INC., 3909 Genesee St., Cheektowaga, NY 14225. Representative: Harold G. Hernly, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313, (716) 631 4200. Over regular routes, transporting *general commodities* (except classes A and B explosives), serving points in McDonough County, IL, as off-route points in connection with the carrier's regular route operations.

Note.—Applicant intends to tack the off-route authority sought with its existing authority.

MC 111307 (Sub-15), filed March 17, 1981. Applicant: TNT CANADA, INC., 4878 Manor St., Burnaby, BC, Canada U5G 1B3. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101, (206) 624 7373. Transporting *general commodities* (except classes A and B explosives), between the ports of entry on the international boundary line between the U.S. and Canada in WA, on the one hand, and, on the other, points in CA.

MC 127047 (Sub-46), filed March 16, 1981. Applicant: ED RACETTE & SON, INC., 6021 No. Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202 (316) 265–2634. Transporting *lumber and wood products*, between points in CA, ID, MT, OR, WA, and WY, on the one hand, and, on the other, points in AR, KS, MO, OK, NE, and TX.

MC 128577 (Sub-4), filed March 17, 1981. Applicant: CLYDE'S CHARTER BUS SERVICE, INC., 301 Furnace Branch Rd. E., Glen Burnie, MD 21061. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–3525. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter and special operations, beginning and ending at Baltimore, MD, and those points in its commercial zone north of Interstate Hwy 70 and west of Interstate Hwy 83, and extending to points in the U.S.

MC 128837 (Sub-29), filed March 20, 1981. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *food and related products*, between points in the U.S.

MC 136357 (Sub-6), filed March 16, 1981. Applicant: BEST TRANSPORTATION CORP., S. Washington Ave. and River St., Scranton, PA 18503. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *home entertainment devices*, between points in PA, IN, and OH.

MC 142487 (Sub-7), filed March 23, 1981. Applicant: JOHN H. KOOY TRUCKING, INC., 2936 Shelby Rd., Lynnwood, WA 98036. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101, (206) 624–2832. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *restaurant supplies*, between points in WA, OR, and CA.

MC 144757 (Sub-6), filed March 16, 1981. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with Black Hills Chemical Co., Inc., of Rapid City, SD.

MC 145797 (Sub-12), filed March 23, 1981. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Dr., Chesterfield, MO 63017. Representative: R. Thomas Grasso, 111 Hilltown Village Center, Suite 212, Chesterfield, MO 63017, (314) 532–7035. Transporting *floor coverings and related products*, between points in IL, NJ, PA, and TX, on the one hand, and, on the other, points in IA, MN, MO, and NE.

MC 148737 (Sub-9), filed March 23, 1981. Applicant: SUNSET EXPRESS CORP., P.O. Box 27153, Salt Lake City, UT 84125. Representative: Michael A. Clark (same address as applicant), (801) 484–4307. Transporting *general commodities* (except classes A and B explosives), between Chicago, IL, Philadelphia, PA and Secaucus, NJ, on the one hand, and, on the other, points in the U.S.

MC 154797 (Sub-1), filed March 23, 1981. Applicant: GREAT BASIN TRANSPORT, INC., 265 W. 2700 S., Salt Lake City, UT 84115. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111, (801) 531–1300. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with Great Basin GMC, Inc., of Salt Lake City, UT.

MC 154837, filed March 19, 1981. Applicant: A & F TRANSPORT, INC., P.O. Box 231, Cato, NY 13033. Representative: Roy D. Pinsky, Suite 1020, State Tower Bldg., Syracuse, NY 13202, (315) 422–2384. Transporting (1) *urea*, and (2) *food and related products*, between points in the U.S., under continuing contract(s) in (1) above with Genstar Chemical Limited, of Maitland, Ontario, and (2) above with Getkin Associates Incorporated, of Norristown, PA, The Beacon Milling Company, Inc., of Cayuga, NY, Pillsbury Company-Feed Ingredient Division, of Buffalo, NY, Agway, Inc., of Syracuse, NY, and Cooperative Feed Dealers, Inc., of Binghamton, NY.

MC 154857, filed March 23, 1981. Applicant: ROGERS LEASING, INCORPORATED, 2098 W. Broad St., Scotch Plains, NJ 07076. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of (a) advertising displays (b) packaging and shipping supplies, and (c) janitorial and maintenance supplies, between points in the U.S., under continuing contract(s) with Hughes Enterprises, of Trenton, NJ.

MC 154867, filed March 23, 1981. Applicant: SMEDEMA GRAIN, INC., 110 Hopkins Dr., Randolph, WI 53956. Representative: Randall J. Smedema (same address as applicant), (414) 326-5215. Transporting *precast concrete products*, between points in the U.S., under continuing contract(s) with Randolph Concrete Products, Inc., of Wichita, KS.

MC 154897, filed March 24, 1981. Applicant: BILL'S TRUCKING SERVICE, INC., Box 143, Le Center, MN 56057. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *precut houses*, knocked down, between points in the U.S., under continuing contract(s) with Miles Homes division of Insilco, of Minneapolis, MN.

MC 154907, filed March 24, 1981. Applicant: THE BUCK COMPANY, a corporation, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (612) 459-6121. Transporting *food and related products*, between points in IL, IN, MI, and MN.

MC 154937, filed March 24, 1981. Applicant: COLLEY & COMPANY, INC., 123 E. Grant, Pauls Valley, OK 73075. Representative: Michael H. Lennox, 8903 North Western Ave., Oklahoma City, OK 73114, (405) 840-9805. Transporting *iron and steel articles*, between points in OK, TX, AR, MO, KS, CO, MN, NE, and IL.

Volume No. OPY4-060

Decided: April 1, 1981.

By the Commission Review Board No. 2, Members Fisher, Williams. (Carleton not participating.)

MC 138237 (Sub-16), filed March 23, 1981. Applicant: METRO HAULING, INC., 20848 77th Ave. So., Kent, WA 98031. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101, (206) 624-7373. Transporting *commodities that are dealt in or used by manufacturers, wholesalers, retailers or users of* (a) *building and construction materials, equipment and supplies*, (b) *metal and metal articles*, (c) *lumber, wood products, particle board and plywood*, and (d) *brick and refractory products*, between points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-10404 Filed 4-6-81; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment not a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-098

Decided: March 30, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler and Taylor.

MC 2051 (Sub-1), filed March 13, 1981. Applicant: J. C. DRISCOLL TRANSPORTATION, INC., P.O. Box 121, 115 Carter St., Chelsea, MA 02150. Representative: Mary E. Driscoll, 75 Richfield Rd., Arlington, MA 02174, (617) 643-8247. Transporting *general commodities* (except classes A and B explosives), between points in MA, on the one hand, and, on the other, points in RI, NH, CT, and ME.

MC 2900 (Sub-443), filed March 16, 1981. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant), (904) 353-3111. Transporting *general commodities* except classes A and B explosives), between points in the U.S., under continuing contract(s) with Dow Chemical U.S.A., Texas Division, of Freeport, TX.

MC 23550 (Sub-1), filed March 19, 1981. Applicant: DANTE F. VOLPE, 553 Foundry Rd., Norristown, PA 19401. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 South 12th St., Philadelphia, PA 19107, (215) 922-1400. Transporting *general commodities* (except classes A and B explosives), between Baltimore, MD, points in DE and NJ, and those in Baltimore County, MD, on the one hand, and, on the other, points in Philadelphia, Bucks, Montgomery, Chester, Delaware, Lancaster, York, Cumberland, Dauphin, Lebanon, Berks, Lehigh, Northampton, Schuylkill, Northumberland, Carbon, Monroe, Luzerne, Lackawanna, Montour, and Columbia Counties, PA.

MC 59800 (Sub-25), filed March 18, 1981. Applicant: WEICKER TRANSFER & STORAGE COMPANY, d.b.a. WEICKER MOVING & STORAGE COMPANY, 3060 Brighton Blvd., Denver, CO 80216. Representative: Joseph F. Nigro, 400 Denver Hilton Office Bldg., 1515 Cleveland Pl., Denver,

CO 80202, (303) 825–3281. Transporting (1) *metal products*, (2) *machinery*, (3) *building and construction materials*, and (4) *construction trailers*, between points in CO, on the one hand, and, on the other, points in AZ, NM, KS, NE, WY, UT, and TX.

MC 106920 (Sub-129), filed March 20, 1981. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001, (202) 628–9243. Transporting *food and related products*, between points in Dekalb County, IN, Outagamie County, WI, Crawford County, IL, and Guernsey, Franklin, and Miami Counties, OH, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 114730 (Sub-7), filed March 13, 1981. Applicant: V. VAN DYKE, INC., 150 S. River St., Seattle, WA 98108. Representative: V. Van Dyke (same address as applicant), (206) 762–2222. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with (a) Bumstead-Woolford Co., Inc., of Woodinville, WA, (b) Chadwick & Buchanan of Long Beach, CA, (c) Pacific Northwest Perishable Shippers Association, and the Howard S. Wright Construction Co., both of Seattle, WA, and (d) Verco Manufacturing Co., of Phoenix, AZ.

MC 115391 (Sub-2), filed March 16, 1981. Applicant: GENSIMORE TRUCKING, INC., P.O. Box L, Pleasant Gap, PA 16823. Representative: Barry L. Ginsimore (same address as applicant), (814) 355–5461. Transporting *household appliances*, between points in the U.S., under continuing contract(s) with Proctor Silex, Inc., of Atoona, PA.

MC 116300 (Sub-86), filed March 23, 1981. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J., Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *dry commodities in bulk* (1) between points in AL, AR, FL, GA, LA, MO, MS, OK, TN, and TX, and (2) between points in AL, AR, FL, GA, LA, MO, MS, OK, TN, and TX, on the one hand, and, on the other points in AZ, CA, CO, IL, IN, KS, KY, MI, MT, NC, NM, NV, OH, SC, UT, VA, WV and WY.

MC 116371 (Sub-24), filed March 17, 1981. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ontario, Canada L5J 2Y4. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48266, (313) 962–8492. *In foreign commerce only*, transporting *petroleum, natural gas and their products* (1) between ports of entry on the international boundary line between the U.S. and Canada in MI and NY, on the one hand, and, on the other, points in Kalamazoo County, MI, Montgomery County, OH, and Montgomery County, PA, and (2) between ports of entry on the international boundary line between the U.S. and Canada in MI and NY, on the one hand, and, on the other, points in Beaver and Cambria Counties, PA.

MC 116791 (Sub-26), filed March 17, 1981. Applicant: FARMERS ELEVATOR OF KENSINGTON, MINNESOTA, INC., Box 184, Kensington, MN 56343. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Minneapolis, MN 55424, (612) 927–8855. Transporting *such commodities* as are dealt in by manufacturers and distributors of salt and salt products, between points in MN, ND, SD, IA, and WI.

MC 127820 (Sub-20), filed March 9, 1981. Applicant: TRANS-SERVICE, INC., 1943 S. Lawn Ext., Coshocton, OH 43812. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives), between the facilities used by Becton Dickinson and Company and its divisions and subsidiaries in the U.S., on the one hand, and, on the other, points in the U.S.

MC 128410 (Sub-1), filed March 16, 1981. Applicant: BALISTRERI TRUCKING, INC., P.O. Box 451, Morgan, PA 15064. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *plastic insulation*, between points in the U.S., under continuing contract(s) with Koppers Company, Inc., of Pittsburgh, PA.

MC 135691 (Sub-54), filed March 9, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Drive, Dallas, TX 75228. Representative: J. Max Harding, 4211 South 33rd St., P.O. Box 6645, Lincoln, NE 68506, (402) 489–3585. Transporting *paint and paint products*, between the facilities of PPG Industries, Inc., in the U.S., on the one hand, and, on the other, points in the U.S.

MC 135691 (Sub-58), filed March 20, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Dr., Dallas, TX 75228. Representative: J. Max Harding, P.O. Box 6645, Lincoln, NE 68506, (402) 489–3585. Transporting *containers and container accessories*, between points in Kay County, OK, on the one hand, and, on the other, points in AR, CO, IA, NE, and TX.

MC 135691 (Sub-59), filed March 20, 1981. Applicant: DALLAS CARRIERS CORP., 12661 Perimeter Dr., Dallas, TX 75228. Representative: J. Max Harding, P.O. Box 6645, Lincoln, NE 68506, (402) 489–3583. Transporting *food and related products*, between Denver, CO, Los Angeles, CA, points in Santa Clara County, CA, and Cook County, IL, on the one hand, and, on the other, points in the U.S.

MC 13800 (Sub-84), filed March 16, 1981. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *petroleum, natural gas and their products*, between those points in the U.S. in and east of MN, IA, KS, OK, and TX. Condition: To the extent that any certificate issued in this proceeding authorizes the transportation of liquified petroleum gas, it shall expire 5 years from its date of issuance.

MC 138000 (Sub-85), filed March 23, 1981. Applicant: ARTHUR H. FULTON, INC., P.O. Box 99, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740 (301) 797–6060. Transporting *machinery*, between points in Jefferson and Berkeley Counties, WV, and Washington County, MD, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 139380 (Sub-9), filed March 18, 1981. Applicant: STIDHAM TRUCKING, INC., P.O. Box 308, Yreka, CA 96097. Representative: O. L. Stidham (same address as applicant), (916) 842–4161. Transporting *such commodities* as are dealt in or used by dealers of construction materials, between points in AZ, CA, CO, ID, MO, MT, NM, NV, OK, OR, TX, UT, WA, and WY.

MC 140011 (Sub-9), filed March 19, 1981. Applicant: A. C. DENNLER CO., INC., 13023 Arroyo Ave., San Fernando, CA 91340. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517 (717) 344–8030. Transporting (1) *materials and supplies* used in the manufacture and distribution of writing instruments, and (2) *such commodities* as are dealt in by drug, variety, and food stores, between points in the U.S., under continuing contract(s) with The Gillett Company, of Boston, MA.

MC 140800 (Sub-6), filed March 19, 1981. Applicant: COLONIAL TRANSPORTATION, INC., P.O. Box

448, McMinnville, TN 37110. Representative: Robert L. Baker, Sixth Floor, United American Bank, Nashville, TN 37219 (615) 244–8052. Transporting *such commodities* as are dealt in by manufacturers of valves, between points in the U.S., under continuing contract(s) with DeZurik, a unit of General Signal Corporation, of Sartell, MN.

MC 145301 (Sub-13), filed March 20, 1981. Applicant: R.E.M. TRANSPORT CO., INC., Building No. 431, Raritan, Edison, NJ 08817. Representative: Brian S. Stern, North Springfield Professional Center II, 5411–D Backlick Rd., Springfield, VA 22151 (703) 941–8200. Transporting (1) *telephone equipment* and (2) *materials and supplies* used in the construction and maintenance of telephone systems, between Denver, CO, on the one hand, and, on the other, points in IA, IL, KS, MI, NE, OK, and TX.

MC 146451 (Sub-36), filed March 19, 1981. Applicant: WHATLEY-WHITE, INC., P.O. Box 6, Dothan, AL. Representative: Jeffrey W. Kohlman, Fifth Floor, Lenox Towers S, 3390 Peachtree Rd., N.E., Atlanta, GA 30326 (404) 262–7855. Transporting *general commodities* (except classes A and B explosives), between the facilities of Purex Corporation in the U.S., on the one hand, and, on the other, points in the U.S.

MC 146451 (Sub-37), filed March 20, 1981. Applicant: WHATLEY-WHITE, INC., P.O. Box 6, Dothan, AL 36302. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., N.E., Atlanta, GA 30326 (404) 793–9514. Transporting *textile mill products*, between the facilities of Union Underwear Company, Inc., in the U.S. on the one hand, and, on the other, points in the U.S.

MC 146950 (Sub-2), filed March 19, 1981. Applicant: JOSEPH G. HALL, INC., 148 Kent St., Albany, NY 12206. Representative: Bertrand F. Gould, 112 State St., Albany, NY 12207. Transporting *pulp, paper and related products*, between those points in the U.S. in and east of MN, IA, MO, AR, and LA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 147351 (Sub-3), filed March 2, 1981. Applicant: YORK ENTERPRISES, INC., d.b.a. DIAMOND Y HOT SHOT, P.O. Box 1117, Mills, WY 82644. Representative: Ronald E. Laitsch, P.O. Box 70, Watertown, WI 53094 (414) 261–9725. Transporting *mercer commodities*, between points in AZ, NM, TX, CA, OR, WA, OK, KS, NV, and LA.

MC 147421 (Sub-2), filed March 18, 1981. Applicant: J. N. L'HEUREUX, INC., 95 College Ave., Waterville, ME 04901. Representative: Daniel J. L'Heureux (same address as applicant) (207) 872–8077. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Federal Distributors, Inc., of Lewiston, ME.

MC 148220 (Sub-3), filed March 16, 1981. Applicant: J. E. M. EQUIPMENT, INC., P.O. Box 396, Alma, AR 72921. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701 (501) 521–8121. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with McCormick and Company, Inc., of Hunt Valley, MD.

MC 149100 (Sub-7), filed March 17, 1981. Applicant: JIM PALMER TRUCKING, INC., Representative: John T. Wirth, 717, 17th St., Ste. 2600, Denver, CO 80202 (303) 892–6700. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Tectum, Inc., of Newark, OH.

MC 149500 (Sub-2), filed March 12, 1981. Applicant: INTERMODAL SERVICES, INC., 11650 Courthouse Blvd., Inver Grove Heights, MN 55075. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402 (612) 339–4546. Transporting *metal products and machinery* (1) between Minneapolis, MN, and points in Steel, Waseca and Meeker Counties, MN, on the one hand, and, on the other, points in the U.S., and (2) between Milwaukee, WI, on the one hand, and, on the other, points in the U.S.

MC 150080 (Sub-7), filed March 18, 1981. Applicant: CONTROLLED CARRIERS, INC., P.O. Box 367, Exton PA 19341. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740 (301) 739–4860. Transporting *pulp, paper and related products* and *rubber and plastic products*, between the facilities used by Georgia Pacific Corporation in the U.S., on the one hand, and, on the other, points in the U.S.

MC 150930, filed March 19, 1981. Applicant: WRIGHT TRUCKING, INC., Route 1, Chatfield, MN 55923. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Minneapolis, MN 55424 (612) 927–8855. Transporting *leather and leather products*, between points in Faribault, Fillmore, Olstead, and Ramsey Counties, MN, and Mitchell County, IA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 151220 (Sub-4), filed March 16, 1981. Applicant: DULANEY INVESTMENTS, INC., Suite 111, 305 W. Chesapeake Ave., Towson, MD 21204. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740 (301) 321–7268. Transporting *food and related products*, between St. Paul and Wabasha, MN, and points in Lesueur, Scott, and Brown Counties, MN, on the one hand, and, on the other, points in the U.S.

MC 151401 (Sub-2), filed March 16, 1981. Applicant: TRANSPORT RESOURCES, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014 (609) 829–9620. Transporting *such commodities* as are dealt in by retail, department, mail order, and discount stores, between Philadelphia, PA and in NJ, on the one hand, and, on the other, those points in the U.S. in and east of LA, AR, MO, IA, and WI.

MC 151601, filed March 23, 1981. Applicant: ARMORED MOTOR SERVICE OF AMERICA, INC., 15 Hudson Ave., Rochester, NY 14605. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202 (315) 472–8645. Transporting *articles of unusual value*, between points in the U.S., under continuing contract(s) with (a) Burroughs Corp. of Rochester, NY, and (b) Sabin Metal Corp. of Scottsville, NY.

MC 151721 (Sub-2), filed March 19, 1981. Applicant: LAUFENBERG FEED & AGRI–SERVICE, INC., Route No. 1, P.O. Box 90A, Highland, WI 53543. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703 (608) 256–7444. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with International Minerals and Chemical Corporation, of Mundelein, IL.

MC 152030, filed March 16, 1981. Applicant: WASPI TRUCKING, INC., 9500 Pyott Rd., Alqonquin, IL 60102. Representative: Stephen H. Loeb, Suite 2027, 33 North La Salle St., Chicago, IL 60602 (312) 726–9722. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Cary Metal Products, Inc., of Barrington, IL.

MC 152581 (Sub-1), filed March 20, 1981. Applicant: YOUNG MOVING & STORAGE, INC., 4000 Mayflower Drive, Lynchburg, VA 24501. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006 (202) 833–8884. Transporting *household goods*, between points in VA, Summit and Stark Counties, OH, Mercer, Monroe, Summers, and McDowell Counties, WV, and Florence County, SC, on the one hand, and, on the other, points in DE, GA, KY, MD, NC, NJ, NY, OH, PA, SC, TN, VA, WV and DC.

MC 152620 (Sub-2), filed March 16, 1981. Applicant: CUSTOMIZED TRANSPORTATION, INC., 999 North Main St., Glen Ellyn, IL 60137. Representative: Dennis J. Kupchik, 1105 N. Market St., 15th Floor, Wilmington, DE 19801 (800) 523–4837. Transporting *such commodities* as are dealt in by a manufacturer and distributor of packaging products, between points in the U.S., under continuing contract(s) with Owens-Illinois Corporation, of Toledo, OH.

MC 153011 (Sub-1), filed March 16, 1981. Applicant: JOHN H. MANLEY d.b.a. MANLEY'S TRANSPORT, 447 S. Olympia Way, Orange, CA 92669. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211 (213) 655–3573. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Acme Fast Freight, Inc., of Los Angeles, CA.

MC 153710 (Sub-1), filed March 19, 1981. Applicant: DENNIS FISHER, d.b.a. FISHER TRUCKING, P.O. Box 62, Perry, IA 50220. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *food and related products*, between points in Dallas County, IA, on the one hand, and, on the other, points in NE.

MC 154491, filed March 17, 1981. Applicant: THOMAS R. HAPPERSETT, d.b.a. HAPPERSETT ENTERPRISES, Rt. 2, Wautoma, WI 52982. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703 (608) 256–7444. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Karem, Inc., of Marshall, WI.

MC 154599 (Sub-1), filed March 13, 1981. Applicant: CHAMPION TRUCK LINES, INC., 3651 E. Milwaukee, Detroit, MI 48211. Representative: John M. Veale, 32nd Floor, 100 Renaissance Center, Detroit, MI 48226, (313) 259–3232. Transporting *general commodities* (except classes A and B explosives) between points in GA, IL, IN, KS, KY, MI, MO, NJ, NY, OH, OK, PA, TN, TX, and WI.

MC 154681 (Sub-1), filed March 20, 1981. Applicant: NORTH CENTRAL TRANSPORTATION, INC., R.R. 2, Box 83B, Fargo, ND 58102. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *lumber and wood products*, between points in MT and ID, on the one hand, and, on the other, points in CA, CO, IL, IA, MN, NE, ND, SD, UT, WI, and WY.

MC 154790 (Sub-1), filed March 24, 1981. Applicant: ENCON, INC., 45–95 No. Chicopee St., Chicopee, MA 01020. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in AR, CA, CT, IL, MA, ME, NC, NJ, NY, OH, and RI, on the one hand, and, on the other, points in the U.S.

MC 154801, filed March 6, 1981. Applicant: A. L. OWENS TRUCKING, INC., Old Hwy 99N, Box 28A, Glendale, OR 97442. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. Transporting (1) *lumber and wood products*, between points in AZ, CA, ID, NV, OR, and WA, and (2) *materials, supplies and equipment* used in the manufacture and distribution of containers, between points in CA, ID, OR, and WA.

MC 154861, (Sub-1), filed March 18, 1981. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005 (202) 347–9332. Transporting *furniture and fixtures* (1) between points in NC, on the one hand, and, on the other, points in FL, GA, AL, and MS, and those points in the U.S. in and west of WI, IA, MO, AR, and LA, and (2) between points in Travis County, TX, and Bienville Parish, LA, on the one hand, and, on the other, points in the U.S.

MC 154870, filed March 23, 1981. Applicant: MMR, INC., 3528 Whippoorwill Road, Louisville, KY 40213. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202 (502) 589–5400. Transporting *such commodities* as are dealt in or used by railroads, between points in the U.S., under continuing contract(s) with L & N Railroad, of Louisville, KY.

MC 154910, filed March 20, 1981. Applicant: M & S CARTAGE, INC., P.O. Box 117, Cottondale, AL 35453. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210 (703) 525–4050. Transporting *building materials*, between points in Tuscaloosa County, AL, Knox County, TN, and Frederick County, MD, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-10479 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. OP3-205]

Motor Carriers; Decision-Notice

Decided: March 25, 1981.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be constructed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 C.F.R. 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

We also find, that the transaction is consistent with the public interest, will enable the rail carrier to use motor carrier transportation to public advantage in its operation, and will not unreasonably restrain competition.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

MC-F-14571, filed February 6, 1981. THE CHESAPEAKE AND OHIO RAILWAY COMPANY (C&O) (3200 Terminal Tower, P.O. Box 6419, Cleveland, OH, 44101)—CONTINUANCE IN CONTROL—CHESSIE MOTOR EXPRESS INC. (CMX)—INITIAL COMMON CARRIER (3200 Terminal Tower, P.O. Box 6419, Cleveland, OH, 44101). Representative: John J. Paylor, 3200 Terminal Tower, P.O. Box 6419, Cleveland OH, 44101). C&O authority to continue in control of CMX upon the institution by CMX of operations, in interstate or foreign commerce, as a motor common carrier. CSX Corporation (CSX) controls C&O through stock ownership. CSX, a publicly held non-carrier corporation, seeks authority to acquire control of said rights through transaction. C&O is a rail common carrier which also controls The Baltimore and Ohio Railroad Company (B&O), Western Maryland Railway Company, The Baltimore and Ohio Chicago Terminal Railroad Company, The Staten Island Railroad Corporation, Chicago South Shore and South Bend Railroad. These railroads operate in IL, IN, OH, MI, PA, NJ, NY, DE, MD, VA, WV, KY, DC, and the Province of Ontario, Canada. CSX Corporation controls Seaboard Coast Line Railroad Company (SCL), which holds motor common carrier authority in MC 86687. SCL controls Louisville and Nashville Railroad Company (MC 89811), The Western Railway of Alabama (MC 117607), Atlanta and West Point Railroad (MC 117580), and Seacoast Transportation Company (STC) (MC 23942). SCL also controls Clinchfield Railroad Company, Georgia Railroad, Columbia, Newberry and Laurens Railroad, Durham and Southern Railway Company, Gainesville Midland Railroad, and The Carrollton Railroad. These railroads operate in KY, TN, AL, FL, MS, GA, LA, NC, VA, SC, IL, IN, and OH. CSX also controls the Richmond, Fredericksburg and Potomac Railroad, which conducts operations in VA. By application in MC 152494 (Sub-No. 1), Chessie Motor Express, Inc. seeks authority to transport general commodities, with exception, for the U.S. Government, between points in the U.S., and is published concurrently herewith. By application in MC 152494 (Sub-No. 2) filed February 17, 1981, applicant seeks to transport general commodities with exception, between points in numerous States. All of the capital stock of CMX has been issued to C&O and is held in trust subject to a voting trust agreement, pending approval of this application.

[FR Doc. 81-10344 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. OP3-206]

Motor Carriers; Decision-Notice

Decided: March 26, 1981.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy or simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or

the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

Agatha L. Mergenovich,

Secretary.

MC 152494 (Sub-1), filed February 6, 1981, previously published in the **Federal Register** issue of March 6, 1981. Applicant: CHESSIE MOTOR EXPRESS, INC., P.O. Box 6419, 3200 Terminal Tower, Cleveland, OH 44101. Representative: Eugene D. Anderson, 910 Seventeenth St., NW., Suite 428, Washington, D.C. 20036. Transporting for or on behalf of the U.S. Government, (1) *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), and (2) *used household goods* which transportation is incidental to a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. Restriction: The authority granted herein shall not be severable by sale or otherwise from the authority held by the railroads listed in No. MC-F-1471, which is published concurrently herewith.

Note.—This republication corrects the commodity description, includes the restriction and indicates that this application is directly related to MC-F-14571, published in this same **Federal Register** issue.

[FR Doc. 81-10345 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-104)]

Chicago and North Western Transportation Co.; Abandonment Between Clintonville and Eland, WI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903, that a decision was issued by the Commission, Review Board Number 3, on March 26, 1981, stating that public convenience and necessity permit the Chicago and North Western Transportation Company to abandon 29.7 miles of railroad between Clintonville and Eland, WI. The abandonment is subject to employee protective conditions in Oregon Short Line R. Co. Abandonment—Goshen, 360 I.C.C. 91 (1979).

A Certificate of Abandonment will be issued to the Chicago and North Western Transportation Company May 7, 1981 unless on or before April 22, 1981, the Commission further finds that: (1) A financially responsible person (including a government entity) has offered financial assistance, in the form of a rail service continuation payment, to enable rail service involved to be continued. The offer must be filed with the Commission and served concurrently on applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423 no later than April 17, 1981; and (2) It is likely that such proffered assistance would—(a) cover the difference between revenues which are attributable to the line and the avoidable cost of providing rail service on the line, together with a reasonable return on the value of the line, or (b) cover the acquisition costs of all or any portion of the line.

If the Commission so finds, the issuance of a Certificate of Abandonment will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after offer is made. If no agreement is reached within 30 days of an offer and no request is made for the Commission to set conditions or amount of compensation, a Certificate of Abandonment will be issued immediately. When the Commission is notified that an assistance or acquisition or operating agreement is executed, it will postpone the issuance of the certificate for a period of time the agreement (including any extensions or modifications) is in effect.

The information and procedures about financial assistance for continued rail service or acquisition of the involved rail line are contained in 49 U.S.C. 10905 as amended by the Staggers Rail Act of 1980, (Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained in the statute as well as instructions contained in the Commission's decision in this proceeding.

Agatha L. Mergenovich,

Secretary.

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BILLING CODE 7035-01-M

[Ex Parte No. 399]

Cost Recovery Percentage

AGENCY: Interstate Commerce Commission.

ACTION: Further Notice of Proposed Costing Standards and Decision.

SUMMARY: The Commission has decided to use Rail Form A for estimating the railroad costs to be used in calculating the cost recovery percentage required by Section 202 of the Staggers Rail Act of 1980. The methodology for calculating the cost recovery percentage will be subject to further public comment next year. Comments on this determination are invited.

DATE: Comments are due on or before June 8, 1981.

ADDRESS: An original and 15 copies should be sent to: Interstate Commerce Commission, Room 5340, Washington, DC 20423.

FOR GENERAL INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7656.

FOR ASSISTANCE ON COST INFORMATION CONTACT: William T. Bono (202) 275-7354.

SUPPLEMENTARY INFORMATION: By notice served January 28, 1981, (46 FR 9794, January 29, 1981) the Commission requested comments on the appropriate methodology to be used to estimate rail costs for use in calculating the cost recovery percentage (CRP). The methodology selected will enable the Commission to implement Section 202 of the Staggers Rail Act of 1980.

Background

Section 202 of the Staggers Rail Act of 1980 (Staggers Act) expressly requires the Commission to calculate, within 180 days after the effective date of the Act and on an annual basis thereafter, the cost recovery percentage (CRP) for all rail traffic. The CRP is a ratio of revenue to variable cost (R/VC) that is to serve as the jurisdictional threshold for rate regulation by the Commission beginning October 1, 1984, or, if the CRP is less than 175 percent, beginning October 1, 1983. Additionally, the Staggers Act sets a threshold of a) 160 percent until September 30, 1981, b) 165 percent from October 1, 1981 until September 30, 1982, and c) 170 percent from October 1, 1982 until September 30, 1983. In no event shall the CRP be less than a R/VC of 170 percent or more than a R/VC of 180 percent.

The CRP is to be set at a level such that even if all rates above the CRP were held at the CRP, carriers in the aggregate would earn revenues sufficient to cover industry-wide variable plus fixed costs.[1]

Summary of Conclusions

The cost recovery percentage (CRP) determined by the Commission will not be used as a jurisdictional threshold until at least October 1, 1983. We have determined and are publishing a CRP based on the methodology contained in

[1] Fixed costs are defined for this particular purpose in the Staggers Act to include a return to both equity and debt capital calculated using the embedded debt rate.

this decision. We will consider changes in the methodology as appropriate.

For purposes of the first determination of the CRP, we will use the Rail Form A (RFA) methodology. We understand that there are some technical problems in the use of RFA methodology. In addition, the most current RFA data are from 1977. However, at the present time we believe it is the best method available. In implementing the new Uniform Rail Costing System (URCS), we are currently revising the sampling and costing procedures used by the Commission. We believe that this effort will produce a better sample and an improved costing methodology. At such time as URCS is available, we will evaluate its use for CRP determinations.

The CRP for 1981 is determined to be 197.5%

Public Comments

The comments focus on two major issues. First, all are concerned that we are not affording the public sufficient opportunity to participate in the establishment of the CRP. Second, the choice between RFA and URCS is characterized as a hollow one because the latter is an untried system.

It is not our purpose, nor do we have the legal basis, to exclude the public from the process of establishing the appropriate CRP methodology. In the future, once a final CRP methodology is selected and rationally supported, we do not intend to subject the mechanical process of computing the CRP to further formal procedures. Of course, the calculations will be available to the public.

This decision establishes the CRP for 1981 and explains the method for its calculation. We expect that many of the participants will have a firmer basis for commenting after they have reviewed it. We invite further public comment 60 days from the date this decision is published in the **Federal Register.** We will consider those comments when proposing a CRP for 1982. The proposal for 1982 will be issued sufficiently in advance of April 1, 1982 to allow for further comment prior to establishing the CRP.

We contemplate making a final decision on CRP methodology in connection with the 1982 determination. We will do so if the URCS system is available to be used and evaluated. We agree with the commenters that it is premature to make any judgment on URCS at this time.

In summary, our intention is to approach this subject fairly and carefully. The CRP determination is an academic exercise until October 1, 1983 at the earliest. We will take as much time as is needed between now and then to establish an appropriate methodology with the public's participation.

Methodology

1. Data Base

To determine the CRP, costs must be ascertained for a representative sample of rail movements. The best available source of such information is the 1977 costed Waybill File prepared for the Commission by A. T. Kearney.[2] Each record (movement) on this file was costed using adjusted Rail Form A costing procedures.[3] Records with revenue to variable cost ratios (R/VC) over 1000% or below 20% were purged from the data base and were assumed to be error records.

2. Average Revenue to Variable Cost

The remaining data base was evaluated. Revenues and variable costs in the sample were $147,581,498 and $111,083,866, respectively. The industry average R/VC was 132.86%.

3. Average Total Costs

The minimum R/VC necessary to cover total costs is derived from the 1977 RFA variability factor. On the average rail costs have been found to be 78.34% variable. Thus, in order to cover 100% of total costs, revenues must exceed variable costs by 27.6% (100÷78.34=127.6%). The 127.6% or total cost percentage R/VC establishes the benchmark for estimating the CRP.

4. Deriving the CRP

The R/VC for each waybill was calculated. These ratios were then grouped in 1% intervals except that all records between 300% and 1000% were consolidated and assumed to produce revenue at the 300% R/VC level. Since there were a limited number of records in the 300%–1000% range this consolidation has no material impact on the analysis. [See Appendix B column (1)].

An interative process was then applied to the grouped data. For each iteration the revenue in the highest group was reduced to assume that a revenue ceiling existed at the next lower R/VC group. This has the effect of setting the R/VC for each data group equal to the mid-point of the next lower data group. The adjusted industry average R/VC corresponding to each iteration is given in column (5) of Appendix B. The process was repeated down to data group 0.490–0.499. Appendix B was then inspected to determine the (highest) grouping which had a corresponding value in column (5) of 127.6%. The CRP is determined to be 197.5% (mid-point of group 1.970–1.979).

Noncompensatory Traffic

We believe that one additional issue should be discussed within this decision. Review of Appendix A indicates that a large volume of traffic moves at or below RFA variable cost (VC). Some of this may be explained by difficulties in our costing methodology. However, it is possible that some of this traffic is moving at rates that are too low.

With the passage of the 4R Act of 1976 and the Staggers Act, there is no reason why substantial volumes of traffic should continue to move below variable cost. As traffic moving at rates below variable cost lessens, the CRP will also decrease.

Our review of the comments has confirmed our preliminary view that this decision should not significantly affect the quality of the human environment, energy consumption, or have an adverse effect on small business.

(49 U.S.C. 10321 and 10709(d); and 5 U.S.C. 553)

Decided: March 30, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix A

RFA Costing of 1976 and 1977 Waybill Samples by A. T. Kearney, Inc.

A. T. Kearney, Inc. was hired under contract by the Commission to apply the 1976 and 1977 unit variable costs developed by the Bureau of Accounts to the 1976 and 1977 waybill samples. In addition to applying these basic estimates of variable cost per car-mile, carload, ton-mile, or ton, Kearney also made the following adjustments where applicable:

1. *Grain door adjustment.* If grain moves by boxcar, a plywood or paper door is placed behind the boxcar door to prevent loss of grain. A cost for this service was added to the basic estimates of variable cost. The cost adjustment was based on a special study by the Soo Line Railroad which is documented in Ex Parte 270 (Sub. No. 9).

2. *Export adjustment.* Export movements destined for Gulf ports received an additional five days of terminal car cost, and export movements to the North Pacific ports received an additional 3 days of terminal car cost. The adjustment factors were derived in an informal analysis by the Commission's Bureau of Accounts.

3. *In-transit inspection adjustment.* For each carload of grain (regardless of car type)

[2] A. T. Kearney, Inc. contract #ICC 78.C006, February, 1978.

[3] Various adjustments were made to the standard Rail Form A unit costs to reflect systematic variances from the average. (See Appendix A)

receiving an in-transit inspection, an additional 3.5 days of terminal car cost and an additional 8.68 minutes of terminal switching cost were added to the basic estimate of variable cost. The adjustment factors were derived in an informal study by the Bureau of Accounts.

4. *Interchange adjustment.* In the first step of this adjustment, the estimated interchange switching costs (included in the rail carload cost scales) were removed for all movements and replaced with more accurate switching costs for each movement, based on more specific interchange frequency data for each movement. The superior allocation of switching costs was based on a special study to determine the probable routings of movements in the waybill sample. This study was undertaken by Allan Kornhauser, Princeton University. In the second step of this adjustment, switching costs were halved for all movements involving 50 or more cars. The basis for this adjustment factor is documented in Ex Parte 270 (Sub. No. 4).

5. *Terminal switching adjustment.* The origin and destination terminal switching costs were reduced for movements consisting of more than 5 carloads, on the basis of a sliding scale, where reductions ranged from 12 to 75 percent. The adjustment factors were derived in a special study.

6. *Station clerical adjustment.* The origin and destination terminal clerical costs were reduced for movements consisting of more than 5 cars by assigning 25 percent of these costs on a per carload basis and 75 percent on a per shipment basis. The adjustment factor was the product of several informal analyses by the Bureau of Accounts.

7. *Freight train car cost adjustment.* The origin and destination freight train car costs were reduced for movements with more than 5 carloads. Movements with 6 to 49 cars received a 25 percent reduction in cost per car and movements with 50 or more cars received a 50 percent reduction in cost per car. The basis for these adjustment factors is documented in Ex Parte 270 (Sub No. 4).

8. *Inter-intratrain switching adjustment.* Intratrain and intertrain switching costs were deducted for all movements with 50 or more cars. The basis for this adjustment factor is documented in Ex Parte 270 (Sub No. 4).

With each of the above cost adjustments, a "make whole" adjustment was applied to the costs of the remaining traffic. In each instance, the increases or decreases in the costs of movements subject to the adjustment were summed and allocated to the remaining traffic. The purpose of the "make whole" adjustment is to leave unchanged the portion of industry variable costs allocated to movements in the waybill sample.

An outline of the computer program used by A. T. Kearney, Inc. to cost movements in the 1976 and 1977 waybill samples may be obtained upon request from the Commission.

BILLING CODE 7035-01-M

1977 COSTED KEARNEY WAYBILL FILE

LIMIT (1)	LIMIT (1)	REVENUES (2)	VAR-COSTS (3)	NO OF CARS (4)	RATIO (R/VC) (5)
3.000	- 3.000	$3338952	$1112964	2093	1.3215
2.990	- 2.999	61840	20651	39	1.3215
2.980	- 2.989	78295	25554	47	1.3214
2.970	- 2.979	83002	27897	46	1.3213
2.960	- 2.969	99723	33654	50	1.3212
2.950	- 2.959	73449	24660	37	1.3211
2.940	- 2.949	103480	35139	52	1.3209
2.930	- 2.939	107756	36710	56	1.3208
2.920	- 2.929	69668	23614	35	1.3207
2.910	- 2.919	69185	23753	50	1.3206
2.900	- 2.909	133753	47759	82	1.3205
2.890	- 2.899	116360	40185	56	1.3203
2.880	- 2.889	136136	47174	95	1.3202
2.870	- 2.879	102816	35568	74	1.3201
2.860	- 2.869	72826	25417	49	1.3199
2.850	- 2.859	90345	31430	51	1.3198
2.840	- 2.849	126390	44437	73	1.3196
2.830	- 2.839	119826	42278	66	1.3195
2.820	- 2.829	137929	48646	80	1.3193
2.810	- 2.819	102450	36417	64	1.3192
2.800	- 2.809	116900	41673	82	1.3190
2.790	- 2.799	122304	43744	69	1.3189
2.780	- 2.789	148885	53467	74	1.3187
2.770	- 2.779	130492	47029	81	1.3185
2.760	- 2.769	134104	48497	74	1.3183
2.750	- 2.759	157187	57045	81	1.3182
2.740	- 2.749	114182	41581	64	1.3180
2.730	- 2.739	169218	58560	116	1.3178
2.720	- 2.729	188164	65084	89	1.3176
2.710	- 2.719	109173	40210	69	1.3174
2.700	- 2.709	116900	43215	81	1.3172
2.690	- 2.699	118862	44102	70	1.3170
2.680	- 2.689	150887	56188	90	1.3167
2.670	- 2.679	128189	47929	84	1.3165
2.660	- 2.669	188873	70905	104	1.3163
2.650	- 2.659	188500	71004	94	1.3161
2.640	- 2.649	164144	62050	91	1.3158
2.630	- 2.639	184234	69916	113	1.3156
2.620	- 2.629	180641	68829	111	1.3153
2.610	- 2.619	232242	88402	120	1.3151
2.600	- 2.609	170151	65315	119	1.3148
2.590	- 2.599	212117	81755	121	1.3146
2.580	- 2.589	160500	62088	100	1.3143
2.570	- 2.579	192095	74602	104	1.3140
2.560	- 2.569	295969	115422	154	1.3137
2.550	- 2.559	252735	98900	135	1.3134
2.540	- 2.549	219236	86143	130	1.3131
2.530	- 2.539	174661	68892	111	1.3128
2.520	- 2.529	212020	83949	129	1.3125
2.510	- 2.519	219307	87202	146	1.3121

LIMIT (1)	LIMIT (1)	REVENUES (2)	VAR-COSTS (3)	NO OF CARS (4)	RATIO (R/VC) (5)
2.500	- 2.509	$262944	$104928	229	1.3118
2.490	- 2.499	277422	111212	162	1.3115
2.480	- 2.489	241070	97013	148	1.3111
2.470	- 2.479	215517	87067	135	1.3107
2.460	- 2.469	305152	123102	192	1.3104
2.450	- 2.459	225557	91873	153	1.3100
2.440	- 2.449	264722	106272	174	1.3096
2.430	- 2.439	260830	107138	161	1.3092
2.420	- 2.429	235874	97274	145	1.3088
2.410	- 2.419	244899	101417	163	1.3084
2.400	- 2.409	326598	135794	214	1.3079
2.390	- 2.399	283916	116545	166	1.3075
2.380	- 2.389	340113	142600	259	1.3070
2.370	- 2.379	312348	131522	209	1.3066
2.360	- 2.369	321513	135560	195	1.3061
2.350	- 2.359	305824	129850	192	1.3056
2.340	- 2.349	283347	120625	185	1.3051
2.330	- 2.339	351210	150401	333	1.3046
2.320	- 2.329	277892	119518	204	1.3041
2.310	- 2.319	306748	132478	223	1.3035
2.300	- 2.309	297981	129294	207	1.3030
2.290	- 2.299	318989	139013	244	1.3024
2.280	- 2.289	270845	118529	199	1.3018
2.270	- 2.279	355477	156281	229	1.3013
2.260	- 2.269	411607	181638	334	1.3007
2.250	- 2.259	296365	131465	265	1.3001
2.240	- 2.249	399060	177754	244	1.2994
2.230	- 2.239	321226	143744	236	1.2988
2.220	- 2.229	379126	170688	213	1.2981
2.210	- 2.219	366875	165648	245	1.2975
2.200	- 2.209	405911	184068	286	1.2968
2.190	- 2.199	319909	145292	217	1.2961
2.180	- 2.189	362614	166018	256	1.2954
2.170	- 2.179	396362	182259	302	1.2946
2.160	- 2.169	400468	184969	283	1.2939
2.150	- 2.159	449804	206850	310	1.2931
2.140	- 2.149	331343	154471	251	1.2923
2.130	- 2.139	389882	182611	287	1.2916
2.120	- 2.129	349361	164253	298	1.2907
2.110	- 2.119	398998	188688	357	1.2899
2.100	- 2.109	467560	222106	380	1.2891
2.090	- 2.099	431604	206822	378	1.2882
2.080	- 2.089	469155	224566	380	1.2873
2.070	- 2.079	444154	214112	336	1.2864
2.060	- 2.069	459270	222363	368	1.2855
2.050	- 2.059	487895	237439	386	1.2846
2.040	- 2.049	540941	264561	426	1.2836
2.030	- 2.039	527330	259116	402	1.2826
2.020	- 2.029	488716	240363	413	1.2816
2.010	- 2.019	453429	223401	431	1.2806

LIMIT (1)	LIMIT	REVENUES (2)	VAR-COSTS (3)	NO OF CARS (4)	RATIO (R/VC) (5)
2.000 -	2.009	$ 549164	$ 273972	469	1.2795
1.990 -	1.999	519140	260287	434	1.2784
1.980 -	1.989	557732	281015	418	1.2713
1.970 -	1.979	590858	299111	420	1.2762
1.960 -	1.969	573218	291656	486	1.2751
1.950 -	1.959	556035	285420	488	1.2739
1.940 -	1.949	566540	291293	461	1.2727
1.930 -	1.939	690661	351761	564	1.2715
1.920 -	1.929	575130	295800	449	1.2702
1.910 -	1.919	576181	300869	507	1.2689
1.900 -	1.909	595170	312407	583	1.2676
1.890 -	1.899	652518	344312	530	1.2662
1.880 -	1.889	540714	286874	443	1.2649
1.870 -	1.879	631436	336743	482	1.2635
1.860 -	1.869	630833	336188	513	1.2620
1.850 -	1.859	656059	353697	540	1.2606
1.840 -	1.849	667171	361646	536	1.2591
1.830 -	1.839	779794	425049	656	1.2575
1.820 -	1.829	694570	379139	569	1.2560
1.810 -	1.819	577569	318215	480	1.2544
1.800 -	1.809	729831	404361	830	1.2527
1.790 -	1.799	732797	406180	637	1.2511
1.780 -	1.789	702985	393904	595	1.2494
1.770 -	1.779	700631	394751	648	1.2476
1.760 -	1.769	809680	455758	685	1.2459
1.750 -	1.759	668978	381228	566	1.2441
1.740 -	1.749	835534	478944	758	1.2422
1.730 -	1.739	845976	487579	749	1.2403
1.720 -	1.729	843341	490985	645	1.2384
1.710 -	1.719	920845	536975	774	1.2364
1.700 -	1.709	771535	452536	725	1.2344
1.690 -	1.699	758416	447441	643	1.2323
1.680 -	1.689	767085	455169	680	1.2302
1.670 -	1.679	847321	505944	716	1.2281
1.660 -	1.669	896890	536688	759	1.2259
1.650 -	1.659	817614	494190	721	1.2237
1.640 -	1.649	859731	522691	804	1.2214
1.630 -	1.639	855720	523392	776	1.2191
1.620 -	1.629	964358	593530	905	1.2167
1.610 -	1.619	888576	550154	774	1.2142
1.600 -	1.609	949231	591503	830	1.2118
1.590 -	1.599	871173	546202	870	1.2092
1.580 -	1.589	1022130	644937	919	1.2067
1.570 -	1.579	939867	596729	900	1.2040
1.560 -	1.569	953915	609512	864	1.2013
1.550 -	1.559	1003475	645325	921	1.1986
1.540 -	1.549	992156	642149	956	1.1958
1.530 -	1.539	1023031	666405	1057	1.1929
1.520 -	1.529	1104402	724650	1082	1.1900
1.510 -	1.519	1113027	734742	1135	1.1870

LIMIT (1)	LIMIT	REVENUES (2)	VAR-COSTS (3)	NO OF CARS (4)	RATIO (R/VC) (5)
1.500 -	1.509	$ 1186891	$758779	1120	1.1839
1.490 -	1.499	1093927	731951	986	1.1808
1.480 -	1.489	1090498	734359	1114	1.1776
1.470 -	1.479	1084217	735058	1040	1.1744
1.460 -	1.469	1053799	719423	1077	1.1710
1.450 -	1.459	1231477	846234	1137	1.1676
1.440 -	1.449	1200304	830718	1160	1.1642
1.430 -	1.439	1169113	814817	1355	1.1606
1.420 -	1.429	1169953	821164	1121	1.1570
1.410 -	1.419	1125652	795545	1209	1.1533
1.400 -	1.409	1165945	829905	1158	1.1495
1.390 -	1.399	1070324	767151	1139	1.1457
1.380 -	1.389	1166309	842147	1202	1.1416
1.370 -	1.379	1076106	784021	1292	1.1379
1.360 -	1.369	1103633	852507	1192	1.1338
1.350 -	1.359	1104418	814599	1092	1.1297
1.340 -	1.349	1087131	808318	1168	1.1255
1.330 -	1.339	1095226	820376	1173	1.1212
1.320 -	1.329	1022219	771487	1121	1.1169
1.310 -	1.319	1097498	834629	1200	1.1124
1.300 -	1.309	1163469	891456	1231	1.1080
1.290 -	1.299	1099926	849396	1175	1.1034
1.280 -	1.289	1186960	923528	1419	1.0987
1.270 -	1.279	1239442	972039	1385	1.0940
1.260 -	1.269	1289316	1019225	1312	1.0892
1.250 -	1.259	1164845	926350	1297	1.0843
1.240 -	1.249	1184399	951516	1257	1.0793
1.230 -	1.239	1156315	936302	1315	1.0742
1.220 -	1.229	1147612	936779	1337	1.0690
1.210 -	1.219	1089378	896615	1221	1.0638
1.200 -	1.209	1185436	983789	1396	1.0585
1.190 -	1.199	1141778	955538	1341	1.0530
1.180 -	1.189	1230051	1038116	1369	1.0475
1.170 -	1.179	1186196	1009935	1441	1.0419
1.160 -	1.169	1194728	1025586	1535	1.0363
1.150 -	1.159	1124048	973220	1448	1.0305
1.140 -	1.149	1190816	1039985	1379	1.0246
1.130 -	1.139	1128491	994312	1400	1.0187
1.120 -	1.129	1225099	1086960	1453	1.0126
1.110 -	1.119	1216280	1090832	1502	1.0065
1.100 -	1.109	1132855	1025268	1441	1.0002
1.090 -	1.099	1090723	996055	1390	0.9939
1.080 -	1.089	1146140	1056250	1718	0.9874
1.070 -	1.079	1026863	955158	1469	0.9809
1.060 -	1.069	1045010	981198	1492	0.9743
1.050 -	1.059	1020975	967627	1386	0.9676
1.040 -	1.049	993973	951249	1358	0.9608
1.030 -	1.039	1074927	1038397	1449	0.9540
1.020 -	1.029	906624	884558	1319	0.9470
1.010 -	1.019	1039650	1024339	1403	0.9399

LIMIT (1)	LIMIT	REVENUES (2)	VAR-COSTS (3)	NO OF CARS (4)	RATIO(R/VC) (5)
1.000	- 1.009	$949439	$945126	1412	0.9928
0.990	- 0.999	851799	856381	1193	0.9256
0.980	- 0.989	933353	947738	1450	0.9183
0.970	- 0.979	852895	874836	1284	0.9109
0.960	- 0.969	796154	825019	1162	0.9034
0.950	- 0.959	806684	844597	1266	0.8959
0.940	- 0.949	738640	776299	1333	0.8883
0.930	- 0.939	630733	674426	1048	0.8808
0.920	- 0.929	659353	712904	1079	0.8729
0.910	- 0.919	611097	667926	1055	0.8651
0.900	- 0.909	611676	675847	1036	0.8572
0.890	- 0.899	602731	673516	1068	0.8493
0.880	- 0.889	623110	703891	1112	0.8413
0.870	- 0.879	584296	667802	1235	0.8332
0.860	- 0.869	554949	641436	1046	0.8251
0.850	- 0.859	514120	601350	936	0.8169
0.840	- 0.849	503775	596068	940	0.8087
0.830	- 0.839	495099	592883	1011	0.8004
0.820	- 0.829	478055	588627	1042	0.7921
0.810	- 0.819	569614	699133	1123	0.7837
0.800	- 0.809	537796	666159	995	0.7752
0.790	- 0.799	485452	610647	1011	0.7667
0.780	- 0.789	475081	605570	894	0.7582
0.770	- 0.779	469316	605270	874	0.7495
0.760	- 0.769	390314	510386	801	0.7408
0.750	- 0.759	389224	501397	800	0.7321
0.740	- 0.749	431746	579886	1012	0.7233
0.730	- 0.739	452671	616225	979	0.7145
0.720	- 0.729	510498	703462	956	0.7056
0.710	- 0.719	319957	447845	776	0.6967
0.700	- 0.709	356003	501849	832	0.6877
0.690	- 0.699	338159	486635	796	0.6787
0.680	- 0.689	320736	468149	856	0.6696
0.670	- 0.679	264892	392667	644	0.6605
0.660	- 0.669	294012	442263	723	0.6513
0.650	- 0.659	252818	385866	660	0.6421
0.640	- 0.649	237873	368863	613	0.6329
0.630	- 0.639	272274	426764	619	0.6237
0.620	- 0.629	223243	351349	590	0.6144
0.610	- 0.619	201390	327499	504	0.6050
0.600	- 0.609	227764	376456	591	0.5957
0.590	- 0.599	208800	351084	528	0.5863
0.580	- 0.589	174161	297855	510	0.5769
0.570	- 0.579	182563	317742	491	0.5674
0.560	- 0.569	163422	289175	508	0.5579
0.550	- 0.559	167043	300996	510	0.5484
0.540	- 0.549	164615	302049	621	0.5389
0.530	- 0.539	134371	251108	503	0.5293
0.520	- 0.529	157421	299774	552	0.5197
0.510	- 0.519	136630	265339	549	0.5101

LIMIT (1)	LIMIT	REVENUES (2)	VAR-COSTS (3)	NO OF CARS (4)	RATIO(R/VC) (5)
0.500	- 0.509	$108204	$214609	375	0.5005
0.490	- 0.499	87330	176431	320	0.4908
0.480	- 0.489	102903	210298	388	0.4908
0.470	- 0.479	89861	182289	314	0.4908
0.460	- 0.469	83091	176421	331	0.4908
0.450	- 0.459	83353	183235	438	0.4908
0.440	- 0.449	64826	145793	319	0.4908
0.430	- 0.439	72924	167597	373	0.4908
0.420	- 0.429	80115	188733	360	0.4908
0.410	- 0.419	77300	186208	342	0.4908
0.400	- 0.409	56400	139328	336	0.4908
0.390	- 0.399	54640	138420	291	0.4908
0.380	- 0.389	53583	151352	316	0.4908
0.370	- 0.379	49775	132923	333	0.4908
0.360	- 0.369	50791	139032	331	0.4908
0.350	- 0.359	37569	105640	172	0.4908
0.340	- 0.349	26134	75832	221	0.4908
0.330	- 0.339	35797	106996	255	0.4908
0.320	- 0.329	64219	198915	1146	0.4908
0.310	- 0.319	34427	106886	408	0.4908
0.300	- 0.309	38098	125342	425	0.4908
0.290	- 0.299	16457	55757	130	0.4908
0.280	- 0.289	24449	85681	222	0.4908
0.270	- 0.279	22941	83511	171	0.4908
0.260	- 0.269	18158	68363	160	0.4908
0.250	- 0.259	13774	54167	155	0.4908
0.240	- 0.249	19159	78241	198	0.4908
0.230	- 0.239	24200	102865	151	0.4908
0.220	- 0.229	26932	119857	398	0.4908
0.210	- 0.219	17072	79543	282	0.4908
0.200	- 0.209	17481	85140	226	0.4908

FILE TOTAL	-	1475814982	1110838866	1.3286

[FR Doc. 81-10465 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-C

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we fined, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before May 22, 1981 (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OPY4–059

Decided: April 1, 1981.

By the Commission, Review Board No. 2, Members, Fisher, Williams. [Carleton not participating.]

MC 141867 (Sub-27), filed March 16, 1981. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101 (206) 624–7373. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–10467 Filed 4–6–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OP2–053

Decided: March 31, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Taylor.

MC 153273 (Sub 1) (correction), filed January 15, 1981, published in the **Federal Register**, issue of February 11, 1981, and republished, as corrected, this issue. Applicant: SCHREIBER TRANSIT INC., Box 610 425 Pine St., Green Bay, WI 54305. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *general commodities* (except classes A and B explosives) between points in the U.S., under continuing contract(s) with (a) L. D. Schreiber Cheese Co., Inc., of Green Bay, WI, and its subsidiaries and (b) Winn-Dixie Stores, Inc., of Jacksonville, FL and its subsidiaries.

Note.—The purpose of this republication is to correct the commodity description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–10466 Filed 4–6–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–099

Decided: March 30, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Taylor.

MC 154811, filed March 17, 1981. Applicant: WESTERN ENTERPRISES, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 154820, filed March 16, 1981. Applicant: TRANSPORTATION MANAGEMENT SERVICES, LTD., 505 Fifth Ave., Suite 100, Des Moines, IA 50309. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309 (515) 283–2076. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 154840, filed March 20, 1981. Applicant: RICHARD LEE MATHIS d.b.a. MATHIS TRUCKING SERVICE, 1234 East Illinois St., Dallas, TX 75216. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, (512) 476–8066. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 154850, filed March 19, 1981. Applicant: CONTINENTAL WAREHOUSE GROUP, LTD., 2800 Dixon St., Des Moines, IA 50316. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501 (402) 475–6761. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 154921, filed March 24, 1981. Applicant: MYSTIC ASSOCIATES, 75 Golden Ave., Medford, MA 02155. Representative: Anthony J. Marino (same address as applicant) (617) 396–1983. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 154941, filed March 16, 1981. Applicant: LUIGI SERRA, INC., 21 West St., New York, NY 10006. Representative: Robert J. Cordo, (same address as applicant), (212) 422–4381. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81–10477 Filed 4–6–81; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained

from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient interest in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP5–082

Decided: March 25, 1981.

By the Commission Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 135518 (Sub-30), filed January 29, 1981. Published initially in the **Federal Register** on March 10, 1981. Applicant: WESTERN CARRIERS, INC., 53 South Dawson St., Seattle, WA 98108. Representative: A. J. Swanson, P.O. Box 1103, 226 N. Phillips Ave., Sioux Falls, SD 57101. Transporting *such commodities* as are dealt in by grocery stores and food business houses, between points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, TX, UT, WA, and WY. This application is republished so as to show the exact type of commodities to be transported.

MC 143188 (Sub-3), filed February 4, 1981. Initially published in the **Federal Register** on March 10, 1981. Applicant: THE G & K HAULING COMPANY a Corporation, 744 Water St., Toledo, OH 43604. Representative: James R. Stiverson, 1396 West Fifth Ave., Columbus, OH 43212. Transporting *clay, concrete, glass, or stone products,* between points in IL, KY, MI, NY, OH, PA, TN, WI, and WV. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of commmon control under 49 U.S.C. 11343, or submit an affidavit indicating why such approval is unnecessary. The application is republished so as to delete "commodities in bulk from the commodity description.

MC 143478 (Sub-17(M1)) (notice of filing of petition to modify permit), filed February 2, 1981. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. Petitioner holds a motor *contract carrier* permit in No. MC–143478 Sub 17, issued November 17, 1980, authorizing the transportation of *such merchandise* as is dealt in by wholesale, retail, grocery and food business houses (except in bulk), and *materials, equipment, and supplies* used in the conduct of such businesses, from points in the U.S. in and east of ND, SD, NE, KS, OK, and TX (except Plainview, Amarillo, Friona, and Lubbock, TX) to the facilities utilized by Winn-Dixie Stores, Inc., at Ft. Worth, TX, New Orleans, LA, Montgomery, AL, Louisville, KY, Atlanta, GA, Greenville, SC, Charlotte and Raleigh, NC, and Jacksonville, Tampa, Orlando, Pompano Beach, and Miami, FL, under continuing contract(s) with Winn-Dixie Stores, Inc. By the instant petition, petitioner seeks to add Kraft, Inc., of Glenview, IL, as a contracting shipper, and also to expand the territorial scope of the permit. If granted, the authority of this permit would read as follows: *Such merchandise as is dealt in by wholesale, retail, grocery and food business houses (except in bulk), and materials, equipment, and supplies* used in the conduct of such businesses, between points in the U.S., under continuing contract(s) with Winn-Dixie Stores, Inc., of Jacksonville, FL, and Kraft, Inc., of Glenview, IL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-10478 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 54]

Motor Carrier's Restriction Removals; Decision-Notice

Decided: April 2, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

FF–81 (Sub-7)X, filed March 24, 1981. Applicant: CALIFORNIA WESTERN FREIGHT ASSOCIATION, d.b.a.

WESTERN FREIGHT ASSOCIATION, 3336 San Fernando Road, Los Angeles, CA 90065. Representative: S.S. Eisen, 370 Lexington Avenue, New York, NY 10017. Applicant seeks in its freight forwarder Permit FF 81 to change one way authorities to radial authorities between points in California, on the one hand, and, on the other, points in ND, SD, NE, CO, OK and TX and those in the U.S. east thereof and between points in ME, VT, MA, RI, CT, NY, NJ, PA, DE, MD, DC, VA, WV, OH, MI, IN, IL, KY and TN, on the one hand, and, on the other points in MT, WY, CO, TX, NM, AZ, NV, UT, ID, WA, OR, and CA.

MC 941 (Sub-9)X, filed March 17, 1981. Applicant: McCRACKEN MOTOR FREIGHT, INC., P.O. Box 10304, Portland, OR 97210. Representative: Robert R. Hollis, 400 Pacific Building, Portland, OR 97204. Applicant seeks to remove restrictions in its lead MC–941 and Sub-No. 7, MC–39395 and Sub-No. 8F, and MC–134357 (acquired in MC–F–14270–F) certificates to (1) broaden the commodity description to "general commodities, except classes A and B explosives" from general commodities, (with exceptions) in all its certificates, (2) remove the restriction prohibiting the transportation of liquids in bulk and in tank vehicles, in MC–39395; (3) remove the restriction prohibiting service to Goshen, OR, as an intermediate point, in MC–134357; (4) eliminate territorial restrictions which limit service to precise intermediate points, to authorize service at all intermediate points on described regular routes between (a) Portland, OR, and Springfield, OR, in MC–941; and, (b) Portland OR, and Vernonia, OR; Portland, OR, and Seaside, OR; junction OR Hwy 53 and U.S. Hwy 101, and Arch Cape, OR; Portland, OR, and Astoria, OR, in MC–39395.

MC 25562 (Sub-35)X, filed March 19, 1981. Applicant: A. R. GUNDRY, INC., 85 Stanton Street, Rochester, NY 14611. Representative: William P. Fromm, 445 Earlwood Avenue, Oregon, OH 43616. Applicant seeks to remove restrictions from its lead and Sub-Nos. 1, 3, 5, 16, 20, 23, 25, 27 and 32 certificates to (1) broaden the commodity description to "commodities in bulk" from liquid petroleum products, in bulk, in the lead, Sub-Nos. 1, and 5, from petroleum products in bulk, in Sub-Nos. 20 and 32, from liquidfied petroleum gas, in bulk, in Sub-No. 27, from benzol, toluol, and xylol, in bulk, in Sub-No. 25, from liquidfied petroleum gas (propane) and refused shipments of it in Sub-No. 23, from gasoline, kerosine, and light fuel oil in Sub-No. 16, and from crude petroleum oil, in bulk, in Sub-No. 3, (2) remove facilities limitations in Sub-No. 20 and 32, (3) change city to county wide authority: in the lead Erie County, NY for Harriet and Lackawanna, NY, Erie and Crawford Counties, PA for Erie and Meadville, PA, Schenectady County, NY for Schenectady, NY, and Berkshire County, MA for Pittsfield, MA; in Sub-No. 3 Allegheny County, NY for Scio, NY and McKean County, PA for Duke Center, PA; in Sub-No. 16 Schenectady, Albany, and Rensselaer Counties, NY for Schenectady, Glenville, Albany, Rensselaer, Cohoes, and Green Island, NY, and Bennington County, VT for Bennington, VT; in Sub-No. 20 Washington County, NY for Fort Ann, NY; in Sub-No. 23 Warren County, PA for Warren, PA and Oneida and Lewis Counties, NY for Clinton, Remsec and Lawville, NY; in Sub-No. 25 Erie County, NY for Lackawanna, NY, and (4) replace one-way with radial authority between points in McKean, Warren, Venago and Crawford Counties, PA, and points in Chautauqua, Erie, Niagara, Genesee, Wyoming, Livingston, Monroe, Wayne, Broomes, Ontario, Yates, Steuben, Cayuga, Onondaga, Oswego and Orleans, NY; points in Erie County, NY, and, points in Erie and Crawford Counties, PA; points in Schenectady County, NY, and points in Berkshire County, MA in the lead; points in Ontario, Seneca, Chemung, Steuben, Monroe, Allegany, Chautauqua, Erie and Niagara Counties, NY, and, points in Warren, McKean, Bradford, Tioga, Lycoming, Erie, Crawford, and Columbia Counties, PA in Sub-No. 1; points in Allegheny County, NY, and, points in McKean County, PA in Sub-No. 3; points in McKean, Warren, Venango, Crawford, Erie, Elk, Potter, Tioga, Bradford, Susquehanna and Cameron Counties, PA, and, points, in Cattaraugus, Alleghany, Chemung, Schuyler, Seneca, Tompkins, Tioga, Cortland, Livingston, Onondaga, Wayne, Erie and Monroe Counties, NY in Sub-No. 5; points in Schenectady, Albany and Renesselaer Counties, NY, and, points in Bennington County, VT in Sub-No. 16; points in Washington County, NY, and, a described portion of VT in Sub-No. 20; points in Warren County, PA, and, points in Oneida and Lewis Counties, NY in Sub-No. 23; points in Erie County, NY, and, points in Erie, Warren, McKean, Elk, Crawford, Veneango, Potter and Cameron Counties, PA in Sub-No. 25; the pipeline outlets of the Texas Eastern Transmission Corporation (Little Big Inch Divison) pipeline in NY, and, points in CT, MA, NH, NJ, PA, RI and VT (except Essex County) in Sub-No. 27; points in Albany and Rensselaer Counties, NY, and, points in CT, MA, and VT in Sub-No. 32.

MC 32882 (Sub-162)X, filed March 17, 1981. Applicant: MITCHELL BROS. TRUCK LINES, 3841 N. Columbia Blvd., Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. Applicant seeks to remove restrictions in its Sub-Nos. 122F, 135F, 136F and 146F certificates to (l) broaden the commodity description to "machinery" from telephone equipment and equipment, materials and supplies used in the installation of telephone systems, and empty reels and cores, in Sub-No. 122F; from lift trucks, hydraulic platforms and parts thereof, in Sub-No. 135F; from motor graders and hydraulic asphalt paver extensions, in Sub-No. 136F and from (a) tote pans, refrigeration tunnels, and air vents, and (b) materials, equipment and supplies used in the manufacture of commodities in (a) above, in Sub-No. 146F, (2) remove the "in bulk" restrictions in Sub-Nos. 122F and 146F, (3) remove originating at or destined to restrictions, in Sub-Nos. 122F, 135F and 146F, (4) replace authority to serve specified facilities at named points with county-wide authority and authorize radial in place of one-way authority as follows: between points in Douglas County, NE (for Omaha, NE) and points in OR and WA, in Sub-No. 122F; between points in Los Angles County, CA (for Carson, CA) and points in the U.S. and west of MI, OH, KY, TN and LA, in Sub-No. 135F; between points in Orange County, CA (for Orange, CA) and points in the U.S., in Sub-No. 136F; between points in Davis County, UT and points in the U.S. in Sub-No. 146F and (5) remove AK and HI exceptions in all Subs and except CA in Sub-No. 135F.

MC 77972 (Sub-40)X, filed March 23, 1981. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, MS 38652. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Applicant seeks to remove restrictions in its lead and Sub-Nos. 4, 12, 13, 15, 17, 22, 28, 29, and 30 certificates to (1) broaden its commodity descriptions from general commodities (with exceptions), to "general commodities (except classes A and B explosives)", in the lead and all of the above sub-numbers; (2) authorize service at all intermediate points where service is limited to specified intermediate points or no intermediate point service: in Sub-No. 4, between Starkville, MS, and Ackerman, MS; in Sub-No. 17, between Meridian, MS, and Toomsuba, MS, between Laurel, MS, and Hattiesburg, MS, and between

Hattiesburg, MS, and Osyka, MS; in Sub-No. 22, between Mooreville, MS, and Amory, MS; in Sub-No. 29, between Columbus, MS, and Aberdeen, MS; (3) eliminate (a) in Sub-No. 15, the restriction against traffic moving between Waynesboro and Meridian, MS, for subsequent interchange at either point, (b) in Sub-No. 29, the originating at and destined to restriction, and the restriction against service at Waynesboro, MS, and points within the Waynesboro, MS, Commercial Zone, and (c) in Sub-No. 30, restriction against the transportation of shipments received from another carrier at a point in AL, against the pickups of shipments at points in AL for delivery to an interline carrier at another point in Al, and against the handling of traffic originating at, destined to, or interchanged at 4 cities in Al and points in their commercial zones.

MC 111729 (Sub-771)X, filed March 19, 1981. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Peter A. Greene, 1920 N Street, NW., Suite 700, Washington, D.C. 20036. Applicant seeks to remove restriction in its MC-112750 (Sub-No. 353F) permit, which authorizes the transportation of commercial papers, documents and written instruments (except currency and negotiable securities), as are used in the business of banks and banking institutions, by broadening the territorial scope to serve between points in the United States.

MC 114019 (Sub-265)X, filed March 19, 1981. Applicant: MIDWEST EMERY FRIEGHT SYSTEM, INC., 5501 West 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Applicant seeks to remove restrictions in its Sub-Nos. 83, 99, 101, 106, 119, 177, 213, 224, 257G, and 262, certificates and E98, E100, E142, E191, E202, E204, E210, E211, E283, E300, E355, E358, E424, E425, E430, E431, E477, E-letter notices and authority acquired in and MC-F-11193 to (1) remove all exceptions except class A and B explosives from its general commodities authorities in Sub-Nos. 83, 99, 101, 106, 119, 213, 224, 257G, 262, MC-F-13237, and E letter notices E98, E100, E142, E191, E202, E204, E210, E211, E283, E355, E425, E431, E300, E358, E424, E430, and E477, (2) broaden the commodity descriptions in (a) Sub-No. 83 from roofing and building materials, supplies and materials used in the manufacture thereof and over 100 named commodities to "building materials", from paper mill products, materials and supplies used in the manufacture and shipment thereof, paper and paper products and named paper products to "pulp, paper and related products"; from heavy industrial chemicals, materials, supplies, and chemicals used in the manufacture and distrubution thereof, oil, named petroleum products to "chemicals and related products; from iron and steel wire products, fencing materials, supplies and steel to "metal products"; from named foodstuffs to "food and related products"; from various machinery used in the manufacture, shipment and/or distribution of the above commodities to "machinery" and, from brick and clay products to "clay, concrete, glass or stone products"; (b) in Sub-No. 101 from glassware, beer, empty beer containers, soft drink beverages, empty soft drink containers, malt beverages, empty malt beverage containers, canned goods, canned vegetables, and soups, table sauces, olives, pickles, and vinegars, in containers, feed, new furniture, linoleum, used glass bottles, bender twine, groceries and grocery store supplies, agricultural impliments, machinery, soda in barrels, and cooperage to "food and related products, textile mill products, lumber and wood products, furniture and fixtures, clay, concrete, glass or stone products, machinery, miscellaneous products of manufacturing, and miscellaneous freight shipments"; and (c) in Sub-No. 177 and E letter notice E142, from chemicals, chemical compounds, and cleaning compounds in bulk to "chemicals and related products"; (3) in Sub-No. 83 change one-way to radial authority between various named points in IL, OH, MI, IN, WI, MO, PA, IA, and NY, and points in specified states and/or described portions of named states; authorize service at all intermediate points in connection with its regular routes between specified WI points (4) in Sub-No. 99 authorize service at all intermediate points in connection with its regular route between Chicago, IL, and Peublo, CO, (5) in Sub-No. 101, change one-way to two-way authority between Chicago, IL, and Muscatine, IA; Muscatine, IA, and St. Louis, MO; Alton, IL, and Davenport, IA; Maywood, IL, and, Iowa City, IA; Maywood, IL, and Muscatine, IA, and authorize service at all intermediate points in connection with its above regular routes, (6) in Sub-No. 119 replace the plantsite limitation with Clark County, IN, change one-way to radial authority between Clark County, IN, and, points in WI, IL, and a described portion of MI, OH, (except Cincinnati) and points in specified PA counties, (7) in Sub-No. 177, replace Utica, IL, with LaSalle County, IL, and change one-way to radial authority between LaSalle County, IL, and, points in 17 states, (8) in Sub-No. 262 remove the restriction against the transportation of traffic moving wholly between points in IL, within 40 miles of Chicago, including Chicago and points in IL, within 40 miles of Chicago, including Chicago and points in IN, within the Chicago commercial zone, (9) in authority acquired in MC-F-11193 authorize service at all intermediate points in connection with its regular routes between Harford, CT, and Perth Amboy, NJ; Hartford, CT, and Waterbury, CT; Naugatuck, CT, and Stratford, CT, Derby, CT, and New Haven, CT; Hartford, CT, and Boston, MA, and Manchester, CT, and Boston, MA; remove restriction against transportation of shipments moving radially between Boston, MA, and Providence, RI, in connection with its regular routes between named CT points, and change one-way to radial authority between Hartford, CT, and points in MA, not authorized as intermediate or off-route points in connection with described regular routes; (10) in E98 change one-way to radial authority between points in described portions of NY and NJ, and, a described portion of IN, (11) in E142 change one-way to radial authority between (a) Jefferson, IN, and, described portions of NY, NJ, DE, MD, and points in PA and WV and (b) 2 named IN points, and, described portions of MI, IA, KS, CO, and points in MN, ND, SD, and WY, (12) in E191 change one-way to radial authority between described portions of NY, and, described portions of WV, (13) in E300 remove restriction limiting transportation to shipments "originating at or destined to" a named facility, (14) in E358 change one-way to radial authority between described portions of NY, NJ, MD, DE, PA, WV, and, described portion of IN, (15) in E424 change one-way to radial authority between a described portion of OH, and, a described portion of IN, and (16) in E477 part (2) remove a facilities limitation, part (3) replace Scott County, IN, for Lexington, IN, and change one-way to radial authority in all parts between (a) described portions of MD, NY, NJ, DE, WV, and points in IL, within 40 miles of Chicago, (b) Clarksville and Jeffersonville, IN, and points in IN, (c) Scott County, IN, and, points in IN in the Chicago, IL, commercial zone and points in IL, WI, and described portion of MI, (d) Akron, OH, and points within 5 miles thereof, and Chicago, IL, and points within 40 miles thereof.

MC 125985 (Sub-35)X, filed March 20, 1981. Applicant: AUTO DRIVEAWAY

COMPANY, 310 S. Michigan Ave., Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Applicant seeks to remove restriction in its lead and Sub-Nos. 4(M2), 6, 9, 12, 23F, 25F, 29F, 30F, 31F, and 34F certificates to (1) broaden its commodity descriptions from passenger automobiles and trucks with the baggage, sporting equipment, and personal effects of the owners thereof, motor homes, in driveaway service, school buses, in initial movement, in driveaway service, freight handling trucks, self-propelled vehicles, except trucks, and trucks weighing more than ¾ ton, in secondary movements, in driveaway service, travel trailers, boat trailers (with or without boats), automobiles (converted vans), truck-mounted contractor's equipment and trucks, in secondary movement, driveaway service, to "transportation equipment, with or without equipment, baggage, and property of the owners thereof", in each of the above certificates; (2) replace the facility located in Elkhart County, IN, with Elkhart County, IN, in Sub-No. 23F; and (3) eliminate (a) in the lead and Sub-Nos. 4 and 29F, restrictions against transportation of: vehicles by use of tow-bars; traffic having a prior or subsequent movement by rail; and motor vehicles for or on behalf of manufacturers of trucks or automobiles from the plant site of such manufacturers, and (b) in the lead and Sub-Nos. 4, 6, 12, 30F, and 31F, the AK and HI exceptions and the AK, IN, and HI exception in Sub-No. 23F.

MC 128095 (Sub-43)X, filed March 23, 1981. Applicant: IBCO TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3, 6, 8, 11, 13, 14, 16, 18F, 22F, 25F, 26F, 28F, 32F, 33F, 36F, 37F, 38F, and 40F, certificates to (1) broaden the commodity description to (a) "furniture and fixtures" from: new furniture in the lead and Sub-Nos. 14, 18F, 22F, 25F, 32F, and 38F; urethane and urethane products in Sub-Nos. 3, 6, and 11; synthetic foam rubber in Sub-No. 8; metalic spring assemblies and fixtures for davenports or sofas in Sub-No. 13; foam padding in Sub-Nos. 16, 28F, and 33F; cellulose padding in Sub-Nos. 33F and 40F; polyethylene foam, grassett bags, padded bags, macerated pads, sleeve pads and cellulose wadding in Sub-No. 36F; and, kitchen and bathroom cabinets, vanities and accessories for installation in Sub-No. 37F; and (b) "household goods" from household appliances in Sub-No. 26F; (2) remove the "except commodities in bulk" restriction in Sub-Nos. 6, 11, and 26F, and the "except AK and HI" restriction in Sub-No. 13. Applicant also seeks to (1) replace authority to serve specified plantsites at name points and authority to serve some specified cities with county-wide authority: Cornelius with Mecklenburg County, NC, and New Albany, Shannon and Tupelo with Union and Lee Counties, MS in Sub-No. 3; Iowa City with Johnson County, IA, in Sub-No. 6; Fort Smith, AR, and Memphis, TN, in Sub-No. 8; Tupelo with Lee County, MS, in Sub-Nos. 8 and 13; Wurtland with Greenup County, KY, in Sub-Nos. 16 and 28F; Chicago, IL, in Sub-No. 18F; Selma with Dallas County, AL, Swanton with Fulton County, OH, and Nichlos with Marion County, SC, in Sub-No. 22F; Hickory and High Point with Catawba and Guilford Counties, NC, in Sub-No. 25F; Halls with Lauderdale County, TN, and Henderson with Rusk County, TX, in Sub-No. 32F; Hyannis with Barnstable County, MA, in Sub-No. 33F; Pontotoc with Pontotoc County, MS, in Sub-No. 36F; McKinney with Collin County, TX: Peru with Miami County, IN, in Sub-No. 38F; and Cloquet with Carlton County, MN, in Sub-No. 40F; and (2) change its one-way authorities to radial authorities between named points throughout the U.S. in the above certificate.

MC 129872 (Sub-5)X, filed March 17, 1981. Applicant: SCHUSTER TRANSPORT, INC., Route 6, Menomonie, WI 54751. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Ste. 307, Edina, MN 55424. Applicant seeks to remove restrictions in its lead and Sub-Nos. 1 and 4 certificates to (1) broaden the commodity descriptions to "machinery" from farm equipment, in the lead; from (a) tractors (except truck tractors), (b) agricultural implements and machinery and (c) attachments for, and equipment designed for use with the articles described in (a) and (b) above, in Sub-No. 1; from agricultural tractors and parts for agricultural tractors, in Sub-No. 4, (2) remove the originating at and destined to named facilities restrictions, in Sub-Nos. 1 and 4; and (3) authorize radial in place of one-way authority: between Rock Island and East Moline, IL, and, points in 5 Iowa Counties and Union County, SD, in Sub-No. 1; and between Racine County, WI, and, points in KS, MN, NE, ND, and, SD, in Sub-No. 4.

MC 134535 (Sub-11)X, filed March 20, 1981. Applicant: CASALE CONTRACT CARRIERS, INC., 130 Meadow Road, P.O. Box 1393, Edison, NJ 08817. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its Sub-Nos. 4 and 9 permits to (1) broaden the commodity description to "textile mill products" from carpeting and rugs, and (2) broaden the territorial description to "between points in the U.S.," under continuing contract(s) with a named shipper.

MC 142508 (Sub-168)X, filed March 23, 1981. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Joseph Winter, 29 South La Salle St., Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-Nos. 1, 2, 9, 17F, 41F, 42F, 44F, 57F, 71F, 86F, 91F, 104F, 105F, 108F, 110F, 118F, 122F, 126F, 146F, 147F, 151F, 154F, 155F, and 160F certificates to (A) broaden the commodity descriptions: to "food and related products" from meats, meat products and by-products, and articles distributed by meat packinghouses, as described in the *Descriptions case*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) in Sub-Nos. 1, 2, 9, and 154, from canned goods in Sub-Nos. 86 and 160, from bakery and canned goods in Sub-No. 108, and from frozen foods in Sub-Nos. 110 and 146; to "chemicals and related products and petroleum products" from chemical and asphalt products, in containers, and containers and displays in Sub-No. 17; to "machinery and transportation equipment" from motors, engines, industrial and recreational vehicles, powered lawn movers, snow throwers, and turf care equipment in Sub-No. 41; to "such commodities as are dealt in or used by manufacturers of welding equipment" from welding equipment, materials and supplies in Sub-Nos. 44 and 122; to "rubber and plastic products and metal products" from plastic bags and articles, wrapping materials, aluminum foil, and holders in Sub-Nos. 57 and 155; to "petroleum and petroleum products" from petroleum products in Sub-No. 71; to "pulp, paper and related products" from paper, paper products, and equipment and supplies in Sub-No. 91; to "chemicals and related products, machinery, and rubber and plastic products" from cleaning and polishing compounds, textile solutions, disinfectants, paints, dishwashing machinery, and coffee filters in Sub-No. 104; to "coal and coal products and lumber and wood products" from charcoal briquettes, hickory chips, and fireplace logs in Sub-No. 126; to "chemicals and related products" from drugs, toilet preparations, and healthcare products in Sub-No. 147; to "such commodities as are dealt in or used by manufacturers and distributors of camping equipment" from barbeque

grills and camping equipment in Sub-No. 151; and also remove the "except in bulk" commodity restrictions in Sub-Nos. 71, 91, 104, 105, and 118; (B) broaden the territorial descriptions by substituting county-wide authority for the named facilities and cities, and change from one-way service to radial service, as follows: Sub-No. 1, between points in Morgan County, CO (Fort Morgan, CO), and points in 13 States and D.C.; Sub-No. 2, between points in Morgan County, CO (facilities near Fort Morgan, CO), and points in six States; Sub-No. 9, between points in Morgan County, CO (facilities near Fort Morgan, CO), and points in TN, and Amarillo, TX (facilities at Amarillo, TX); Sub-No. 17, between points in Kansas City, MO and IL, IA, KS, and WI, and points in Madison and Platte Counties, NE (facilities at Norfolk and Columbus, NE); Sub-No. 41, between Milwaukee, WI, and points in Waupaca County, WI (facilities at Milwaukee and Manawa, WI), and Lake, Knox and Peoria Counties, IL (facilities at Waukegan, Galesburg and Peoria, IL), and Lancaster County, NE (facilities at Lincoln, NE), and points in the U.S. (except eight States); Sub-No. 42, between points in Waukesha County, WI (facilities near Pewaukee, WI), and points in the United States; Sub-No. 44, between points in Outagamie County, WI (facilities near Appleton, WI), and points in nine States; Sub-No. 57, between points in Outagamie and Waupaca Counties, WI (facilities at Appleton, Little Chute and Weyauwega, WI), and points in NE, CO, and UT; Sub-No. 71, between points in Madison County, IL (Wood River, IL), and Kansas City, MO and Toledo, OH, and Des Moines, IA, Kansas City, MO, and points in Hall and Scotts Bluff Counties, NE (Grand Island and Scottsbluff, NE); Sub-No. 86, between Chicago, IL (facilities at Chicago, IL), and points in IN, KY, and MO; Sub-No. 91, between points in Fond Du Lac, Brown, Marinette and Oconto Counties, WI (Fond du Lac, Green Bay, Marinette, and Oconto Falls, WI), and Chicago, IL, and points in nine States; Sub-No. 104, between points in Los Angeles and Santa Clara Counties, CA (facilities near City of Industry and San Jose, CA), Will County, IL (Joliet, IL), Wayne County, MI (Livonia, MI), Minneapolis, MN, Middlesex County, NJ (Avenel, NJ), Dallas County, TX (Garland, TX), and Rock County, WI (Beloit, WI), and points in the United States; Sub-No. 105, between points in Marshall County, MS (Byhalia, MS), and points in the United States; Sub-No. 108, between points in El Paso County, TX (facilities at Anthony, TX), and points in the United States; Sub-No. 110, between points in Monterey, San Franscisco, Santa Clara, and Santa Cruz Counties, CA, and those points in the U.S. in and east of MT, WY, CO, and NM; Sub-No. 118, between points in the United States, and points in IA and NE; Sub-No. 122, (a) between points in Outagamie and Winnebago Counties, WI (facilities at Appleton and Neenah, WI), and points in the U.S. (except 11 States), and (b) between points in the U.S., and points in Outagamie County, WI (facilities at Appleton, WI); Sub-No. 126, between points in Houston County, AL (facilities at Dothan, AL), and Marion and Baxter Counties, AR (Cotter, AR), and Sacramento and San Joaquin Counties, CA (Elk Grove and Stockton, CA), Pulaski County, KY (Burnside, KY), Maries and Greene Counties, MO (Belle and Springfield, MO), Bucks County, PA (Fairless Hills, PA), Cherokee County, TX (Jacksonville, TX), and Tucker County, WV (Parson, WV), and points in the United States; Sub-No. 146, between Louisville, KY (facilities at Louisville, KY), and points in New Castle County, DE (facilities at Newark, DE), and points in the United States; Sub-No. 147, between Philadelphia, PA and points in Sussex County, DE (Lewes, DE), and points in the U.S. (except 15 States and D.C.); Sub-No. 151, between points in Newton County, MO (Neosho, MO), and points in the United States; Sub-No. 154, between Omaha, NE (facilities in Omaha, NE), and points in the United States; and Sub-No. 160, between points in Steele County, MN (facilities at Owatonna, MN), and points in nine States; (C) remove territorial restrictions limiting service to transportation originating at the named origins and destined to the named destinations in Sub-Nos. 1, 2, 9, 17, 41, 42, 44, 57, 86, 91, 105, 151, 154, and 155; and (D) remove exceptions excluding service in AK and HI in Sub-Nos. 104, 105, 108, 118, 122, 126, 146, 151, 154, and 155, and remove the exception excluding service in AK, HI, and WI in Sub-No. 42.

MC 146678 (Sub-8)X, filed March 26, 1981. Applicant: SOUTHLAND TRANSPORTATION, INC., P.O. Box 7760, Ben Franklin Station, Washington, DC 20044. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. Applicant seeks to remove restrictions in its lead certificate to eliminate the restriction limiting service to the transportation of traffic originating at or destined to the facilities of a named shipper to authorize radial service between Nashville and points in several southern States.

MC 147552 (Sub-12)X, filed March 26, 1981. Applicant: CAJUN CARTAGE & WAREHOUSING CORP., 1205 St. Louis Street, New Orleans, LA 70150. Representative: Thomas N. Willess, 1000 Sixteenth Street, NW, Suite 502, Solar Building, Washington, DC 20036. Applicant seeks to remove restrictions in its Sub-No. 7F certificate to (1) broaden the commodity description from general commodities, with exceptions to "general commodities (except classes A and B explosives)"; and (2) remove the "ex-rail" and "ex-water" restrictions.

[FR Doc. 81-10468 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Amdt. No. 4 to ICC Order No. 63 Under Service Order No. 1344]

Rerouting Traffic

Upon further consideration of ICC Order No. 63, and good cause appearing therefor:

It is ordered,

ICC Order No. 63 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment will become effective at 11:59 p.m., March 31, 1981.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 31, 1981.

Joel E. Burns,

Agent.

[FR Doc. 81-10480 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 393]

Standards for Railroad Revenue Adequacy

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: Because of the new significance given to rail revenue adequacy determinations by the Staggers Rail Act of 1980, the Commission has repealed existing rules

(49 CFR 1109.25) [1] and established as the primary standard for rail revenue adequacy a rate of return on investment equal to the cost of capital. Current determinations of revenue adequacy were made for Class I railroads using an original cost investment base calculation. The proceeding does not significantly affect either the quality of the human environment or the conservation of energy resources.

AUTHORITY: 49 U.S.C. 10704.

FOR FURTHER INFORMATION CONTACT:

Richard Felder (202) 275–7693
Barry Harris (202) 275–0810

SUPPLEMENTARY INFORMATION: Further information is contained in the decision in this proceeding served March 30, 1981. Copies may be obtained from the Office of the Secretary by calling 800–424–5403 or by writing to the Commission at 12th and Constitution Ave., NW., Washington, DC, 20423 to the attention of room 2227.

Decided: March 26, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam. Commissioner Gilliam concurred with a separate expression. Commissioner Clapp concurred in part and dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, concurring

I agree with the majority that the return on investment test is the most appropriate measure of railroad revenue adequacy. However, because of the present inacuracies in the calculation of ROI, I would also use other financial ratios to make sure that our results are not distorted. While a single test is preferable in terms of simplicity, I am hesitant to rely solely on the use of one ratio until the application of ROI is further refined.

I concur in the result of this decision primarily because of the present limited application of our findings to the surcharge provision of the Staggers Rail Act. It is my hope that we will have eliminated the problems associated with the use of the ROI test prior to the time our findings have wider application.

Commissioner Clapp, concurring in part and dissenting in part

Occasionally, the Commission is called upon to make a decision which observers may view as a bellweather of regulatory philosophy. While some have tried to characterize this proceeding in this light, it would be a mistake to interpret it as such. Our task here is straightforward, although the solution is complex and elusive. We must ascertain theoretically and practically sound standards for measuring a railroad's relative financial condition. We cannot set standards based on a belief that we should find a certain number of carriers revenue adequate or inadequate—our standards must rest on their own inherent financial integrity.

It is also important to realize that the direct impact of the annual revenue adequacy determinations will not be great until October, 1984. Currently, as a result of the Staggers Act, a carrier deemed revenue adequate cannot impose a surcharge on its share of joint rates unless it applies to a line which carries at least 1 million gross ton miles of traffic per mile per year. All carriers are assured that no rate can be found unnecessarily high if there is effective competition. Absent a contractual agreement, no railroad can be required to maintain a rate which returns less than a statutorily defined "cost recovery percentage" (160 percent of variable costs at present; depending on rail profitability this will escalate to between 170 and 180 percent of variable costs by October, 1984). Additionally, cost increases are automatically passed through under a statutory formula. The railroads are also provided an additional "zone of rate flexibility" of 6 percent of the inflation adjusted rate per year. A rate within this zone may not be suspended, but if it is challenged the Commission must take carrier revenue adequacy or inadequacy into consideration. The statute emphasizes the importance of this factor, but does not detail specific consequences. In substance, this emphasis reflects Commission policy over the last several years.

Beginning with October, 1984, a finding of revenue adequacy will have a more direct impact. The guaranteed "zone of rate flexibility" will change to 4 percent per year, but carriers deemed revenue adequate cannot use it. This does not mean that carriers which are revenue adequate automatically would be denied additional rate flexibility needed for them to maintain that status, but the possibility of challenge would be present.

To date, the Commission has received no indication that the few carriers who arguably could be considered revenue adequate under some alternative approach have any substantial interest in filing surcharges on joint-line movements. Assuming this continues, it is doubtful that the revenue adequacy determinations will result in any adverse regulatory consequences before 1984. The Commission will, of course, continue to take the financial condition of the railroads into account in exercising its responsibilities under the law. A financially sound railroad system is of essential importance to America's future transportation needs. The Staggers Act has eliminated the uncertainty that some carriers felt in the past if they wanted to experiment with innovative pricing. We have encouraged such experimentation. This is a necessary and positive step toward railroad revitalization.

There is not a member of this Commission who doubts that it is important—indeed crucial—that the railroad industry be healthy and on a sound fiscal footing. We share—and are implementing—the resolve of the Congress that artificial restrictions which prevent the railroads from reaching that objectives be removed. Concern regarding the efficacy of the particular test choosen for the determination of financial adequacy in no way reflects hesitation in the commitment to pursue that goal. That should be clearly understood. Nor, alas, does it signify that a perfect substitute is readily at hand. It isn't.

In this context, I am in substantial agreement with Commissioner Gilliam's observations. In theory, ROI is a sound indicator of many of the revenue adequacy criteria named by the statute. As used in this decision, however, there are certain technical deficiencies which limit its reliability in some situations. While the majority has acknowledged some of these deficiencies, others remain. For example, net railway operating income (NROI), the numerator of ROI, is calculated by subtracting all income tax expense from net revenue from railway operations. In some cases, the tax figure includes taxes attributable to non-railroad related activities. If, as I believe we are required to, we are looking at railroad related activities, this will result in an inaccruate picture. Further, NROI, as presently computed, does not reflect certain rail-related income. The principal income sources are below-the-line items such as dividend income and undistributed income from subsidiaries' rail activities (clearly, non-rail activities should not influence the results here), and interest income on railroad working capital investment.

One problem with trying to recompute ROI figures to take these matters into account is the fact that the income statement format presently used for reporting purposes does not permit segregation of income or expense accounts between rail and non-rail

[1] Appears in the Rules and Regulations Section of this issue.

activities. This is an area which needs to be addressed in the future if a single ROI standard is to be used. Until problems such as this and others mentioned in the report can be resolved, we should check the results of our ROI computations against other relevant financial ratios such as a firm's operating ratio, throw-off to debt and fixed charge coverage ratios, return on shareholders' equity, return on total capitalization, the dividend payout ratio, and the annual percentage increase in net transportation investment.

A careful analysis of such ratios together with reported financial statements can be a useful tool in revealing any unusual characteristics which reliance on the single ROI figure will not show. Analysis of the facts behind the figures is essential since the methodology used in computing the figures has significant imperfections. This type of analysis will call for the exercise of some judgment, but I have great confidence in the ability of this Commission to make those assessments in a manner that will fulfill the intent of Congress. Until the practical problems with ROI can be remedied, this appears to be the most promising approach.

As a practical matter, in most instances, it would appear that the majority's determination and this suggested approach would lead to similar, although perhaps not identical, results. A substantial majority of the nation's railroads clearly are revenue inadequate, in varying degrees. There are only two or three railroads which are clearly revenue adequate under any test. Under the ROI test, there are perhaps a handful more that could best be described as only marginally inadequate. Those firms may shift between adequacy and inadequacy in different years. Since revenue adequacy is a long-term concept, it makes more sense to use a 3 or 4 year moving average standard instead of looking only at 1979 figures as the majority does.

The majority's treatment of Class I affiliated railroads appears inconsistent. Why, for example, are the Chessie System, Family Lines, and Burlington Northern affiliates looked at individually, while the Southern Railway System is treated only in the aggregate? Whatever treatment is used in future proceedings should be applied uniformly—either make determinations for all Class I railroads without regard to affiliates, or make one determination for all affiliated lines.

It is my hope and expectation that lenders and other financial analysts reading this report will recognize that no one measure presently available can, as a practical matter, fully measure railroad revenue adequacy. Railroads which presently enjoy favorable credit ratings should not be penalized by financial institutions merely because this decision labels some of them revenue inadequate. Proper financial evaluation for that purpose requires a more sophisticated approach than is used here. By 1984, when our findings take on greater significance, I believe that most if not all of the problems noted can and should be resolved.

[FR Doc. 81-10208 Filed 4-6-81; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Registration

By Notice dated January 15, 1981, and published in the **Federal Register** on January 22, 1981, (46 FR 7109), Arenol Chemical Corporation, 40-33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as an importer of Phenylacetone, a basic class of controlled substance listed in schedule II.

No comments or objections have been received. Therefore pursuant to Section 1008 (a) of the Controlled Substances Import and Export Act and in accordance with Title 21 Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: April 1, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-10443 Filed 4-6-81; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

April 1, 1981.

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator,

Employment and Training Administration, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 31st day of March 1981.

Luis Sepulveda,

Acting Director, Office of Program Services.

Applications Received During the Week Ending March 28, 1981

Name of Applicant and Location of Enterprise and Principal Product or Activity

Semix Incorporated, Martinsburg, West Virginia
Production of cast semi-crystalline silicon bricks and wafers for photovoltaic cells
Berkshire Enterprises, Ltd., Great Barrington, Massachusetts
Retail sales of football, baseball, hockey products, and related products
Nentwick Nursing Home, East Liverpool, Ohio
Nursing home
North States Industries, Inc., Siren & Falun, Wisconsin, Nevis, Minnesota
Manufacture of wood juvenile furniture, plastic lawn and garden furniture and bird feeders
Tiger Tail Distillery, Inc., Dyersbury, Tennessee
Manufacture of ethanol
Lawnlite Company, Portland, Tennessee
Manufacture of leisure furniture and ladders
Regency Health Care Center, LaFollette, Tennessee
Intermediate care nursing services

[FR Doc. 81-10403 Filed 4-6-81; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Media Arts Panel (Programming in the Arts Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Programming in the Arts Section) to the National Council on the Arts will be held on April 28-29, 1981, from 9:00 a.m.-5:30 p.m. in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C. 20506.

This meeting for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4) and (6) and 9(b) of section 552b of Title 5, United States Code.

Further formation with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 30, 1981.

[FR Doc. 81-10419 Filed 4-6-81; 8:45 am]

BILLING CODE 1537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting at 8:30 a.m. on April 21 and 22, 1981, Royal Court Inn, 1750 S. Elmhurst Road, Des Plaines, IL. The Subcommittee will discuss matters relating to the development of LMFBR safety design criteria. Notice of this meeting was published March 27.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for the subject meeting shall be as follows: *Tuesday and Wednesday, April 21 and 22, 1981, 8:30 a.m. until the conclusion of business each day.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on request 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. Elpidio Egne or Dr. Richard Savio (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: April 1, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-10385 Filed 4-6-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Susquehanna Steam Electric Station, Units 1 and 2; Meeting

The ACRS Subcommittee on Susquehanna Steam Electric Station, Units 1 and 2 will hold a meeting at 8:30 a.m. on April 23, 1981 at the Best Western Gus Genetti Motor Inn, 77 E. Market Street, Wilkes-Barre, PA 18701. The Subcommittee will discuss the Pennsylvania Power and Light Company's request for an Operating License. Notice of this meeting was published March 27.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Cognizant Federal Employee as far in advance as practicable so that appropriate arrangements can made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Thursday, April 23, 1981, 8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Pennsylvania Power and Light Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Cognizant Federal Employee, Mr. Garry Young (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: April 1, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-10307 Filed 4-6-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Three Mile Island Unit 1; Meeting

The ACRS Subcommittee on Three Mile Island Unit 1 will hold a meeting on April 23 and 24, 1981 in Room 1046, 1717 H Street, N.W., Washington, DC to review the modifications made to TMI–1 in preparation for restart following the TMI–2 accident. Notice of this meeting was published March 27.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statments.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Thursday and Friday, April 23 and 24, 1981, 8:30 a.m. until the conclusion of business each day.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Metropolitan Edison Company, NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: April 1, 1981.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 81-10309 Filed 4-6-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–364]

Alabama Power Co.; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. NPF–8 to Alabama Power Company which authorizes operation of the Joseph M. Farley Nuclear Plant, Unit 2, (Farley Unit 2), at reactor core power levels not in excess of 2652 megawatts thermal (100 percent power) in accordance with the provisions and conditions of the license, the appended Technical Specifications and the Environmental Protection Plan. Prior to operation at power levels exceeding 5 percent, certain license conditions must be met. This license supersedes the Fuel Loading and Low Power Testing License issued October 23, 1980.

Farley Unit 2, is a pressurized water reactor located in Houston County, Alabama. Prior public notice of the overall action involving the proposed issuance of facility operating license was issued in the **Federal Register** on November 29, 1973 (38 FR 29907).

The application complies with the standards and requirements of the Act and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the facility operating license.

The Commission has determined that the issuance of this facility full power operating license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

A copy of (1) Facility Operating License NPF–8, complete with Technical Specifications (NUREG–0697 as revised) and Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards dated June 12, 1975; (3) the Office of Nuclear Reactor Regulation's Safety Evaluation Report (NUREG–75/034) dated May 1975, Supplement 1 dated October 1975, Supplement 2 dated October 1976, Supplement 3 dated June 1978, Supplement 4 dated September 1980, and Supplements 5 and 6 dated March 1981 (supplements are NUREG–0117); (4) the Final Safety Analysis Report and amendments thereto; (5) the licensee's Environmental Report and supplements thereto; (6) the NRC Draft Environmental Statement dated July 1974; (7) the NRC Final Environmental Statement (FES) dated December 1974, the NRC Environmental Assessment dated April 1977, and the FES Addendum dated September 1980 (NUREG–0727); and (8) the NRC Flood Plain Review of the Joseph M. Farley Nuclear Plant site dated September 17, 1980, are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the G. S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

A copy of the facility operating license may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Copies of the Safety Evaluation Report and Supplements, and the Final Environmental Statement and Addendum may be purchased at current rates from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit holders can call 301–492–9530.

Dated at Bethesda, Maryland, this 31st day of March 1981.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 81–10391 Filed 4–6–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–498 OL and 50–499 OL]

Houston Lighting & Power Company, et al. (South Texas Project, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Richard S. Salzman, Chairman
Dr. John H. Buck
Christine N. Kohl

Dated: March 31, 1981.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 81–10392 Filed 4–6–81; 8:45 am]

BILLING CODE 7590–01–M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D8, "Safety-Related Instrumentation and Control Systems," has been developed. The Working Group, consisting of Mr. C. Karpeta of Czechoslovakia; Mr. F. Reisch of Sweden; Mr. J. L. Petrie of the United Kingdom; and Mr. J. Gallagher (Westinghouse Electric Corp.) of the United States of America, developed the initial draft of this Safety Guide from an IAEA collation during a meeting on February 6–17, 1978. The Working Group draft was modified by the IAEA Technical Review Committee in subsequent meetings during 1979 and 1980, the last meeting being February 9–13, 1981, and we are soliciting comments on this modified draft. Comments on this draft received by May 25, 1981, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Since copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Md. this 30th day of March 1981.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Acting Director, Office of Standards Development.

[FR Doc. 81–10378 Filed 4–6–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–220]

Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station, Unit No. 1); Order for Modification of License

I

The Niagara Mohawk Power Company (licensee) is the holder of Facility Operating License No. DPR–63 which authorizes the operation of the Nine Mile Point Nuclear Station, Unit No. 1, at steady-state reactor power levels not in excess of 1850 megawatts thermal (rated power). The facility consists of a boiling water reactor located at the licensee's site in Oswego County, New York.

II

On January 9, 1981 the Commission issued an Order modifying the license, effective immediately, requiring an operable automatic system to initiate control rod insertion at low pressure in the control air header. The Order, published in the **Federal Register** on January 20, 1981 (46 FR 9287) required the automatic air header dump system to be operable by April 9, 1981 or the facility be placed in cold shutdown within 72 hours. The automatic air dump system was intended to provide an additional measure of protection for credible degraded air conditions in the BWR control air system pending the completion of the long term solution to these conditions.

III

The licensee, by letter dated February 6, 1981, requested a modification of the January 9, 1981 Order for Modification of license to permit the installation of a permanent modification for a long term solution which would meet Design Criteria 1 of the staff's generic Safety Evaluation Report, BWR Scram Discharge System, dated December 1, 1980. The licensee expects to install the permanent modification during its current refueling outage such that there is no need to install the short term modifications required in the January 9, 1981 Order. I have determined that after April 9, 1981, the public health, safety and interest requires for operation of the facility either the completion of the short term requirements of the January 9, 1981 Order or completion of the long term requirements described in Design Criterion 1 of the December 1, 1980 SER.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered effective immediately, that the January 9, 1981 Order for Modification of License be amended to add the following condition:

As an alternative to the Automatic Dump System described in section IV of the January 9, 1981 Order for Modification of License, the licensee may install permanent modifications to improve the SDV–IV hydraulic coupling.

provided that: (1) the modifications are installed prior to power operation after April 9, 1981, (2) the modifications meet Design Criterion 1 in the staff's generic SER dated December 1, 1981, and (3) appropriate Technical Specification changes are approved prior to power operation after April 9, 1981.

V

Any person whose interests may be affected by this Order may request a hearing on or before April 27, 1981. Any request for a hearing will not stay the effective date of this Order. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and shall set forth with particularity the nature of their interest and the manner in which such interest may be affected by this Order. A copy of the request should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

VI

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be:

Whether the licensees may install permanent modifications meeting Design Criterion 1 of the December 1, 1980 SER in lieu of the air dump system required by the January 9, 1981 Order. Operation of the facility on terms consistent with this Order is not stayed by the pendence of any proceedings on the Order.

Dated: March 30, 1981, Bethesda, Maryland.
For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 81-10093 Filed 4-6-81; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.148, "Functional Specification for Active Valve Assemblies in Systems Important to Safety in Nuclear Power Plants," delineates a procedure acceptable to the NRC staff for implementing the Commission's regulations with respect to the detailed specification of information pertinent to defining operating requirements for valve assemblies whose safety-related function is to open, close, or regulate fluid flow in light-water-cooled nuclear power plants. The guide endorses, with some exceptions, ANSI N278.1-1975, "Self-Operated and Power-Operated Safety-Related Valves Functional Specification Standard."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

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

Dated at Rockville, Maryland this 30th day of March 1981.

For the Nuclear Regulatory Commission.

Ray G. Smith,

Acting Director, Office of Standards Development.

[FR Doc. 81-10094 Filed 4-6-81; 8:45 am]

BILLING CODE 7590-01-M

Report to Congress on Status of Emergency Response Planning for Nuclear Power Plants

Pursuant to requirements of Sec. 109, Nuclear Regulatory Commission Appropriation Authorization, Public Law 96-295, the Nuclear Regulatory Commission has published its Report to Congress on Status of Emergency Response Planning for Nuclear Power Plants (NUREG-0755). The Commission reported on regulatory action, emergency plan status, and evacuation time estimates.

Copies of the report are being placed in NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C., and in the 130 Local Public Document Rooms throughout the U.S. for review by interested persons. Copies of the report may be purchased from the Sales Agent, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555, for $4.00 each. Your check or money order should be made payable to Superintendent of Documents. GPO deposit account holders may charge orders by calling (301) 492-9530. Copies also will be available at the National Technical Information Service, Springfield, Virginia 22161.

Dated at Washington, D.C., this 2nd day of April, 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-10377 Filed 4-6-81; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11712; (812-4822)]

American Birthright Trust and Tax-Managed Fund for Utility Shares, Inc.; Filing of Application for an Order of the Commission Amending a Previous Order Which Pursuant to Section 6(c) of the Act Granted a Temporary Exemption From Section 16(a) of the Act

March 31, 1981.

Notice is Hereby Given that American Birthright Trust and Tax-Managed Fund For Utility Shares, Inc., 247 Royal Palm Way, Palm Beach, Florida 33480 ("Applicants"), each registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on March 23, 1981, pursuant to Section 6(c) of the Act requesting an order of the Commission amending a previous order of the Commission dated February 24, 1981 (Investment Company Act Release No. 11644). The previous order temporarily exempted Applicants from certain provisions of Section 16(a) of the Act to permit pursuant to a court order three "disinterested" persons and one new "interested" person to serve on the board of directors or board of trustees of the Applicants until Applicants' 1981 annual meetings of shareholders. The amended order would extend the time period of the exemption to June 30, 1981, from April 30, 1981, the expiration date specified in the previous order. All interested persons are referred to the application on file with the Commission for a statement of the representations

contained therein, which are summarized below.

Applicants state that on December 30, 1980, the United States District Court for the District of Columbia entered an order in *Securities and Exchange Commission* v. *American Birthright Trust Management, Inc. et al.*, Civil Action No. 80-3306 ("Order"). The entry of that Order resulted in the settlement of an injunctive action brought by the Commission against the investment adviser, officers of the investment adviser, and the directors and trustees of the Applicants as a result of certain alleged violations of the Securities Act of 1933 ("1933 Act") and the Act committed by the above entity and individuals in their administration of the affairs of the Applicants. Among other things, the Order required that the investment adviser of the Applicants and the officers of the investment adviser take action to ensure that at least 60% of the members of the board of trustees of American Birthright Trust and board of directors of Tax-Managed Fund For Utility Shares, Inc. would consist of disinterested directors or trustees having no previous affiliation with any of the defendants in this case and with whom the Commission shall have no objection. Pursuant to that provision of the Order all but one member of Applicants' previous boards resigned and were replaced by four individuals, three of whom had no previous affiliation with any of the defendants in the injunctive action. Thus, only one member of Applicants' present boards has been elected by the shareholders of Applicants.

Section 16(a) of the Act, provides, in part, that, except for the filling of certain vacancies on a board of directors, no person can serve as a director of a registered investment company unless elected by shareholders. In the event that at any time less than a majority of directors have been elected by shareholders, Section 16(a) requires that a special meeting of shareholders be held within sixty days for the purpose of electing directors to fill any existing vacancies on the board unless the Commission shall, by order, extend such period. In order to prevent their boards from being improperly constituted after February 28, 1981, Applicants requested, pursuant to Section 6(c) of the Act, a temporary order of exemption from certain provisions of Section 16(a) of the Act until April 30, 1981. The Commission issued such an order on February 24, 1981 (Investment Company Act Release No. 11644).

In their initial application Applicants stated that their new boards, assisted by independent counsel, who was appointed pursuant to the terms of the Order, were reviewing the advisory and service contracts with Applicants' investment adviser (American Birthright Trust Management, Inc.) as required by the Order. Applicants further stated that, while their new boards required additional time within which to complete this review, it was intended that the review would be completed in sufficient time to permit proxy statements for the 1981 annual shareholder meetings to reflect the results of those deliberations. Such meetings were planned for the month of April, 1981.

In their application for an amended order Applicants state that their new boards remain actively engaged in the review of the advisory and service contracts and do not expect to complete such review in time to permit submissions to Applicants' shareholders of the results of that review prior to April 30, 1981. Accordingly, Applicants have requested that the Commission amend its temporary order dated February 24, 1981, to extend the time period of the temporary exemption granted therein until June 30, 1981.

In support of their request for extension of the temporary order, Applicants state that their boards have requested and have been provided extensive, detailed materials in connection with their review of the advisory and service contracts. According to Applicants, evaluating these materials has taken more time than the new boards had anticipated would be necessary when the initial application in this matter was filed. In the view of the new boards, it is in the interests of the Applicants and their shareholders and consistent with the purposes of the Order that the boards take as much time as is necessary to perform a thorough review of the advisory and service contracts. It is represented that this director and trustee review process includes ongoing discussions with Applicants' investment adviser as to the nature and manner of the investment advice and other services which are and should be provided by the adviser to Applicants. It is expected that this review will be completed in time so that its results can be considered by shareholders at the annual shareholder meetings of Applicants that are now scheduled to be held on or before June 30, 1981.

In addition to the above considerations, Applicants note that the holding of special shareholder meetings by April 30, 1981, to elect directors and trustees (in order to comply with the Commission's February 24th order) would result in the holding of two shareholder meetings within three months. Applicants contend that this would impose an unnecessary and inappropriate burden on them, and would constitute an unjustifiable cost to their shareholders.

Applicants further contend that other factors cited by the Commission in its order of February 24, 1981, including the District Court's entry of the Order, the concurrence of the Commission with the terms of the Order, and the temporary nature of the exemptive relief sought, remain applicable to its request for amendment of the Commission's temporary exemption.

Applicants conclude that, in light of the foregoing, the requested amended order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 27, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's

own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-10362 Filed 4-6-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21989; (70-6581)]

Western Massachusetts Electric Co.; Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

April 1, 1981.

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts, an electric utility subsidiary of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder. WMECO proposes to issue and sell up to $25,000,000 principal amount of first mortgage bonds at competitive bidding. The bonds will have a maturity of not less than five nor more than thirty years and will be issued under the First Mortgage Indenture and Deed of Trust dated as of August 1, 1954, as supplemented and as to be further supplemented. The exact terms will be determined by competitive bidding. The net proceeds from the sale of the bonds will be used to repay, in part, WMECO's outstanding short-term borrowings estimated at $46,000,000 at the time of the bond sale in May 1981.

The application and any amendments thereto are available for public inspection through the Office of Public Reference. Any interested person wishing to comment or request a hearing should submit views in writing by April 27, 1981 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person, who so requests, will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as filed or as it may be amended, may be granted effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-10363 Filed 4-6-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular, Public Debt Series—No. 10-81]

Notes of Series D—1988; Interest

April 1, 1981.

The Secretary announced on March 31, 1981, that the interest rate on the notes designated Series D-1988, described in Department Circular—Public Debt Series—No. 10-81 dated March 18, 1981, will be 13¼ percent. Interest on the notes will be payable at the rate of 13¼ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-10444 Filed 4-6-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 66
Tuesday, April 7, 1981

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

FEDERAL ENERGY REGULATORY COMMISSION.

April 3, 1981.

TIME AND DATE: 10 a.m., April 10, 1981.

PLACE: Room 9306, 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *Escondido Mutual Water Company, et al.* v. *FERC*, Civ. No. 79-7625, *et al.*

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-9400.

Kenneth F. Plumb,
Secretary.

[S-548-81 Filed 4-3-81; 3:25 pm]

BILLING CODE 6450-85-M

2

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 20025, April 2, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Wednesday, April 8, 1981.

PLACE: 1700 G Street N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting scheduled for Wednesday, April 8, 1981.

Service Corporation Amendments. No. 472, April 3, 1981.

[S-546-81 Filed 4-3-81; 3:10 pm]

BILLING CODE 6720-01-M

3

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, April 13, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: April 3, 1981.

James McAfee,
Assistant Secretary of the Board.

[S-547-81 Filed 4-3-81; 3:19 pm]

BILLING CODE 6210-01-M

4

[FCSC Meeting Notice No. 3-81]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Wednesday, April 8, 1981 at 10:30 a.m.
Consideration of decisions involving claims of American Citizens against the German Democratic Republic and the People's Republic of China; Claims for Vietnam Prisoner of War Compensation.
Wednesday, April 15, 1981 at 10:30 a.m.
Wednesday, April 22, 1981 at 10:30 a.m.
Wednesday, April 29, 1981 at 10:30 a.m.

Oral Hearings

Tuesday, April 7, 1981 at 10:00 a.m.
G-2638—Martha Werner
G-1951—Elisbeth M. A. Shultz
G-3063—Estate of Arthur Simson, et al.
Tuesday, April 7, 1981 at 2:00 p.m.
G-0398—Renee Heymann, Clemens Claude Heymann
G-1108—Hilde J. Heinrich
G-3266—Fred J. Rogers, Ana M. G. Rohden, Gabriella Kottler
G-3661—Estate of Anna Berliner, First National Bank of Oregon, Executor
G-3142—Hans N. Naumann
G-3454—Edward Astri
Tuesday, April 14, 1981 at 10:00 a.m.
G-2480—Exxon Corporation
Tuesday, April 14, 1981 at 2:00 p.m.
G-1420—Charles E. Frowenfeld
G-1421—Margaret De Korte, Flora S. Stannett
G-3116—Helen M. Polka
G-3403—Martin Polka, Jr., Eugene Polka, Marlene P. Doerfer, Regina P. Sheppard
G-0443—Elizabeth Von Furstenberg
G-3164—Meta Weinberger
G-3163—Siegbert Weinberger
G-3165—Sonja Eisenberg
Tuesday, April 21, 1981 at 10:00 a.m.
G-2401—International Telephone and Telegraph Corporation
Tuesday, April 21, 1981 at 2:00 p.m.
G-3764—General Electric Company
G-2572—Carl A. Wilfert
G-0314—Charles A. Noble, Ben B. Thorsch
Thursday, April 23, 1981 at 10:00 a.m.
G-2966—Ernest G. Herman, Gunther F. Herman
G-2960—Rene Loeb—Trustee under the wills of Maurice Garbaty and Ella Garbaty, Marie L. Garbaty
G-2954—Henry J. Bamberger
G-2955—Frank J. Bamberger, Lotte Bamberger, Friedl Gundersheimer, Sue Siegel
Thursday, April 23, 1981 at 2:00 p.m.
G-3199—Trust under the will of
G-3200—Israel Kestenbaum; Sylvia Korngold and
G-3207—Ralph Kestenbaum, Trustees
G-3221—Gisela Kestenbaum
G-3536—Paul Kestenbaum
G-3537—Ester Eisenberg
G-3614—Nash Aussenberg, Enid Boxer, Yetta Kestenbaum, Shirley Schulder, Lillian E. Levine, Sanford Kestenbaum, Lionel Kestenbaum
G-0815—Ilse I. Garfunkel
G-0457—Eric Kaufmann
G-1307—Nelly Mankin
G-0811—Margaret Bash
G-3289—Edgar Hardy
Tuesday, April 28, 1981 at 10:00 a.m.
G-1992—Estate of Ernest Banse, (dec'd) Raymond W. Banse (Executor)
G-3032—Ernst L. Lowe, Werner Loewy, Margot Loewy
G-3220—Rita Kestenbaum
G-3273—Eleonore S. Rothschild
G-3282—Jules M. Bier, Siegfried F. Bier
G-2915—Robert Steckler
Tuesday, April 28, 1981 at 2:00 p.m.
G-2998—Robert G. Engel, Herman W. Engel, Steven F. Engel, Adrea Caren
G-2390—Joseph Wiesenthal
Tuesday, May 5, 1981 at 10:00 a.m.

C–2909—Walter O. Michael

Subject matter listed above not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. Request for information, or advance notice of intention to observe a meeting, may be directed to Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579 Telephone (202) 653–6155

Dated at Washington, D.C. on April 1, 1981.

Judith H. Lock,

Administrative Officer.

[S-545-81 Filed 4-3-81; 2:00 pm]

BILLING CODE 4410-01-M

5

[NM-81-12]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, April 14, 1981.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Indpendence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first item will be open to the public; the last three items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Collision of U.S. Mississippi River Steamer NATCHEZ and U.S. Tankship SS *Exxon Baltimore*, New Orleans, Louisiana, March 29, 1980, and *Letters of Recommendation* to the U.S. Coast Guard and New Orleans Steamboat Company.
2. *Opinion and Order:* Administrator v. Will Banks, Docket SE–4284.
3. *Opinion and Order:* Petition of Meyer, Docket SM–2193.
4. *Opinion and Order:* Commandant, U.S. Coast Gaurd v. William Lingley, Docket ME–80.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming 202–472–6022.

April 3, 1981.

[S-549-81 Filed 4-3-81; 3:30 pm]

BILLING CODE 4910-58-M

6

[1P0401]

PAROLE COMMISSION.

TIME AND DATE:

Monday, April 6, 1981—1:30 p.m. to 5:30 p.m.
Tuesday, April 7, 1981—9:00 a.m. to 5:30 p.m.

PLACE: Room 420–F Park Place, One North Park Building, 5550 Friendship Blvd., Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 21 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5926.

[S-542-80 Filed 4-2-81; 4:36 pm]

BILLING CODE 4410-01-M

7

[1P0401]

PAROLE COMMISSION.

TIME AND DATE: 9 a.m. –11:30 a.m., Monday, April 6, 1981.

PLACE: Room 420-F, Park Place, One North Park Building, 5550 Friendship Blvd., Bethesda, Maryland 20015.

STATUS: Open.

MATTERS TO BE CONSIDERED: The extent to which the National Appeals Board, in correcting errors and preventing disparaties among the regions, may define what constitues "error" in the absence of specific written policy established by the full Commission.

CONTACT PERSON FOR MORE INFORMATION:

Michael A. Stover, Attorney, Office of General Counsel, United States Parole Commission (301) 492–5959.

[S-543-81 Filed 4-2-81; 4:36 pm]

BILLING CODE 4410-01-M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 18880, March 26, 1981, to be published.

STATUS: Closed meeting.

PLACE: Room 824, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED:

Tuesday, March 24, 1981
Monday, March 30, 1981

CHANGES IN THE MEETING: Additional meeting/deletion. The following item was considered at a closed meeting scheduled for Thursday, April 2, 1981, at 9:30 a.m.

Trading suspension

The following item will not be considered at a closed meeting scheduled for Thursday, April 9, 1981, following the 10:30 a.m. open meeting.

Settlement of administrative proceeding of an enforcement nature

Acting Chairman Loomis and Commissioners Evans and Thomas determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272–2091.

April 2, 1981.

[S-544-81 Filed 4-2-81; 4:44 pm]

BILLING CODE 8010-01-M

federal register

Tuesday
April 7, 1981

Part II

Federal Reserve System

Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing); Final Rules

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0288]

Truth in Lending; Revised Regulation Z

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting a complete revision of its Regulation Z (Truth in Lending). The revision implements the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221) and substantially alters the requirements and the structure of the current regulation. Within the last year, the Board has twice published proposed revisions of the regulation (45 FR 29702, May 5, 1980, and 45 FR 80648, December 5, 1980) and received more than 1000 comments on those proposals.

The new regulation becomes effective on April 1, 1981, but creditors have the option of continuing to comply with current Regulation Z until March 31, 1982. Beginning April 1, 1982, creditors subject to Regulation Z must comply with the revised regulation.

The Board has consolidated the consumer leasing provisions contained in current Regulation Z and is publishing them as a separate regulation (Regulation M, 12 CFR 213) published elsewhere in this issue.

EFFECTIVE DATE: April 1, 1981, but compliance optional until April 1, 1982.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-2412, (202) 452-3667, or (202) 452-3867:

Subpart A

Gerald Hurst
Beth Morgan
Denise Rechter

Subpart B and Appendices

Ruth Amberg
Jesse Filkins
Lynn Goldfaden
Gerald Hurst
Barbara Ranagan
John Wood

Subpart C and Appendices

Beth Morgan
Denise Rechter
Rugenia Silver
Susan Werthan
Claudia Yarus
Steve Zeisel

Subpart D and Appendices

Lynn Goldfaden
Susan Werthan

SUPPLEMENTARY INFORMATION:

(1) *General.* In March 1980, Congress adopted the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221). Although the act has been revised several times since its adoption in 1968, the Simplification Act marked the first concerted effort by Congress, partly on the basis of recommendations from the Federal Reserve Board, to reduce federal Truth in Lending requirements. Among its major provisions are (1) a significant reduction in consumer credit disclosures, particularly in closed-end transactions, (2) reimbursement requirements for certain cost understatements, (3) a decrease in civil liability for violations, and (4) revisions in the act's application to real estate transactions.

Following the enactment of the revised statute, the Board twice published proposed revisions of Regulation Z. The first proposal was published on May 5, 1980 (45 FR 29702) and incorporated changes mandated by the revised act, as well as a number of substantive and structural changes from the current regulation. After analysis of more than 500 comments on that proposal, the Board published a second revised regulation for comment on December 5, 1980 (45 FR 80648), which proposed further substantive changes. The Board received approximately 530 comments on the second proposal. (Copies of these comments are available through the Office of the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C.)

The revised act and regulation reflect a growing concern in Congress and elsewhere that Truth in Lending has not completely fulfilled its original purposes. In the last decade, surveys indicate that Truth in Lending has heightened consumers' awareness and understanding of the cost and terms of consumer credit transactions. During the same period, however, it has become increasingly evident that the act has imposed highly complex and technical requirements on creditors, produced disclosures that sometimes obscured the important information to consumers, and generated costly and burdensome litigation over technical interpretations of the regulation.

The revised regulation addresses these concerns in its emphasis on disclosure of essential credit information in a straightforward manner, and on reduction in the number of technical disclosure burdens placed on creditors. The regulation's focus on simplified disclosure of material terms should benefit consumers by providing a more useful basis for credit decisions, and creditors by reducing the difficulty of compliance.

An official commentary to the regulation, to be published in the near future, will incorporate those Board and staff interpretations previously issued on current Regulation Z that remain applicable to the new regulation. The commentary, which will be issued in the form of an official staff interpretation, will provide additional guidance regarding application of the regulation and will incorporate some of the detailed material from the current regulation.

One major change in the revised regulation, not reflected in the earlier proposals, is the deletion of the requirements relating to consumer leases. The Consumer Leasing Act was adopted by Congress in 1976 as an amendment to the Truth in Lending Act, and the Board's regulations to implement the leasing provisions have until now been incorporated into Regulation Z. Because they are unrelated to the basic credit orientation of the regulation and are relevant to comparatively few institutions, the leasing provisions have been placed in a separate Regulation M. The new regulation, which makes no substantive change in the leasing requirements of the current regulation, is also being adopted at this time and appears elsewhere in this publication. Regulation M incorporates the leasing forms that now appear in Board Interpretation §§ 226.1501, 226.1502, and 226.1503.

As in the earlier proposals, the regulation is divided into subparts, with Subpart B addressing open-end credit and Subpart C containing rules for closed-end credit. Subparts A and D reflect general provisions of the regulation that relate to both open-end and closed-end credit. The appendices following Subpart D are formally a part of the regulation and contain a variety of technical material, specialized rules and procedures, as well as the model forms and clauses for compliance with the regulation. Supplement I to current Regulation Z, which sets forth equations and instructions for calculating the annual percentage rate, has been redesignated as Appendix J, but is otherwise substantially unchanged.

The new act becomes effective on April 1, 1982, but requires the Board to

adopt final rules implementing the act by April 1, 1981. In order to provide an adequate transition period during which creditors may begin adjusting their forms and procedures to the new rules, creditors have the option for the intervening year of complying with either the current regulation or the revised regulation. By April 1, 1982, creditors must be in compliance with the revised regulation. Creditors may begin complying with the revised regulation as soon as they are able, but they are not required to do so unit April 1, 1982. A creditor may wish to convert its entire operation to the new requirements at one time or it may prefer to phase in the new requirements over time, for example, by converting to the new rules by category of transaction, by branches or offices, or even by transaction. Any of these approaches is acceptable. In addition, a creditor may choose to follow the revised regulation's rules on credit advertising and the right of rescission even though it has not yet converted its other operations to the new regulation.

In addition to the new provisions on how to make disclosures, the revised regulation contains a number of new rules regarding coverage. A creditor may use the new coverage rules to make the determination as to whether a particular transaction or the creditor itself is covered by Regulation Z. For example, layaway plans are not subject to the new regulation, nor are oral agreements, payable in more than four installments if there is no finance charge. These provisions may be relied on even if a person is using the current regulation for its other operations. Similarly, a person may use the 25 transactions per year rule of the creditor definition to decide whether or not it is subject to the regulation.

Creditors may not, however, "mix and match" requirements from the current and the revised regulations in making the disclosures for a single transaction. For example, all of the disclosures for a closed-end credit transaction must be made in accordance with the current regulation or all of them must be made in accordance with the revised regulation. Similarly, an open-end creditor must comply either with all the current rules or with all the revised rules for any individual account. (Of course, periodic statements may be made under the new requirements even though the initial disclosures were made under the old.) A creditor may avail itself of the new tolerances only if it complies with the revised regulation.

The Board and staff interpretations that have been issued under the current regulation will continue to be effective until April 1, 1982, for those creditors complying with the current regulation. Those interpretations and letters will be revoked as of that date.

The Board hopes these rules will provide for a simple, orderly transition from old to new rules with a minimum of disruption and inconvenience.

Five states have been granted exemptions from current Regulation Z. Those exemptions—to Connecticut, Maine, Massachusetts, Oklahoma, and Wyoming—do not expire until April 1, 1982.

(2) *Section-by-section analysis.* Set forth below is a section-by-section analysis of the revised regulation, followed by the text of the regulation. In the discussion of the provisions, the regulation as it existed prior to this Board action is referred to as the "current" regulation; the regulation as modified by this action is referred to as the "revised" regulation.

§ 226.1 Authority, purpose, coverage, organization, enforcement and liability.

This section restates the authority and purpose provisions now contained in § 226.1(a) of the current regulation, and describes the coverage of the regulation. It also explains the reorganization of the regulation into four major subparts, and directs attention to the shifting of certain material from the regulatory text into appendices and a commentary to be produced in the near future.

The leasing provisions have been removed from Regulation Z and are being issued as a separate regulation, Regulation M. The Board believes that since consumer leasing is engaged in by such a small proportion of the people covered by Regulation Z, it makes more sense to provide the requirements separately. The separation of leasing from credit is aimed at making both regulations easier to use.

This section reflects some minor editorial changes from the December proposal. A footnote has been added to clarify that credit is "regularly" offered only if it meets the specific standards set out in the definition of creditor. In paragraph (c)(1)(iii) the word "payable" replaces the word "repayable" to more clearly apply to sales as well as loans. The list of enforcement agencies has been added to the enumeration of the contents of the appendices in paragraph (d)(6). However, the detailed description of the appendices has been deleted so that if appendices are added later, such additions will not require amendments to this section.

The foreign application of Regulation Z was a concern to some commenters, particularly with regard to credit cards. The commentary will clarify the Board's position that if an account is located in the U.S. and credit is extended to a U.S. resident, the transaction is subject to Regulation Z. This will be the case whether or not the transaction takes place in the U.S. and whether or not the extender of credit is chartered in the United States or a foreign country.

Paragraph (e) of the revised regulation refers to the various civil and criminal liability provisions of the act. It does not describe the content of those provisions as does § 226.1(c) of the current regulation; it is meant merely as an easy cross-reference to the applicable provisions of the act. The reference has been expanded from that in the December proposal to include § 113.

§ 226.2 Definitions and rules of construction.

Section 226.2 is organized in two paragraphs: § 226.2(a), which contains in alphabetical order the definitions that apply to the regulation, and § 226.2(b), which contains the rules of construction. The leasing provisions have been removed from the revised regulation and incorporated into a separate regulation, new Regulation M; therefore, all references to leases have been deleted from this section. Section 226.2 incorporates virtually all of the defined terms used in current Regulation Z and all of the terms defined in the December proposal, with the exception of "personal property" which has been eliminated because its definition relates primarily to leases.

(a) *Definitions.*

Act. This definition cites the original and the amended statutes and corresponds to § 226.2(b) of the current regulation. This term was a rule of construction in the December proposal.

Advertisement. This definition describes the advertisements that are subject to §§ 226.16 or 226.24. It is based on § 226.2(d) of the current regulation.

The definition has been slightly revised from that in the December proposal. The phrase "is designed to promote" has been replaced by the word "promotes," a more direct way of expressing the idea intended.

Two additional things should be noted about advertisements. First, the definition continues to exclude direct personal contact, such as follow-up letters and cost estimates for individual consumers. Second, all persons, not only creditors, must comply with the advertising requirements of §§ 226.16 and 226.24.

Arranger of credit. This definition is based on amended § 103(f) of the act, which includes in the definition of

"creditor" persons in the business of arranging credit under certain limited circumstances. The scope of the definition is narrower than § 226.2(h) of the current regulation, because it includes only professional arrangers acting on behalf of primary lenders who do not themselves fit the definition of "creditor." To fall within this definition, a person must arrange for extensions of consumer credit (that is, credit subject to a finance charge or payable by written agreement in more than four installments) by non-creditors more than the specified number of times a year. Footnote 2 sets forth the numerical standards, which are the same as those used in the definition of "creditor," discussed below. The first part of the definition has been redrafted to clarify that the numerical standard applies only to the instances in which credit arranged is in fact extended and not to instances in which credit is offered but not accepted.

Billing cycle or *cycle*, which corresponds to § 226.2(i) of the current regulation, is unchanged from the December proposal. The definition incorporates a longstanding staff position that these cycles must be no longer than a quarter of a year.

The revised regulation differs from the current regulation in that it also requires periodic statement cycles to be equal, whereas the current regulation only sets forth the rule for when such cycles may be considered equal for computation and disclosure purposes. The requirement that cycles be of equal intervals is intended both to facilitate accurate disclosures and to ensure the furnishing of statements on a regular basis.

The revised regulation retains the provision allowing a creditor to consider as equal the intervals at which statements are sent, unless a particular statement date varies by more than four days from the regular date used by the creditor. In addition, the revised definition allows greater flexibility than the current one by permitting a creditor that uses regular statement days (such as the third Thursday of every month) to measure its four-day variance from that day, rather than from the date on which it falls.

The Board notes that the revised definition refers to both "billing cycle" and "cycle," in light of the fact that many creditors do not bill in the traditional sense, but rather send statements of the account to consumers. No substantive change is intended by this addition.

Board. This definition is virtually identical to § 103(b) of the act and § 226.2(k) of the current regulation. It is defined here to avoid needless repetition elsewhere in the regulation.

Business day. This definition is based on the combination of footnote 14 to § 226.9 of the current regulation and the definition of "business day" in the December proposal.

This definition provides a general rule applicable to most sections of the regulation and a special rule applicable only to the provisions on the right of rescission. The general rule, based on a creditor's normal operating schedule, is identical to the December proposal. It is substantially similar to its counterpart in Regulation E, which implements the Electronic Fund Transfer Act. The rule for transactions subject to the right of rescission is virtually identical to footnote 14 to § 226.9 of the current regulation. The Board believes, based on the comments, that transactions subject to the right of rescission need a more definite and uniform business day definition and that a separate definition for those cases is justified. Thus, it has adopted this two-tiered definition.

Card issuer. The definition of card issuer is unchanged from the December proposal and § 226.2(l) of the current regulation.

Cardholder. This definition differs in structure, but not in scope, from § 226.2(m) of the current regulation. The current regulation provides that a "cardholder" means any person to whom a credit card is issued for any purpose. Because of limitations set forth elsewhere in the act and regulation, however, general coverage is in fact restricted to natural persons who are issued the cards for consumer credit purposes. Other persons to whom cards are issued and cards issued for non-consumer credit purposes are covered only by the provisions regarding credit card issuance and liability. The revised definition reflects this distinction, as did the December proposal, and makes clear that a natural person guaranteeing a business credit card is not a cardholder except for the limited purposes of § 226.12 (a) and (b).

The revised regulation differs from the December proposal by deleting language tying coverage as a cardholder to whether the card was issued at the request of that person. Guidance on credit card issuance appears in § 226.12(a) and the accompanying material.

Cash price. This definition is based on § 226.2(n) of the current regulation. The statement that charges imposed equally in cash and credit transactions are included has been deleted from the definition since it essentially repeats the sense of the first sentence. This item is no longer a required disclosure, as it is in the current regulation.

The definition has been revised from the December proposal. The language "at the creditor's option" has been added to the second sentence to stress the permissive nature of the rule regarding what can be included in the cash price. The word "optional" has been deleted from the phrase "optional accessories" as unnecessary; and no change in meaning is intended.

The Board has received numerous questions regarding the proper treatment of rebates, both manufacturer's and seller's, in credit sale transactions. The Board believes that a uniform rule regarding their treatment for Truth in Lending purposes is neither desirable nor feasible. This represents a change from the staff's position under the current regulation that rebates had to be disclosed in a particular manner. This means that rebates need not be reflected in the Truth in Lending disclosures, and if they are reflected, the creditor may treat them in any manner.

Closed-end credit. This definition has no counterpart in the current regulation. However, it has long been unofficially used to describe the type of credit referred to in the act as "other than open-end." The definition is identical to the one in the December proposal. Subpart C contains the substantive rules that apply to closed-end credit transactions.

Consumer. This definition is based partly on the statutory definition in § 103(h) and partly on the definition of "customer" in § 226.2(u) of the current regulation.

The definition has been significantly revised from the December proposal. It provides a general rule for most sections of the regulation and a special rule applicable only to the provisions on the right of rescission. The general rule significantly reduces the scope of the definition from that in the current regulation and December proposal; it includes only cardholders and natural persons to whom consumer credit is offered or extended. This means that persons such as endorsers, guarantors or sureties are no longer "consumers" for purposes of the general rule.

The special rule for rescission, however, broadens the definition to include any natural person (such as a guarantor, surety, or a person who is not liable on the credit obligation) when that person's home is subject to the risk of loss. That person has the right to receive the material disclosures and the notice of the right to rescind and may rescind the transaction.

There is one exception to the rule that a consumer must be either a natural person or a cardholder. Credit extended to land trusts, as described in the material accompanying § 226.3 of this regulation, is considered consumer credit extended to a consumer for Truth in Lending purposes.

Consumer credit. This definition is based on § 226.2(p) of the current regulation, and is identical to the December proposal.

Consummation. This definition is based on § 226.2(kk) of the current regulation, which defines consummation in terms of the creation of a contractual relationship, and is the same as that in the December proposal. As before, state law determines when the contractual obligation arises, but the revised definition focuses on when the *consumer* becomes obligated.

This definition is a significant departure from longstanding staff interpretations of the current regulation that had added the concept of "economic coercion" to the test of when consummation occurs. Under the revised definition, consummation occurs only when the consumer becomes contractually obligated on the *credit* transaction. The time at which a consumer becomes contractually obligated on a purchase does not determine when consummation occurs for Truth in Lending purposes, as long as there is no credit obligation. For example, when a consumer pays a nonrefundable deposit to purchase an automobile, a sales contract may have arisen. However, consummation for Truth in Lending purposes does not occur unless the consumer also contracts for financing at that time.

Credit. This definition is based on § 103(e) of the act and § 226.2(q) of the current regulation. It is identical to the one in the December proposal. The regulatory definition may be difficult to apply in particular fact situations, and the Board therefore offers the following guidance, which will also be incorporated into the commentary.

In the Board's view, layaway plans are not extensions of credit, unless the consumer is contractually obligated to continue making payments. Whether the consumer is so obligated is a matter to be determined under state law. The fact that the consumer is not entitled to a refund of any amounts paid towards the cash price of the merchandise does not bring layaways within the regulation. This position on entitlement to a refund is contrary to current Board Interpretation § 226.201.

Certain transactions do not involve the voluntary incurring of debt; others do not involve the *right* to defer a debt. Tax liens, tax assessments and court judgments (including reaffirmations of a debt discharged in bankruptcy, if approved by a court) fall into this category and are therefore not covered by the regulation. However, third-party financing of such obligations (for example, obtaining a bank loan to pay off a tax lien) would constitute credit for Truth in Lending purposes.

If the consumer's payments generally parallel the value received from the other party, with no continuing obligation to make payments, the Board does not view this as an extension of credit. For example, certain insurance premium plans involve payment in installments; each installment represents payment for insurance for a certain future period of time. If the consumer fails to make a payment, coverage is not provided for that period. There is in this case no obligation for the consumer to continue making payments. Similarly, in a home improvement transaction involving progress payments, the consumer simply pays the value of work completed as the work progresses, with no contractual obligation to continue payments. Thus, these types of transactions are not covered by the regulation.

Certain types of loans are not viewed as extensions of credit. For example, where the consumer borrows money against the accrued cash value of an insurance policy, credit has not been extended because the consumer is, in effect, only using the consumer's own money.

Issuance of letters of credit and execution of option contracts are not extensions of credit, although there may be an extension of credit when the letter of credit is presented for payment or the option is exercised, if there is a deferral of the payment of a debt at that time.

In the December proposal the Board suggested that pawn shop transactions not be viewed as credit extensions. The Board now believes that these types of transactions *are* credit extensions for Truth in Lending purposes. This approach is consistent with staff interpretations of the current regulation.

Credit card. This definition corresponds to § 226.2(r) of the current regulation with only minor editorial changes. The revised regulation differs from the December proposal since it returns to the current regulation's language that a credit card is a "single" credit device. This was done simply as a clarification and no substantive change is intended.

Credit sale. This definition is based on § 103(g) of the act and § 226.2(t) of the current regulation. It is similar to that in the December proposal, except that "total value" replaces "aggregate value" in paragraph (a)(16)(i) and parentheses have been added to paragraph (a)(16)(ii) to improve readability.

Creditor. This definition is based on amended § 103(f) of the act, and is revised from § 226.2(s), its counterpart in the current regulation.

The definition retains in paragraph (a)(17)(i) the "regularly extends" standard found in the current regulation. However, new footnote 3 defines "regularly" by reference to the frequency with which credit is extended. The numerical tests are similar to those in the December proposal, but they have been revised to include persons who meet the numerical test in the current year even if they did not meet it in the preceding year.

For example, if a business begins in 1981 and extends unsecured consumer credit 20 times, it is not a creditor for purposes of the regulation in 1981. However, if it extends consumer credit 75 times in 1982, it becomes a creditor for Truth in Lending purposes after the 25th extension of credit. On the other hand, if a person extends consumer credit 26 times in 1981, then it is a creditor for Truth in Lending purposes for all extensions of consumer credit in 1982. The Board believes these numerical tests will be most useful in cases when a person does not extend credit as part of its primary business and therefore is genuinely unsure whether it is a "creditor" for Truth in Lending purposes.

The definition has also been revised to require, if there is no finance charge, that there be a *written* agreement to pay in more than four installments, in order for a person offering credit to be considered a creditor. This is narrower than in the current regulation, which covers both oral and written agreements. Whenever a finance charge is imposed, of course, the transaction would come within the regulation's coverage whether or not there is a written agreement. This is consistent with the approach taken in the current regulation.

The requirement in paragraph (a)(17)(i)(B) that, for a person to be a creditor, the obligation must be initially payable on its face to that person, is new; it implements amended § 103(f) of the act.

Paragraph (a)(17)(ii) implements amended § 103(f) of the act and is identical to its counterpart in the December proposal.

Paragraph (a)(17)(iii) of the definition, which extends the coverage of certain provisions of the regulation to persons

who honor credit cards, is substantively unchanged from the current regulation.

Paragraphs (a)(17) (iv) and (v) of the definition impose certain creditor responsibilities on card issuers. Although the provision has been reorganized from the current regulation, the Board intends no substantive difference in coverage between the current and the revised regulations.

Paragraph (a)(17)(iv) provides that card issuers are creditors for purposes of Subpart B if they extend open-end credit or consumer credit not involving either a finance charge or a written agreement to pay in more than four installments. As all disclosures are to be made only as applicable, a card issuer that extends consumer credit without a finance charge would, of course, omit finance charge disclosures. Other general provisions of the regulation regarding such areas as scope, definitions, Spanish language disclosures, record retention, and use of model forms also apply.

Paragraph (a)(17)(v) applies to a card issuer extending consumer credit that does not meet the test for open-end credit. This paragraph corresponds to § 226.8(q) of the current regulation, which imposes certain open-end disclosures and error resolution responsibilities on credit card issuers, even though they are also fully subject to the closed-end credit requirements. The parenthetical is intended to make clear that such a card issuer need not make both open- and closed-end finance charge disclosures, and is subject to the closed-end, rather than the open-end, rescission provision.

Downpayment. This definition is a new one that has no statutory counterpart. The definition has been revised from the December proposal by deleting the reference to the amount financed and payment schedule. This change was made merely to streamline the definition.

The second portion of the definition deals with deferred portions of the downpayment, often referred to as "pick-up payments." It permits pick-up payments to be treated as part of the downpayment and excluded from the amount financed, as does Board Interpretation § 226.504 of the current regulation. The revised regulation, however, does not require creditors to reflect the deferred amount in the payment schedule.

Thus, the creditor has several options available concerning the treatment of pick-up payments. For example, when the pick-up payment is treated as part of the downpayment: (1) it is not included in the amount financed; and (2) it may but need not be reflected in the payment schedule. On the other hand, when the pick-up payment does not meet the definition (for example, if it is payable after the second scheduled payment) or when the creditor chooses not to treat it as part of the downpayment: (1) it must be included in the amount financed; and (2) it must be reflected in the payment schedule. However the pick-up payment is treated, the total of payments must equal the sum of the payments disclosed.

Dwelling. This definition implements new § 103(v) of the act. The definition is broader than its counterpart in § 226.2(v) of the current regulation in that it includes mobile homes and cooperatives, as well as other residential units. The definition continues to exclude from its scope structures that are not used as residences.

Open-end credit. This definition, which corresponds to § 226.2(x) of the current regulation, implements the amended § 103(i) of the act. The provision differs significantly from the current regulation, as discussed below. Although the definition is substantively unchanged from the December proposal, major editorial changes have been made.

The current regulation, and the December proposal, provide in part that open-end credit is credit extended on an *account* pursuant to a plan. A number of commenters, particularly credit unions, asked for further guidance on whether a program offering a number of different credit features could be considered one open-end credit account. Under many of these programs, each consumer is deemed to have a single "account" with the institution that could be accessed repeatedly via a number of sub-accounts established for the different program features and rate structures. Some individual features of the program could be used repeatedly (for example, an overdraft) whereas others might be used infrequently (such as the part of the credit line available for credit secured by an automobile). If the program as a whole has prescribed terms and otherwise meets the open end-credit definition, the Board believes that such a program could be considered a single multi-featured account. To help alleviate confusion caused by the use of the term "account," the revised regulation has deleted the reference to "account" found in both the current regulation and the December proposal, and instead uses the statutory language that refers to open-end credit "plans."

Paragraph (a)(20)(i) of the definition provides that the creditor must reasonably contemplate repeated transactions on the plan. This is unchanged from the December proposal and reflects an amendment to § 103(i) of the act. This part of the open-end credit definition replaces the current regulatory requirement that the terms of the plan provide for credit transactions "from time to time." The current regulatory requirement that the creditor reasonably contemplate multiple transactions was intended, according to the Senate Report on S. 108, to curb the use of spurious open-end credit plans. In particular, the committee expressed the belief that consumers should receive essential cost disclosures, such as the total finance charge and the total of payments, when a creditor makes what is likely to be a one-time credit extension. A number of commenters asked for guidelines on determining when a creditor may be said to contemplate such repeated credit extensions. The Board believes that this is a question of fact to be decided in the context of the creditor's type of business, and the creditor's relationship with a consumer. For example, as discussed in the notice accompanying the December proposal, it would be more reasonable for a thrift institution chartered for the benefit of its members to contemplate repeated transactions with a member, than for an aluminum siding dealer to make the same assumption about its customers. Similarly, it would be more reasonable for a bank to contemplate repeated transactions when it makes a purchase money loan for an automobile to be used by the consumer to further secure an open-end line than it would be for an automobile dealer to sell a car under open-end plan.

The current regulation requires that the consumer have the privilege of paying the balance in full or in installments. The revised regulation deletes this test. The Board believes that a plan in which purchases are contemplated from time to time, with finance charges imposed on the outstanding unpaid balance, would qualify as open-end credit, even though full payment is required at the end of each month. The December proposal contained a modified version of the current provision, setting forth the test that the consumer must be given the privilege of paying the balance in full at any time without penalty. The Board solicited comment on the need for this test, in light of the fact that the definition requires calculation of the finance charge on the basis of the outstanding unpaid balance, thus already distinguishing open-end plans from plans involving precomputed finance charges. While a few

commenters believed that the language provided a useful distinction from closed-end credit, the majority of commenters on this section felt that the provision should be deleted.

Paragraph (a)(20)(ii) of the revised regulation, regarding the computation of finance charges, is unchanged from the current regulation and the December proposal.

Paragraph (a)(20)(iii) of the revised regulation, which was paragraph (4) of the December proposal, has no counterpart in the current regulation but does not substantively alter the open-end credit definition from the current definition. This factor is intended to assist creditors in distinguishing open-end credit from a series of advances made pursuant to a loan commitment. Under such a commitment, for example, a creditor might agree to lend a total of $10,000 in a series of advances as needed by the consumer. When a consumer has borrowed the full $10,000, no more money is advanced under that particular agreement even if there has been a repayment of a portion of the debt. Such a commitment would be considered closed-end credit. This paragraph has been editorially revised from the December proposal in response to commenters' concerns. The language providing that the amount of credit is "replenished to the extent that the consumer repays on the outstanding balance" has been replaced by "is generally made available to the consumer to the extent that the consumer repays the outstanding balance." By this language the Board intends to make clear that the creditor may make allowance for reductions in the credit line or refuse to extend credit in a particular case due to changes in the economy, the creditor's financial condition, or a change in the borrower's creditworthiness. While the consumer should have a reasonable expectation of obtaining credit as long as the account remains current and within any present credit limits, an extension need not be an absolute right in order for the plan to be considered open-end credit.

The Board also notes that the revised regulation differs from the current regulation in deleting the per se exclusion from open-end credit of negotiated advances under an open-end real estate mortgage or a letter of credit.

Periodic rate. The definition of periodic rate in the revised regulation combines two definitions from the current regulation: § 226.2(z) ("period") and § 226.2(aa) ("periodic rate"). The definition differs from § 226.2(aa) of the current regulation, as well as from the December proposal, in deleting the requirement that the rate be expressed as a percentage of the finance charge imposed against the balance for a particular period. The Board believes that a creditor may express the rate either as a percentage or as a decimal equivalent. Of course, the annual percentage rate derived from the periodic rate must always be expressed as a percentage.

As is the case under § 226.2(aa) of the current regulation, a creditor may use any subdivision of a year in disclosing and applying its rate, as long as it does so within the degree of accuracy required in the regulation. Some creditors use 1/360th of a year as a period for which a rate is applied, for example they may disclose this rate as a "daily" periodic rate, without further explanation, as long as it is in fact only applied 360 days per year. In contrast, if a creditor discloses a rate based on 1/360th of a year but applies it for 365 days, the creditor would have to note that fact and, of course, disclose the true annual percentage rate.

Person. This definition combines the definitions of "organization" and "person" found in § 103(c) and (d) of the act and § 226.2(y) and (bb) of the current regulation. The definition is identical to the one in the December proposal. The list of types of organizations is only illustrative and is not intended to be all-inclusive.

Prepaid finance charge. This definition is based on § 226.8(e)(1) of the current regulation. It is like the definition in the December proposal, except that it uses "proceeds" instead of "principal" to parallel more closely the language of amended § 128(a)(2) of the act.

The term does not include precomputed finance charges such as add-on and discount interest. The rule that these are not prepaid finance charges replaces the permissive rule in Board Interpretation § 226.819 of the current regulation.

Regular price. The definition of regular price, found in § 226.2(tt) of the current regulation, has been deleted. The definition is unnecessary as part of the revised regulation since the detailed provisions concerning certain cash discounts found in § 226.4(i) of the current regulation have been deleted. Instead, § 226.4(c)(8) of the revised regulation merely refers to § 167(b) of the act for details about which cash discounts may be excluded from the finance charge. Any discussion of the "regular price" of a property or service would be included in the commentary to § 226.4(c)(8).

Required deposit balance. Although this section does not define this term, required deposits must be disclosed in closed-end credit transactions under § 226.18(r). See further discussion below.

Residential mortgage transaction. This definition is based on new § 103(w) of the act and has no counterpart in the current regulation. The definition is the same as that in the December proposal except that the word "principal" has been added to modify "the consumer's dwelling." This change limits the scope of the definition by excluding vacation for temporary dwellings, a limitation the Board believes is consistent with the Congress' intent in treating residential mortgages differently from other transactions. Thus, various of the regulation's special rules—such as the disclosure of the creditor's assumption policy in § 226.18(q) and the early disclosure requirements in § 226.19—apply only to transactions involving the acquisition of the consumer's principal dwelling.

Security interest. This definition is based on § 226.2(gg) of the current regulation, but is much narrower. The revised definition lists a number of interests that have been considered security interests under the current regulation but no longer will be, such as interests in after-acquired property. It also eliminates disclosure of interests that arise solely by operation of law, although such interests may still trigger the right of rescission.

One change from the definition in the December proposal is the addition of the word "solely" to the phrase "by operation of law" in the last two sentences. The effect of this change is to clarify that if an interest (such as a right of setoff) arises both by contract and by operation of law, it is a security interest to be disclosed.

Finally, it should be noted that there is a difference between an incidental interest and an interest that is the essence of the transaction. For example, when an automobile is financed, the insurance proceeds are incidental to the primary security interest, the automobile. The creditor's interest in such insurance would not be a security interest under the regulation. On the other hand, when the credit transaction is the financing of an insurance policy, the creditor's interest in that policy is just like a purchase money security interest and would be disclosed as a security interest.

State. This definition is identical to § 103(r) of the act and § 226.2(hh) of the current regulation.

(b) *Rules of construction.* Section 226.2(b) contains rules of construction that are intended to assist in understanding the regulatory language and to permit abbreviated references in

the text of the regulation. They are based on § 226.2 of the current regulation, with the addition of rules about singular and plural forms, the status of footnotes, and reference to state law for words not defined. The reference to the status of catchlines and captions has been eliminated as unnecessary. References to leasing have been deleted and the explanation of "act" has been made a definition in paragraph (a).

§ *226.3 Exempt transactions.*

This section provides for the exemption of several types of transactions from the regulation. There has been little change from the December proposal other than minor editorial changes.

The new provision is basically the same as that in the current regulation. It reflects the total exemption of agricultural credit. An agricultural purpose is defined the same way as in the current regulation, but 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 the specified activities.

The business credit exemption has been qualified to clarify that several credit card provisions do apply to business credit. Although business and commercial purposes are not defined in the regulation, more specific guidance in the area of rental property will be provided in the commentary. The approach taken in current Board Interpretation § 226.302, which defines certain credit for multiple-unit dwellings as business credit, will be adopted and expanded. If the property (regardless of the number of units) is not owner-occupied and is not expected to be owner-occupied within a year, the credit will be deemed to be for business purposes. Where the property contains three or more units, the credit will also be deemed to be for business or commercial purposes, even if one or more of the units is or will be owner-occupied. The Board hopes that this more precise test will simplify the determination of whether transactions are subject to the regulation's requirements.

An editorial change was made to § 226.3(a)(2) of the December proposal. The word "organizations" has been replaced by the phrase "person other than a natural person." This change was made to avoid the use of a term that is not defined in the regulation. Note that the definition of "person" includes organizations. There was also a minor change to § 226.3(b) of the December proposal. The word "a" before the word "dwelling" has been replaced with the word "the" to reflect the statutory language and to clarify that only one dwelling can be a consumer's principal dwelling.

The addition of the parenthetical, "(including extensions of such facilities)" expands the coverage of the public utility exemption in revised § 226.3(c). The result is a departure both from the current regulation and the December proposal. It addresses the case where utility service is to be extended into a new area not already served, and the customers who request the extension are required to pay for some or all of the transmission equipment needed. Such equipment may include pipes and wires, conduits and poles, metering equipment and transformers. The Board believes that such extensions of public utility services should be exempt because they are analogous to the exempt services. This section makes it clear, however, that an extension of credit by a public utility for the purchase of appliances such as telephones or home improvements is not exempt. These extensions of credit are closer to the typical credit transaction covered by Regulation Z.

The exemption for securities transactions in the current regulation has been expanded to also apply to commodities transactions with a broker-dealer registered with the Commodity Futures Trading Commission.

The regulation provides a new exemption for home fuel budget plans in which the fuel dealer estimates the total cost for the season, bills the consumer for an average monthly payment, and makes an adjustment in the final payment for any difference between the estimated and the actual cost of the fuel. Fuel is delivered as needed, no finance charge is assessed, and the customer may withdraw from the plan at any time. These plans are not subject to the revised regulation, even if they involve a charge to cover billing costs.

The Board received comment requesting an exemption for hospital credit. Although such an exemption has not been adopted, the Board notes that if hospitals do not impose a finance charge, they are subject to the revised regulation only if they have written agreements specifically contemplating that the bill will be payable in more than four installments. This means that if the hospital makes informal oral agreements, it is not subject to the regulation.

A question was also raised in the comments as to whether credit extended to a land trust is organizational credit and therefore exempt from the regulation under revised § 226.3(a)(2). In some jurisdictions, a bank financing a residential real estate transaction for a customer (a natural person) uses a land trust mechanism. Title to the property is conveyed into the land trust for which the bank itself is trustee. The underlying installment note is executed by the bank in its capacity as trustee and payment is secured by a trust deed, reflecting title in the bank as trustee. In some instances, the bank customer executes a personal guarantee of the indebtedness. The note indicates that it is payable only out of the property specifically described in the trust deed and that the trustee has no personal liability on the note. The Board believes that such transactions should be subject to the regulation's disclosure requirements since in substance (if not in form) consumer credit is being extended.

In the December proposal, the Board solicited comment on the necessity of an exemption for trusts that extend credit. After careful consideration, the Board has decided that although an outright exemption is not appropriate, each trust should be treated as a separate entity for purposes of determining whether it is a "creditor." In other words, if an individual trust extends credit frequently enough to meet the numerical standard set out in the definition of "creditor," then all the required disclosures must be made. Furthermore, the trustee will be considered to be the same person as the trust and therefore the trustee does not meet the definition of "arranger."

§ *226.4 Finance charge.*

Section 226.4 provides rules for determining the finance charge in open-end and closed-end credit transactions. A few substantive changes have been made and the format is quite different from § 226.4 of the current regulation. The format was changed in order to make the treatment of various items clearer and easier to understand. For example, in the current regulation, the procedures for excluding insurance premiums from the finance charge were included with the examples of charges that would normally constitute part of the finance charge. In the revised regulation, the procedures are set forth in their own paragraph, paragraph (d). There have also been several substantive changes from the December proposal.

(a) *Definition.* Section 226.4(a) corresponds to the first paragraph of § 226.4(a) of the current regulation. It reflects the amendment to § 106 of the act that states explicity that charges imposed uniformly in cash and credit

transactions, such as sales taxes or license or registration fees, are not within the scope of the finance charge definition.

The finance charge tolerance proposed in the December proposal has been deleted from this section. A specific dollar tolerance for the finance charge (with the amount depending on the size of the transaction) has been provided for closed-end transactions, and is contained in a footnote to § 226.18(d) of the revised regulation.

Section 226.8(o) of the current regulation treats as a finance charge a discount offered for prompt payment of a credit sale. This is not the case in the revised regulation. A creditor should now compare cash and credit transactions to determine whether a discount is a finance charge.

(b) *Examples of finance charges.* The introductory sentence to § 226.4(b) has been changed from the December proposal. The change was made to draw attention to the fact that the examples of items that would be considered finance charges in paragraph (b), may nevertheless be excludable from the finance charge under paragraphs (c), (d), or (e).

Section 226.4(b) reflects one substantive change from the December proposal, the deletion of application fees. Application fees are now addressed in § 226.4(c)(1), which states that they are not finance charges, provided they are charged to all applicants, whether or not credit is actually extended.

Section 226.4(b) corresponds to the list of examples of finance charges in § 226.4(a) (1) through (8) of the current regulation. Assumption fees imposed upon the consumer assuming a loan at the time of the assumption have been added to the list.

Paragraph (b)(9) of the revised regulation does not have a corresponding provision in the current regulation. This paragraph provides that any discount given to induce payment by a means other than by use of credit is a finance charge. One exception to this general rule is found in § 226.4(c)(8) of the revised regulation, addressing certain discounts.

(c) *Charges excluded from the finance charge.* Section 226.4(c) corresponds to § 226.4 (c), (d), and (e) of the current regulation, with some substantive changes.

Paragraph (c)(1), excluding application fees from the finance charge, is new. Application fees were included in the finance charge in the December proposal, but the revised regulation excludes them if the application fees are charged to all applicants, whether or not credit is actually extended.

Paragraph (c)(2) corresponds to § 226.4(c) of the current regulation, but adds one item to the list. The revised regulation specifically excludes charges for exceeding a credit limit from the finance charge. Although the regulation does not spell out what is "a charge for actual unanticipated late payment," the commentary to the revised regulation will provide guidance on this point. It should be noted, however, that the approach taken in current Board Interpretation § 226.401 will not be considered dispositive of the question. All of the circumstances surrounding the charge (for example, the terms of the plan involved and the action taken by the creditor with respect to accounts that are delinquent) must be considered. This means that a failure to terminate credit privileges while imposing a late payment charge will not automatically cause the late payment charge to be a finance charge.

Paragraph (c)(3) corresponds to § 226.4(d) of the current regulation, with only a few minor editorial changes. The term "bank" was changed to "financial institution" and the term "checks" was changed to "item" to reflect the ability of other financial institutions, such as savings and loan associations, to pay items that are similar to checks, such as negotiable orders of withdrawal, and create an overdraft on an account. The phrase "which overdraw or increase an overdraft" in the current regulation has been shortened to "that overdraws." No substantive change is intended; the provision continues to cover charges for paying the item that initially overdraws an account and for paying subsequent items while the account is overdrawn.

Although this provision reflects the position in the current regulation as to when such a charge constitutes a finance charge, it represents a change from the December proposal. The reference to an item that "inadvertently" overdraws an account has been deleted. The question of inadvertence is no longer relevant since the revised regulation excludes overdraft charges from the finance charge unless there is an agreement in writing to pay items and impose a charge. Although the reference to agreements in writing is a change from the December proposal, it is the position taken in the current regulation.

Paragraph (c)(4) excludes participation fees from the finance charge, which is the result under current Board Interpretation § 226.407.

Paragraph (c)(5), excluding seller's points from the finance charge, has no counterpart in the current regulation. It reflects a new position by the Board with respect to seller's points and is a departure from current Board Interpretation § 226.406. Although seller's points may have an indirect effect on the cost of credit to the borrower (if they are passed on indirectly in the form of a higher sales price), a uniform rule regarding these charges is desirable. As a result, the Board has concluded that seller's points should be excluded from the finance charge in all cases.

Paragraph (c)(6) has been added to incorporate the substance of proposed Board Interpretation § 226.408 to the current regulation. Certain federal and state laws mandate a percentage differential between the interest rates on a time deposit and a loan secured by such deposits. This may result in the consumer forfeiting some of the interest that otherwise would be earned, on the deposit. This paragraph provides that the lost interest need not be included in the finance charge in such transactions. The provision is limited to those situations where the interest reduction is required by law. The provision contained in the December proposal was not so limited.

Paragraph (c)(7) reflects § 226.4(e) of the current regulation. The introduction expands the statutory language regarding the types of transactions to which the exceptions apply, by the addition of the phrase "or a residential mortgage transaction." This would include certain mobile home transactions and similar credit extensions which are functionally the same as real estate transactions, even if state law characterizes the property as personalty. In the Board's view, this expansion carries out the congressional intent to treat mobile home transactions and similar types of credit extensions in the same manner as traditional realty transactions. Paragraph (c)(7) adds reconveyance document preparation fees to the list contained in paragraph (e)(2) of the current regulation and clarifies that the escrow account exception only applies to items that would not otherwise be finance charges.

Paragraph (c)(8) corresponds to § 226.4(i) of the current regulation and § 226.4(f) of the December proposal. It excludes from the finance charge certain discounts offered to induce payment by cash, check, or other means, as provided in § 167(b) of the act. Since this provision provides for an exclusion from the finance charge similar to the others listed in paragraph (c), it has been incorporated here rather than in its own paragraph.

The provision merely refers to § 167(b) of the act and replaces the material found in § 226.4(i) of the current regulation and § 226.4(f) of the December proposal. On February 24, 1981, the House passed H.R. 31, a bill that would amend § 167(b) of the act and, as a result, require changes in any Regulation Z provision implementing the statutory requirements for excluding certain discounts from the finance charge. On March 12, 1981, the Senate passed a bill similar to H.R. 31. Since final action by the Congress appears imminent, the provision in the revised regulation refers to § 167(b) of the act for details concerning what discounts are in fact excludable from the finance charge. The commentary will contain further explanatory material.

(d) *Insurance.* This paragraph sets forth the procedures for excluding credit life and property insurance premiums from the finance charge. It is based on § 226.4(a) (5) and (6) of the current regulation, but the procedures are changed in several respects. Note that the rules regarding the location of the disclosures called for by this paragraph in closed-end credit transactions are found in § 226.17 of the revised regulation.

Paragraph (d)(1) deals with credit life, accident, health and loss-of-income insurance (credit insurance) and it relaxes several of the requirements found in § 226.4(a)(5) of the current regulation. For example, it permits disclosure of the amount of the insurance premium on a unit-cost basis in certain closed-end credit transactions, in addition to open-end credit transactions where it has long been used.

The December proposal would have permitted the use of unit-cost disclosure in all types of transactions. However, because of the concern expressed by commenters (both creditors and consumers) and the lack of evidence that such a provision is needed in most closed-end credit transactions, the revised regulation restricts the use of unit-cost disclosures. The use of unit-cost disclosures is now limited to open-end credit transactions, closed-end credit transactions by mail or telephone, and certain closed-end credit transactions with a particular type of insurance plan. This last category includes a credit extension that exceeds, in whole or in part, the total indebtedness subject to coverage under an insurance plan. For example, a consumer who currently has an indebtedness of $8,000, subject to a plan of insurance coverage with a $10,000 maximum, may request that a new $4,000 loan be covered by the same credit life insurance plan. Since the $4,000 loan exceeds, in part, the maximum amount of indebtedness that can be covered by the plan, the creditor in such a case could properly give the insurance cost disclosures for the $4,000 loan on a unit-cost basis.

Another change from the current regulation concerns the signature requirements. Any consumer, whether or not an insured party, may sign the statement indicating a desire for the insurance. The words "or initials" have been added to make clear that either a signature or initials will satisfy the requirement.

Finally, the requirement in the current regulation that the insurance authorization be dated has been deleted.

Paragraph (d)(2) reflects the procedures for excluding property insurance premiums from the finance charge and is essentially the same as § 226.4(a)(6) of the current regulation. The language in the first sentence of paragraph (d)(2) differs from that found in the December proposal, which referred to "the property securing the obligation"; it reflects the language in the current regulation and in § 106(c) of the act. Paragraph (d)(2)(i) rephrases the current regulation's requirement that the customer have a choice as to the insurer, but no substantive change is intended. The requirement that property insurance disclosures be in a "clear, conspicuous, and specific statement" has been deleted since all disclosures are subject to the requirement of being clear and conspicuous. As in the December proposal, footnote 6 incorporates the substance of current Board Interpretation § 226.404, which permits vendor's single interest insurance to be excluded from the finance charge in the same manner as normal property insurance if the insurer waives all right of subrogation against the consumer.

(e) *Certain security interest charges.* Section 226.4(e) reflects § 226.4(b) of the current regulation, with only minor changes. The caption has been changed in an effort to more accurately reflect the coverage of this paragraph, which addresses only costs associated with security interests. The phrase "taxes and" has been added to paragraph (e)(1) to clarify that the types of charges described in that paragraph may include taxes as well as fees. The charges described in paragraph (e)(1) may be aggregated for disclosure purposes, rather than itemized according to the specific fees and taxes imposed. For purposes of closed-end credit disclosures, § 226.17 permits creditors to itemize these charges either separately or with the segregated disclosures.

Section 226.4(b) (3) and (4) of the current regulation has been deleted in the revised regulation to reflect the amendments to § 106 (a) and (d) of the act. These charges will now be judged by the general rule of § 226.4(a) to determine whether they are finance charges.

(f) *Prohibited offsets.* This paragraph is substantively the same as § 226.4(f) of the current regulation and § 226.4(g) of the December proposal.

Subpart B—Open-End Credit

Sections 226.5 through 226.16 deal with the disclosure and procedure requirements for open-end credit plans.

§ 226.5 *General disclosure requirements.*

This section sets forth all of the general rules for open-end credit disclosures. It corresponds to § 226.5 of the December proposal, and to portions of §§ 226.6 and 226.7 of the current regulation.

Section 226.5(a) deals with the form of disclosures. Paragraph (a)(1) requires that open-end credit disclosures be made clearly and conspicuously. The December proposal required that all disclosures be in writing. The revised regulation provides one exception: the disclosure required by § 226.9(d) of certain finance charges imposed at the time a transaction takes place may be made orally or in writing. The December proposal also required that all disclosures be given in a form the consumer could keep. The revised regulation continues this general requirement, but provides that information about § 226.10 payment requirements and the alternative summary billing rights statement permitted by § 226.9(a) need not be in a form that the consumer can keep. The creditor may, for example, place this information on the payment stub portion of the periodic statement. The Board believes that this will ease the space limitation problem on periodic statements.

The current regulation requires (as did the December proposal) that the terms "finance charge" and "annual percentage rate" be disclosed more conspicuously in certain circumstances than other "required terminology." In December the Board solicited comment on whether it should delete the regulatory requirement that certain terminology be used on periodic statements. In response to comments and in light of the fact that the statute does not require the use of specific terminology, the revised regulation no

longer requires the use of specific terminology (see § 226.7). This deletion does not extend to the required terms, "finance charge" and "annual percentage rate." In light of this change, § 226.5(a)(2) requires that the terms "finance charge" and "annual percentage rate" be disclosed more conspicuously than other "required disclosures."

Section 226.5(a) also differs from the current regulation by increasing the flexibility with which a creditor may design initial disclosure statements and periodic statements. Section 226.6(a) of the current regulation requires that disclosures of numerical amounts and percentages be stated in figures and be in specified type sizes or be legibly handwritten. It further provides that disclosures be made "clearly, conspicuously, and in meaningful sequence." The revised regulation retains the standard that disclosures be made clearly and conspicuously, but deletes the sequence and type size requirements as being unnecessary in light of the general rule.

The revised regulation also deletes the separate rules set forth in current § 226.6(c) covering the use of additional information on the initial disclosure or periodic statements. The Board believes that additional information may be included on the statements, and its use will be adequately regulated by the general requirement that all open-end Truth in Lending disclosures be made clearly and conspicuously.

The current § 226.7(a) requires that the initial disclosures be made in a "single written statement." The revised regulation deletes this language. The position that both the initial disclosures and the periodic statements may be more than one page, as long as the pages constitute an integrated document, will be incorporated in the commentary.

Section 226.5(b) deals with the timing of discloures. Paragraph (b)(1) sets forth the timing requirement for the initial disclosure statement and is substantively unchanged from the December proposal and the current regulation.

Section 226.5(b)(2) sets forth the timing requirement for periodic statements. The provision identifying when a periodic statement need not be sent differs from the December proposal in two respects. First, the revised regulation reinstates the current regulatory standard that a statement need not be sent for an account for which deliquency collection proceedings have been instituted. Second, in response to commenters who were concerned that sending statements under certain circumstances would violate federal law (for example, after a consumer has filed for bankruptcy), the revised regulation provides that a statement need not be furnished if doing so would violate federal law.

Section 226.5(b)(2)(ii) requires the creditor to mail or deliver a periodic statement at least 14 days before the end of any free-ride period disclosed under § 226.7(j). This provision, along with footnote 10 which sets forth exceptions to the time limitation, remains unchanged from the December proposal and the current § 226.7(c)(2).

Section 226.5(c), regarding the basis of disclosures and the use of estimates, contains only a minor editorial revision from the December proposal. The revised regulation requires that disclosures be based on the "legal obligation" between the parties, whereas the December proposal used the phrase "legally enforceable obligation"; no substantive change was intended. This rule differs from the current regulatory interpretation that disclosures should reflect the terms the parties agreed upon, even if the terms differed from the legal obligation. Under the revised regulation, for example, when an employer offers a preferential employee rate, the disclosure should be based on the rate that is legally enforceable. Thus, the disclosure would not necessarily reflect the special discounted rate. The creditor is not prohibited, however, from also disclosing any other terms agreed upon by the parties, such as the preferential rate concession made for an employee.

As to the use of estimates, § 226.5(c) of the revised regulation provides that, when information essential for an accurate disclosure is unknown to the creditor, disclosures shall be made based on the best information reasonably available to the creditor, and the creditor must state that the disclosure is an estimate. This provision is more liberal than the current § 226.6(f), which allows the use of estimates only if disclosures were given at the latest possible time. The intent of this change is to encourage early disclosure.

Section 226.5(d) addresses disclosure requirements for both multiple creditor and multiple consumer situations. It requires that, in a multiple creditor situation, the consumer be given a complete set of disclosures, rather than partial disclosures from one or more of the creditors. A creditor may, of course, also furnish the consumer with additional copies of the required disclosures. Unlike the December proposal, the revised regulation further provides that creditors shall agree among themselves as to which creditor will make the complete set of disclosures.

In the case of multiple consumers, the revised regulation (like the current § 226.6(e) and the December proposal) would require disclosures to only one primarily liable consumer. The revised regulation explicitly states, however, that when the right of recission under § 226.15 is applicable, the initial disclosure statement (§ 226.6) and the notice of right to rescind (§ 226.15(b)) must be given to each person having the right to rescind.

Section 226.5(e) of the revised regulation governs the effect of subsequent events, and is unchanged from the December proposal. The provision is basically the same as the current § 226.6(g). The revised regulation provides that, although an inaccuracy resulting from an event subsequent to delivery of the disclosures is not a violation of the regulation, certain changes may require disclosures under § 226.9(c) (Change in terms).

§ 226.6 Initial disclosure statement.

Section 226.6 corresponds to the same section in the December proposal and to § 226.7(a) of the current regulation. It implements § 127(a) of the act, which lists the disclosures required upon opening an open-end credit account.

Form and timing requirements in the introductory paragraph of the current regulation are in § 226.5 of the revised regulation (General disclosure requirements). The requirement to use terminology consistent with that to be used on the periodic statement remains in the introductory paragraph to the revised § 226.6. As does § 226.7(a)(1) through (a)(4) of the current regulation, revised § 226.6(a) deals with the finance charge disclosure. While the structure and language of § 226.6(a) differs from that of the current regulation's § 226.7(a)(1)–(a)(4), few substantive differences exist. Language in § 226.6(a)(1) implements new statutory language requiring that a creditor indicate *whether or not* a time period exists within which any credit extended may be repaid without incurring a finance charge. The last sentence of § 226.6(a)(1) of the December proposal has been deleted as redundant.

Section 226.6(a)(2) corresponds to § 226.7(a)(4) of the current regulation and requires that, where one or more periodic rates may be used to compute the finance charge, each such rate must be disclosed together with the range of balances to which it is applicable and the corresponding annual percentage rate. The language in both the current regulation and the December proposal

referring to the method of determining the corresponding annual percentage rate has been deleted since the method is set out in revised § 226.14.

Language from the December proposal has been retained to indicate that, where different periodic rates apply to different types of transactions, those periodic rates and the annual percentage rates that correspond to them must be disclosed (see discussion in § 226.7(d)).

The material in footnote 6a of the current regulation has been divided into two footnotes (footnotes 11 and 13) in the revised regulation; this is an editorial change, with no change in substance intended.

Section 226.6(a)(3) of the revised regulation corresponds to § 226.7(a)(2) of the current regulation; it deals with disclosure of the method used to determine the balance on which the finance charge may be computed. The revised regulation 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." Model clauses that describe various balance computation methods are contained in the appendix.

Footnote 12 specifies the disclosures required for variable rate programs. It replaces current Board Interpretation § 226.707. It requires that the creditor disclose on the initial disclosure statement the circumstances under which a rate may increase, the limits on the increase, and the effect that such an increase may have (for example, an increase in the periodic rate will occur when the prime rate increases and will be one percent over prime but will never exceed a periodic rate of 24%; however, should the periodic rate reach 20%, the creditor will require additional collateral.)

By disclosing on the initial disclosure statement the rules about when the periodic rate will increase, the creditor is relieved from providing a change in terms notice under § 226.9(c) in this regard.

The Board intends to incorporate Board Interpretation § 226.706 in the commentary; it provides that a creditor need not describe the manner in which payments and other credits are allocated. Interpretation § 226.706 intends to relieve the creditor of the responsibility to disclose, for example: (1) that payments are applied first to finance charges, then to purchases, and then to cash advances, or (2) that payments may be applied to late charges, overdue balances, and finance charges before being applied to the principal balance.

Sections 226.7(a)(5) and 226.11 of the current regulation deal with the Comparative Index of Credit Cost. Those sections are not reflected in the revised regulation. Their deletion results from a statutory amendment.

Section 226.6(b) corresponds to § 226.7(a)(6) of the current regulation and deals with the disclosure of charges, other than finance charges, that may be imposed as part of the open-end credit plan. The revised regulation implements statutory language changes and reflects editorial changes from the December proposal.

As the Board stated in the December proposal, membership or participation fees in open-end credit plans are considered other charges, as are late payment charges, fees for providing documentary evidence requested under proposed § 226.13, and over-the-credit-limit charges. In contrast, fees charged for documentary evidence of transactions for income tax purposes, for example, would not be considered other charges.

As pointed out in the December proposal and unlike current staff position, voluntary credit life insurance is not considered another charge. The Board continues to believe that disclosing the cost of voluntary credit life insurance on the initial disclosure statement as another charge is unnecessary since cost disclosure is already required by § 226.4. *Required* credit life or disability would, of course, be disclosed as a finance charge on the initial disclosure statement.

Section 226.6(c), which requires disclosure of the fact that a creditor has or will acquire a security interest under the plan, corresponds to § 226.7(a)(7) of the current regulation. The section is identical to the December proposal. It implements, however, a major statutory amendment to § 127(a). The current regulation requires disclosure of the conditions under which the creditor may retain or acquire a security interest, and a description or identification of the type of the interest. The revised statute and regulation simplify this disclosure by merely requiring the creditor to disclose the fact that the creditor has or will acquire a security interest either in the property purchased as part of the plan or in other property identified by item or type.

In the December proposal, the Board stated that creditors requiring security only when the balance in an account exceeded a pre-designated amount need only disclose to the consumer on the initial disclosure statement information about the security interest available to the creditor at the time that the disclosures were being made. The proposal provided that, at a later date, when the security interest was actually taken, the creditor would disclose to the consumer a description of the property in which the security interest was taken with more specificity.

Commenters objected to the latter requirement, pointing out that the security interest disclosures for closed-end credit did not require the specificity required in open-end disclosures. The Board agrees that it is not necessary for a creditor to provide the additional disclosures when the security interest is actually taken if the scope of the security interest taken is the same as, or is more specific than, that disclosed to the consumer on the initial disclosure statement. However, the Board continues to believe that if the security interest actually taken in the property is of greater scope than that disclosed on the initial disclosure statement, a change-in-terms notice is required.

For example, if the initial disclosures provided for a security interest in "household goods" and a security interest was later taken in *certain* household goods, no change-in-terms notice would be necessary. If, on the other hand, the initial security interest was disclosed as covering certain household goods and, at the time the pre-designated balance was exceeded, the actual security interest was taken in all household goods, it would be necessary for the creditor to provide a change-in-terms notice. The Board would point out that in the latter instance, if the creditor executes a new security agreement (a copy of which is given to the consumer), that security agreement will suffice as a change-in-terms notice.

As in the December proposal, and in the absence of a corresponding statutory provision, the minimum periodic payment requirement in § 226.7(a)(8) of the current regulation is not included in the revised regulation. The Board is of the opinion that a creditor would routinely provide such information to the consumer, and is unaware of any potential abuse requiring regulation. However, a provision requiring notice to the consumer regarding an increase in the minimum periodic payment has been incorporated in § 226.9(c).

Proposed § 226.6(d) corresponds to § 226.7(a)(9) of the current regulation; it deals with the billing rights statement requirement and is unchanged from the December proposal. Unlike the current regulation, a model billing error rights statement is included in the appendix rather than in the body of the regulation. The revised regulation includes a provision that the notice provided by the

creditor be *substantially similar* to the model statement. Unlike under the current regulation, the phrase "substantially similar" is intended to provide the creditor with greater flexibility in personalizing the notice and complying with "plain English" state laws. (See the appendix for a discussion of the "substantially similar" standard.)

Commenters requested that the regulation provide that the model billing error rights notice be deemed to comply with "plain English" state laws. The Board believes that it would be inappropriate to make such a determination.

§ 226.7 Periodic statements.

Section 226.7 corresponds to the same section in the December proposal and to § 226.7(b) of the current regulation; it requires that creditors provide consumers with periodic statements at the end of each billing cycle and identifies the information that must be disclosed on them. The general periodic disclosure requirements relating to timing, format, and applicability that appear in current § 226.7(b) appear in § 226.5 of the revised regulation. The definition of "billing cycle" in revised § 226.2 establishes the requirement that the interval between billing cycles be no longer than a quarter of a year.

The revised regulation does not contain the requirements in § 226.7(c) of the current regulation regarding the location of disclosures on the periodic statement. The Board believes that adequate consumer protection is afforded by the requirement in § 226.5 that Truth in Lending disclosures be made clearly and conspicuously.

Required terminology, with the exception of the terms "finance charge" and "annual percentage rate," has also been deleted from this section. A number of commenters favored elimination of required terminology because of the potential for nonsubstantive technical violation of the regulation.

Section 226.7(a) corresponds to § 226.7(b)(1)(i) of the current regulation. It requires disclosure of the outstanding account balance at the beginning of the billing cycle. The requirement that a credit balance be identified as such has been deleted from the regulation as unnecessary; where a credit balance exists, the requirement that it be disclosed clearly and conspicuously will insure its proper identification. As has always been the case, creditors may use a symbol or abbreviation to identify a credit balance as long as it is explained on or with the periodic statement.

The last sentence of the paragraph that appeared in the December proposal has been deleted from the regulation. It incorporated the present staff position that permits disclosure of a separate previous balance for each type of transaction. It will, instead, be incorporated in the commentary. The Board will also incorporate in the commentary the staff position that creditors disclosing a separate previous balance for each type of transaction on an account need not disclose a total previous balance.

Section 226.7(b) corresponds to § 226.7(b)(1)(ii) of the current regulation; it is the same as the current regulation except for minor editorial changes. It requires that each credit transaction be identified on the periodic statement in accordance with the specific identification requirements of § 226.8.

Section 226.7(c) requires disclosure of any credit to the account during the billing cycle. This disclosure must include the amount of the credit and its date of crediting. It corresponds to § 226.7(b)(1)(iii) of the current regulation. As in the December proposal, the revised regulation no longer requires specific identification of the type of credit. Creditors may also use symbols or abbreviations as long as they are explained on or with the periodic statement. The Board would point out, however, that, where a creditor uses the periodic statement to notify the consumer of a billing error correction, a specific identification of the credit must be provided.

Section 226.7(d) corresponds to § 226.7(b)(1)(v) of the current regulation and deals with disclosure of any periodic rate that may be used to compute the finance charge and the annual percentage rate that corresponds to it. The Board believes that the language of the paragraph can be read to require that the periodic rate(s) used to compute the finance charge must be disclosed whether or not applied during the billing cycle, and therefore has deleted the parenthetical phrase that appears in the current regulation. The Board would point out that, where an open-end plan offers a variety of features, the creditor must disclose the peridoic rate(s) and corresponding annual percentage rate(s) for only those types of transactions that the consumer has the privilege of utilizing without further application. For example, where the consumer requests and receive a line of credit that may be routinely accessed by a credit card or check overdraft, the periodic rate(s) and corresponding annual percentage rate(s) must be disclosed for those features on each periodic statement whether or not the consumer uses either feature during the billing cycle. If the same plan also offers individual advances for unsecured credit or credit secured by large-ticket items, the periodic rates and corresponding annual percentage rates for those features need not be disclosed if the consumer does not have the present ability to access the credit line routinely without special application.

Footnote 15 of the revised regulation deals with the disclosure that must appear on the periodic statement when a variable rate program is involved. The footnote requires that the creditor reflect on the periodic statement, where a variable rate program is involved, that the periodic rate may vary.

The alternative terminology that appears in the current regulation for the disclosure of the corresponding annual percentage rate has been deleted from the regulation. For the purposes of this paragraph, creditors may continue to modify the term "annual percentage rate" by using the terms corresponding, nominal, or corresponding nominal. Where one disclosure is given for both revised § 226.7 (d) and (g), however, only the term "annual percentage rate" may be used.

Language from the December proposal has been retained to indicate that, where different periodic rates apply to different types of transactions, those periodic rates and the annual percentage rates that correspond to them must be disclosed, together with the types of transactions to which they apply. Where different rates are involved, a periodic statement that does not reflect what the different rates apply to (that is, ranges of balances and/or types of transactions) would render the periodic rate disclosure meaningless.

The language referring to the method of determining the corresponding annual percentage rate has also been deleted from the current § 226.7(b)(1)(v) since the method is set out in revised § 226.14.

Section 226.7(e) of the December proposal is not reflected in the revised regulation. That paragraph required disclosure of the amount or method of computing the amount of any type of finance charge other than the periodic rate that may be imposed during the billing cycle. Several commenters stated that, in the absence of a corresponding statutory provision, the requirement unnecessarily duplicated information contained in the initial disclosures; that it might confuse consumers when the charge was not, in fact, imposed during the billing cycle; and that it would detract attention from other important disclosures. Because consumers are

informed of the existence of these charges on the initial disclosure statement, and of their imposition on the periodic statement, the Board believes that adequate consumer protection is afforded without this additional disclosure requirement.

Section 226.7(e) of the revised regulation corresponds to § 226.7(f) of the December proposal and § 226.7(b)(1)(viii) of the current regulation; it requires disclosure of the amount of the balance to which a periodic rate is applied and an explanation of how the balance was determined.

The revised paragraph returns to language similar to the current regulation, deleting language in the December proposal that required disclosure of the amount of each balance to which a different periodic rate is applied. The rule stated in the December proposal proved too broad in that it inadvertently required the separate breakout of balances where the disclosures of separate balances would in fact be unnecessary. For example, where the consumer has a balance of $1,000 on purchase transactions, and amounts up to $500 are subject to a periodic rate of 1½% per month and amounts over $500 are subject to a 1% periodic rate per month, there would be no need to disclose those balances separately. The Board believes, however, that there are certain circumstances in which more than one balance must be disclosed in order for the balance disclosure to be meaningful. For example, where a periodic rate of 1½% per month is applied to purchases and 1% per month to cash advances, the Board believes that both balances subject to the periodic rates must be disclosed. The Board intends to incorporate specific examples in the commentary, along with the present staff position that permits disclosure of separate balances for different types of transactions, at the creditor's option.

The revised paragraph retains the position set forth in the December proposal that only those balances to which a *periodic rate* was applied need be disclosed. The Board believes that to require the specific and separate identification of each balance involved in computing individual transaction charges or activity charges would significantly complicate the periodic statement.

Section 226.7(e) of the revised regulation continues to require disclosure of the balance computation method. Four model disclosures are contained in Appendix G.

Board Interpretation § 226.703, which deals with the disclosure of the balance when one or more daily periodic rates are imposed, will be incorporated in the commentary.

Section 226.7(f) corresponds to § 226.7(g) of the December proposal and § 226.7(b)(1)(iv) of the current regulation; it requires disclosure of the amount of any finance charge debited or added to the account during the billing cycle. The last sentence of the paragraph incorporates current Board Interpretation § 226.701, which provides that, where there is more than one periodic rate, the finance charge attributable to *each rate* need not be separately itemized and identified.

The Board is aware that some creditors do not debit or add finance charges to an account during a billing cycle, but instead allocate from each payment the amount of the finance charge that has accrued since the last payment. The Board intends to incorporate in the commentary the present staff position that those creditors need not disclose finance charges that may have accrued between the date of the last payment and the closing date. The Board also intends to expand the applicability of this position to the disclosures required by revised §§ 226.7(a) (Previous balance) and 226.7(i) (New balance).

Section 226.7(g) of the revised regulation corresponds to § 226.7(h) of the December proposal and § 226.7(b)(1)(vi) of the current regulation. It requires disclosure of the annual percentage rate (calculated in accordance with revised § 226.14) whenever a finance charge is imposed during the billing cycle. Language in the December proposal provided that, where an annual percentage rate could not be determined because there was no outstanding balance in the account, no annual percentage rate need be disclosed. That sentence has been deleted as unnecessary; no substantive change is intended, however. The Board believes that the reference in § 226.14 to the circumstances under which an annual percentage rate cannot be determined is sufficient to relieve creditors of the duty to disclose it under this paragraph.

Section 226.7(h) has no corresponding section in the current regulation; rather, it implements a present staff position that charges other than finance charges imposed during the billing cycle must be reflected on the periodic statement. The revised regulation does not require a separate disclosure of the total of other charges.

As in the December proposal, the requirements of current § 226.7(b)(1)(ix) have been divided into two paragraphs for clarity. Section 226.7(i) corresponds to § 226.7(j) of the December proposal and requires disclosure of the closing date of the billing cycle and the outstanding account balance on that date. The language of the current regulation requiring appropriate identification of a credit balance has been dropped for the same reasons given for deletion of similar language regarding the balance at the beginning of the billing cycle. The last sentence of the paragraph that appeared in the December proposal has been dropped; it indicated that a creditor could disclose an outstanding balance for each type of transaction on an account. The Board will incorporate that position in the commentary. As is currently the case, a creditor may, at its option, disclose an outstanding balance for each type of transaction in lieu of a total outstanding balance.

The second part of current § 226.7(b)(1)(ix) is found in § 226.7(j) of the revised regulation and corresponds to § 226.7(k) of the December proposal. It deals with the disclosure of any free-ride period permitted on the account; it is substantially the same as the current regulation.

Section 226.7(k) corresponds to § 226.7(b)(1)(x) of the current regulation and § 226.7(l) of the December proposal. It requires disclosure of the address to be used for notice of a billing error. In light of the fact that required terminology has been eliminated, with the exceptions noted above, the "Send inquiries to:" language requirement has been deleted. The Board believes that the general requirement in § 226.5 that Truth-in-Lending disclosures be made "clearly and conspicuously" will insure adequate consumer protection.

Several commenters asked the Board if a telephone number could be disclosed with the billing error address without giving a precautionary instruction that telephoning will not preserve the consumer's billing error rights. While the Board recognizes that nothing in the act prohibits giving the telephone number as additional information, the Board believes that, depending on the overall format of the disclosure statement, disclosure of a telephone number without a precautionary instruction could be misleading.

§ 226.8 Identification of transactions.

This section of the revised regulation corresponds to § 226.8 of the December proposal and to § 226.7(k) of the current regulation; it deals with the requirement that the creditor identify on the periodic statement credit transactions made in an open-end plan. This section

implements § 127(b)(2) of the act. While the revised regulation reflects a few editorial changes, it is substantively unchanged from the December proposal.

Comparing the revised regulation with the current regulation reveals little substantive change. The revised regulation reflects, however, a significant reorganization which should facilitate its use. Moreover, much of the explanatory detail contained in the current regulation has been deleted for more appropriate inclusion in the commentary.

Footnote 16 (which deals with a creditor's failure to disclose required identifying information and which applies to all creditors) and footnote 18 (which details a special provision for small creditors) implement provisions in the amended act regarding the liability implications for failure to provide required identifying information in certain circumstances. Footnote 16 also replaces § 226.7(k) (4) and (5) of the current regulation, which contain specific provisions allowing the creditor to substitute or omit unavailable information in certain instances. Under the revised regulation the creditor need no longer show that information is actually unavailable—only that the creditor has maintained reasonable procedures to procure it. Section 226.7(k)(6)(i) of the current regulation, which allows a creditor to rely on information supplied by a non-related seller, has also been deleted as unnecessary due to the protection afforded by footnote 16.

Some commenters asked for guidance on how to correct the account for purposes of footnotes 16, 17, and 18 to this section. There is no separate rule for correction under § 226.8; § 226.13(e) applies. For example, under § 226.13(e) when the consumer is correct (and the consumer is considered to be correct under these footnotes), the creditor may not impose any finance or other charges on the transaction in question.

As is the case in the current regulation, 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 credit document reflecting the transaction accompanies the statement; and (3) if purchases are involved, whether the creditor and seller are the same or related persons.

Several commenters asked the Board to clarify whether a creditor should identify a transaction as sale or nonsale credit when a consumer uses a debit card with an overdraft feature to purchase goods and, in doing so, activates the overdraft. The Board believes that the credit portion of such transactions could be viewed as a cash advance, and may therefore be disclosed as nonsale credit at the creditor's option even though a purchase is involved.

The current regulation states that a facsimile draft (for example, a draft in which the required information is typed in, as opposed to a duplicate copy) is not considered an "actual copy of the document evidencing the transaction" for purposes of this section. This position about the use of facsimile drafts has been deleted from the revised regulation, but will be incorporated in the commentary.

Section 226.8(a)(2) of the revised regulation, which sets forth the requirements for descriptive billing of purchases when the creditor and seller are the same or related persons, corresponds to § 226.7(k)(2)(i) of the current regulation. Footnote 9(b) of the current regulation provides guidance as to whether a creditor and seller are the same or related persons for purposes of this section. This material has been deleted from § 226.8(a)(2) of the revision, but will be incorporated in the commentary. The commentary will also reflect that creditors may use either the "related" or "non-related" rules in describing transactions with third party sellers resulting from promotional material mailed by the creditor. The commentary will further provide that a seller and creditor are not related merely because they have a corporate connection, if that connection is not obvious from the names used by the seller and the creditor.

Footnote 9(c) of the current regulation provides guidance on disclosing the transaction date for a transaction not billed in full on any single statement but for which precomputed installments are billed periodically. This material will appear in the commentary rather than in the revised regulation. The Board takes the position that the creditor may disclose on the first periodic statement reflecting the transaction either the full amount of the transaction together with the date the transaction *actually* took place; or the amount of the first installment and the date of the transaction or the date the first installment was debited to the account. In either event, subsequent periodic statements should reflect each installment due, together with any other identifying information required by this section. On subsequent statements, the debiting date may be used as the date of the transaction.

Section 226.8(a)(2) of the revised regulation requires a brief identification of property or services purchased, as does the current regulation. While the revised regulation does not contain the material in current footnote 9(d) about the use of department names or symbols instead of designations such as "merchandise" and "miscellaneous," this material will be included in the commentary. The commentary will also incorporate current staff position that designations such as "promotional items" are insufficient property identifications.

As noted above, footnote 18 of the revised regulation reflects the statutory amendment to § 127(b)(2) allowing two-party creditors with fewer than 15,000 open-end credit accounts to delete the brief identification and provide, in certain instances, only the amount and date of each credit extension and the seller's name and location. In response to comments, the Board wishes to make clear that, in determining whether a creditor may take advantage of this provision, the creditor counts only its own accounts, and not those merely serviced by the same data processor or other shared service provider.

Section 226.8(a)(3) deals with descriptive billing when the creditor and seller are not the same or related persons. The current regulation specifically permits the creditor to use understandable and generally accepted abbreviations of the seller's address. This material has been deleted from the revised regulation, but will appear in the commentary. Footnote 19 of the revision, which corresponds to current § 226.7(k)(5)(ii), allows the creditor to omit the address or provide some suitable designation to assist the consumer in identifying the transaction when the transaction took place at a non-fixed location or in the consumer's home, or was a mail or telephone order. No substantive change is intended, although editorial changes have been made. The revised regulation deletes some explanatory material that will, however, be incorporated in the commentary.

The current regulation also specifically permits the seller's name to be disclosed on the periodic statement either as it appeared on the credit document or as a more complete spelling of a name that was alphabetically abbreviated on the credit document. The revised regulation deletes this material, but will incorporate it in the commentary. In addition, the Board believes that a creditor may use an acceptable abbreviation of the seller's name on the periodic statement even if the name appears in a more complete spelling on the sales receipt.

Section 226.8(b) of the revised regulation sets forth the requirements for the identification of nonsale credit transactions. Paragraphs (b) (1) and (2) of the December proposal have been combined for editorial reasons; no substantive change is intended. The section differs from the December proposal and the current regulation by deleting the examples of appropriate identifications of nonsale transactions. These examples—cash advance, loan, and overdraft loan—will be included in the commentary rather than in the regulation. A footnote has been added to permit the creditor the same alternative means of identification on the periodic statement as is available for sale credit transactions. The footnote permits the use of a number or symbol that also appears on the credit document furnished to the consumer at the time of the transaction if that number reasonably identifies the transaction with the creditor. If the creditor uses the number or symbol, however, and the consumer submits a notice of a billing error regarding the transaction, the creditor must comply with the billing error resolution procedures.

Revised § 226.8(b) contains one other change from the current regulation. The revision permits the use of the debiting date in all nonsale credit transactions. In the current regulation, this alternative is available only to creditors with overdraft checking plans (and to a limited extent for other nonsale credit plans), unless an actual copy of the credit document containing the amount and date is provided to the consumer.

§ 226.9 Subsequent disclosure requirements.

Section 226.9 corresponds to the same section of the December proposal and to several provisions in § 226.7 of the current regulation. Section 226.9(a) implements the statutory requirement that the creditor provide the billing rights statement annually. That paragraph also provides the creditor with an alternative means of complying with the annual requirement. The remaining paragraphs provide creditors with guidance on satisfying the act where they add new features or devices to an existing open-end credit plan; where they make a significant term change; and where they impose a finance charge at the time of the credit extension.

(a) *Furnishing statement of billing rights.* Section 226.9(a) of the revised regulation corresponds to § 226.7(d) of the current regulation. This section implements a provision in the amended act that the long-form billing rights statement be provided annually rather than semi-annually as the original act and regulation mandated. The statute and the December proposal provide that the notice be furnished during one billing cycle per calendar year to all consumers entitled to a periodic statement for that cycle. Comment raised the question of whether the notice requirement could also be satisfied by providing the billing rights statement to each consumer at some time during the year, such as when a renewal card is sent or an annual membership fee is imposed. Under such a procedure, all consumers would receive the billing rights statement annually (not merely those consumers entitled to a periodic statment for a particular cycle), while allowing the creditor to utilize more than one billing cycle in which to complete sending the notices. The Board believes that this practice is entirely compatible with Congressional intent; therefore, the revised regulation permits this alternative.

Section 226.9(a)(2) of the revised regulation, which gives the creditor the option of sending a summary of the consumer's billing rights with each periodic statement, instead of the longer annual statement, is substantively unchanged from the December proposal. In the **Federal Register** material accompanying the December proposal, the Board indicated its intent to reverse a staff position that has permitted the summary statement to be on a portion of the periodic statement that the consumer would return to the creditor (for example, on the back of a payment stub). Since many commenters believed that this restriction might preclude them from using the summary statement alternative because of space limitations, the Board is incorporating the staff position in the revised regulation (see § 226.5).

(b) *Supplemental credit devices and additional features.* Section 226.9(b) of the revised regulation deals with disclosures for supplemental credit devices and additional features. With respect to disclosures for supplemental credit devices, it corresponds to § 226.7(j) of the current regulation.

The December proposal required new finance charge disclosures under § 226.6(a) whenever credit devices or features were added that were subject to finance charge terms different from those previously disclosed. Under both the current regulation and the December proposal, even if the credit devices or features were offered on the same terms, the finance charge disclosures were required if the devices or features were added more than 30 days after the initial disclosures were given. While the revised regulation does not require that the finance charge disclosures be provided when a consumer is merely given another means of accessing the account on the same terms as were previously disclosed, the Board believes that, if the new means of access is provided more than 30 days after the consumer receives disclosures, the consumer should be told that the device is a credit device, and referred to the initial disclosure statement previously furnished. No required language or particular phrasing is contemplated for this disclosure. Rather, the requirement is intended merely to draw the consumer's attention to the fact that the device is not a replacement for cash. For example, in mailing checks that directly access the credit line, the creditor might use a disclosure such as "Use this as you would your XYZ card to obtain a cash advance from our bank. See your contract for further details." The creditor may, of course, make the finance charge disclosures required by § 226.6(a) as an alternative means of satisfying the requirement.

Several commenters noted that the original issuance of a credit card may take more than 30 days to be delivered after initial disclosures are given because of printing or other processing delays. To accommodate this concern, § 226.9(b)(1) excepts the original issuance of credit cards from the disclosure requirement even when the cards are delivered more than 30 days after the initial disclosures.

Section 226.9(b) differs from § 226.7(j) of the current regulation in several respects. The current regulation requires a complete set of finance charge disclosures to be made with supplemental credit devices delivered more than 30 days after delivery of the initial disclosures, even if the terms were the same. Section 226.7(j) also requires that the disclosures accompany the device, and that they be on a single written statement without any promotional material. The revised § 226.9(b) is more flexible in that (1) disclosures need be made to the consumer *before* the consumer uses the feature or device for the first time; (2) the restriction on accompanying material has been removed; and, (3) as with other open-end credit disclosures, the creditor basically has the flexibility to make the disclosures in any manner that is clear, conspicuous, and in a written form that the consumer may keep.

Section 226.9(b)(3) of the December proposal, regarding the timing of the disclosure requirements, has been

deleted for editorial reasons. This information is now included in paragraphs (b)(1) and (b)(2); no substantive change is intended.

(c) *Change in terms.* Section 226.9(c), which corresponds to § 226.7(f) of the current regulation, outlines the requirements for notifying consumers in the event a creditor makes a change in the terms of a consumer's account. The revised regulation is unchanged from the December proposal, but differs significantly from the current regulation.

The current regulation requires that notice of an increase in a periodic rate or any minimum, fixed, service, transaction, or similar charge be sent to all consumers at least 15 days prior to the beginning date of the billing cycle in which the increase is imposed. Section 226.9(c) of the revised regulation reflects a change in the timing of the delivery of the notice from 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 modification would permit mid-cycle changes when there is clearly no retroactive impact, such as the imposition of a transaction fee. A change in the balance computation method, in contrast, would need to be disclosed prior to the billing cycle in which the change was to be implemented.

Board interpretation § 226.705 of the current regulation provides that certain changes in balance computation methods would not require a term change notice because the new method could result in lowered finance charges. Since such a determination often depends upon a particular consumer's use of the account, the applicability of such an interpretation is considered questionable. Consequently, the revised regulation would consider any change in the balance computation method to require a change in terms notice.

The revised regulation also substantially reduces the types of term changes for which notice need be given. The revised regulation continues to require advance notice to all consumers whenever the change involves an increase in the periodic rate, or any minimum, fixed, service, transaction, activity, membership, or similar charges. The revised regulation also continues the current regulatory requirement (but differs from the December proposal) in providing that creditors give advance notice of an increase in any minimum payment required on the account. No notice need be given, however, when the change involves late payment, documentation, or over-the-limit charges; or when the change results from the consumer's default or delinquency (unless the periodic rate or any other finance charge is increased); or when the change results from an agreement involving a court proceeding. The revised regulation also provides that no *advance* notice is necessary—although a notice is still required—when the change has been agreed to by the consumer (for example, a consensual collateral substitution) or when the change is an increase in a periodic rate or other finance charge as a result of the consumer's default or delinquency.

The Board wishes to emphasize that this section is meant to apply to changes made by the creditor (with or without the consumer's agreement) rather than those arising merely by operation of law. For example, if the creditor has taken and disclosed a security interest in the consumer's vehicle, and, upon the consumer's sale of the vehicle, the creditor's interest automatically extends to the proceeds, no change in terms notice is required under this section.

(d) *Finance charge imposed at the time of transaction.* Section 226.9(d), which corresponds to § 226.7(e) of the current regulation, deals with disclosure requirements when a finance charge is imposed by a creditor other than the card issuer at the time of honoring a consumer's credit card. The Board believes that adequate consumer protection is afforded by the creditor's disclosing the amount of the finance charge, either orally or in writing, at the time the card is honored. Consequently, unlike the December proposal and the current regulation, the revised regulation no longer requires written disclosure of the amount financed and annual percentage rate, figured in accordance with the closed-end credit provisions.

§ 226.10 *Prompt crediting of payments.*

Section 226.10, which corresponds to § 226.7(g) of the current regulation, sets forth the rules for a creditor to follow in crediting payments to a consumer's account. It implements § 164 of the act. This section of the revised regulation has been substantially rewritten in order to reduce complexity by establishing precise, easy-to-apply rules. The revised regulation also deletes the explanatory detail contained in the current regulation; much of this material will be incorporated in the commentary. The format of this section is the same as that contained in the December proposal; however, a major change has been made from the proposed timing requirement.

(a) *General rule.* Section 226.10(a) of the revised regulation, which requires that a payment be credited as of the date of receipt except when a delay does not result in the imposition of a finance or other charge, corresponds to the introductory paragraph of § 226.7(g) and to § 226.7(g)(4) of the current regulation. Although the language of the revised § 226.10(a) differs from that of the current regulation, no substantive change is intended in the application of the general crediting rule. The "date of receipt" for purposes of this section is the date that payment is made at any location where the creditor conducts business, or at a location specified under paragraph (b), as long as the payment is received before the creditor's close of business or a reasonable cut-off time specified in accordance with paragraph (b). This paragraph differs from the December proposal in incorporating proposed footnote 16 into the body of the regulation and adding language to make clear that a creditor, specifying requirements pursuant to paragraph (b), need not credit non-conforming payments as of the date of receipt.

(b) *Specific requirement for payments.* Section 226.10(b) of the revised regulation, which corresponds to § 226.7(g) (2) and (3) of the current regulation, permits a creditor to specify requirements (such as form, manner, and location) for the consumer to follow in making payments. The current regulation provides that, if a creditor specifies a location requirement, but nonetheless accepts payment at another location, the creditor is not under an obligation to credit the payment on the date of receipt but must still credit it promptly, with an outside limit of five calendar days.

The revised regulation differs from the current regulation in three respects. First, a creditor may avail itself of the extra time when it accepts a payment that does not conform to the specified requirements in some other manner, not just when it is sent to the wrong location. Second, the separate promptness standard has been deleted to avoid uncertainty in applying the rule; under the revised regulation, a creditor simply has five calendar days in which to credit a non-conforming payment. Third, the word "reasonable" that preceded requirements in the current regulation and the December proposal has been deleted. This deletion is not intended to result in a substantive change. The requirements specified by the creditor must continue to be those with which the majority of consumers can comply in order not to frustrate the statutory requirement in § 164 of the act that the "regulations shall prevent a finance charge being imposed on any obligor if the creditor has received the obligor's payment in readily identifiable form in the amount, manner, location, and time indicated by the creditor. . . ."

Section 226.10(b) of the revised regulation also differs in another way from the December proposal. The December proposal required merely that nonconforming payments be credited "promptly." A number of commenters requested the reinstatement of a specific time limit to avoid unnecessary proof problems regarding whether a creditor acted promptly in a particular situation.

Section 226.10(b) of the revised regulation continues the current regulatory provision that any payment requirements be stated on or with the periodic statement. As is the case under the current regulation, these requirements need not be located on a part of the statement that the consumer may retain. In the revised regulation this provision is stated in § 226.5(a), which sets forth all of the form requirements for disclosures made under Subpart B.

The revised regulation also differs from § 226.7(g)(2) of the current regulation in deleting, as inappropriate regulatory material, the detail about time, manner, and location for receipt of payments when no such requirements are specified by the creditor. This guidance will be incorporated in the commentary.

(c) *Adjustment of account.* Section 226.10(c) is substantially the same as § 226.7(g)(1) of the current regulation. This paragraph provides for the adjustment of an account when a creditor fails to post a consumer's payment as required by this section in time to avoid the imposition of finance, late payment, or other charges that would not have been assessed had the creditor complied with paragraph (a) or (b), as applicable.

The revised regulation differs from the December proposal by adding language to clarify that paragraph (c) applies to creditors proceeding under both paragraphs (a) and (b) of this section.

§ 226.11 Treatment of credit balances.

Section 226.11 of the revised regulation, which establishes requirements for the treatment of credit balances, corresponds to § 226.7(h) of the current regulation. This section implements the amended § 165 of the act, and differs significantly from the current regulation.

The current regulation provides that a creditor's duties arise under this section when a consumer transmits a payment(s) that exceeds the disclosed new balance by more than $1. The revised regulation, in accordance with the amended statute, provides that a creditor's duties arise when the creditor receives *any* credit to the consumer's account that exceeds the balance by more than $1. Thus, when the balance is created by a return or a rebate, the provisions of § 226.11 apply.

When a credit balance is created, the current regulation provides the creditor with two basic options: to credit the consumer's account with the amount of the balance due and refund the remainder promptly (but within five business days) or to credit the account with the total payment and, if the consumer so requests, refund the credit balance promptly (but within five business days). Section 226.11(a) of the revised regulation retains these options with two substantive changes. First, the revised regulation requires the creditor to act within seven business days, thus replacing the promptness standard with a precise rule and expanding the outside time limit by two business days to accommodate any time necessary for investigations of non-payment type credits. Second, the revised regulation makes clear that what the creditor need refund is any *remaining* credit balance in the account at the time refund must be made. This differs from the current regulation and the December proposal by permitting the creditor to take account of a consumer's intervening debits in determining the amount of the required refund. This change is intended to accommodate operational concerns raised by commenters in response to the December proposal.

Section 226.11(b) of the revised regulation implements the new requirement in 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. This section differs from the December proposal in that it allows a creditor to refund a credit balance to a consumer by crediting the amount to a deposit account maintained with the creditor.

The Board notes that § 226.7(h)(3) of the current regulation has been deleted from the revised regulation as inappropriate regulatory material. That paragraph provides that a creditor may refund a credit balance even in the absence of a consumer's request. The Board notes that nothing in the regulation restricts a creditor from refunding the excess prior to the time that it is required to do so under this section.

§ 226.12 Special credit card provisions.

As in the December proposal, § 226.12 contains special rules applicable to credit cards and credit card accounts. It corresponds to § 226.13 of the current regulation.

(a) *Issuance of credit cards.* This provision contains the rules governing the distribution and renewal of credit cards. It differs from the December proposal in that footnotes 17 and 18 of that proposal have been deleted, and paragraph (a)(1) and footnote 19 of the proposal have been revised. In paragraph (a)(1), the words "for the card" have been substituted for "by a cardholder." In footnote 19 of the proposal (footnote 21 of the revised regulation), the phrase "or an authorized user" has been deleted in two places.

The effect of these changes is to return the text of paragraph (a) to a form very close to that in the current regulation (except for the addition of the footnote defining "accepted credit card," and the deletion of some material which now will be contained in the commentary). However, no change in substance from the December proposal is intended. As was stated in footnote 18 of the December proposal, paragraph (a) permits credit cards to be sent to the person making the request, as well as to any other person for whom a card is requested. No liability for unauthorized use may be imposed on a person who has not requested a card, but nothing in this provision prevents the imposition on that person of liability on the account generally. Whether or not such liability may be imposed is a matter of state law. Finally, the issuer may send more than one credit card to a person if so requested, and may imprint any name(s) requested on any card(s).

As was stated in footnote 17 in the December proposal, paragraph (a) does not prohibit the issuance of an unsolicited device that may become a credit card provided that (1) the device has some substantive purpose other than obtaining credit, (2) it is not capable of being used as a credit card when issued, and (3) credit capability will be added only upon the recipient's request. All of this material has been deleted from the December proposal but will be covered in the commentary.

(b) *Liability of cardholder for unauthorized use.* Paragraph (b) sets forth limitations on the amount of liability that may be imposed on a cardholder for unauthorized use of a credit card or a credit card account, and specifies the conditions for imposing liability. Footnote 20 of the December proposal, which referred to the burden-of-proof rules in § 133(b) of the act, has been deleted as inappropriate regulatory material.

Paragraph (b)(1) limits liability for unauthorized use to $50 or the amount of unauthorized transactions before notification to the issuer, whichever is less; this is unchanged from the December proposal.

Paragraph (b)(2) lists the conditions for imposing liability. As proposed in

December, paragraph (b)(2)(iii) required that, in order to impose liability for unauthorized use, the issuer must have disclosed to the cardholder a telephone number and address to be used for notifying the issuer of loss or theft of a credit card or possible unauthorized use. The disclosure would have had to appear on or with the periodic statement immediately preceding the unauthorized use. Proposed paragraph (b)(2)(iii) was intended to implement § 133(a)(1)(D) of the act as amended by the Simplification Act.

The Board believes that § 133(a)(1)(D) does not require the disclosure to appear on or with a periodic statement (rather, the references to a periodic statement serve as examples) and does not require disclosure of any specific means of notification. Therefore, proposed paragraph (b)(2)(iii) has been deleted, and § 133(a)(1)(D) is now implemented by paragraph (b)(2)(ii). (Paragraph (b)(2)(ii) also continues to implement § 133(a)(1)(C) of the act, as did paragraph (b)(2)(ii) of the December proposal.) It requires that, in order to impose liability, an issuer must have provided adequate notice of the cardholder's maximum liability and of a means by which the card issuer may be notified of loss or theft. Paragraph (b)(2)(ii) no longer requires, as it did in the December proposal, that this disclosure appear on the credit card or within two years preceding the unauthorized use; it also does not require, as did the December proposal, that the disclosure contain an address to be used for notification. Thus, the disclosure can be given at any time preceding the unauthorized use (for example, on or with the initial disclosures), and may state any means by which the card issuer may be notified (for example, a telephone number, an address, or both). Of course, the disclosure must also contain the other items specified, such as the dollar limitation on liability.

The remainder of paragraph (b)(2) is unchanged from the December proposal, except for the redesignation of proposed paragraph (b)(2)(iv) as paragraph (b)(2)(iii).

Paragraph (b)(3) specifies what constitutes notification to a card issuer of loss or theft of a card or of possible unauthorized use. It differs from the December proposal in that the phrase "required in the ordinary course of business" is substituted for the word "necessary," and the word "the" has been added before the phrase "pertinent information." The substituted language is the same as that in the current regulation and in the act.

Paragraphs (b) (4) and (5) relate to the effect of state law or an agreement regarding liability, and to business use of credit cards, respectively. They are unchanged from the December proposal and substantively unchanged from the current regulation.

The principal differences between the current regulation and the revised regulation regarding liability for unauthorized use can be summarized as follows. First, one of the conditions of imposing liability in the current regulation, the provision to the cardholder of a postage-paid, preaddressed card or envelope for notification of loss or theft, has been deleted (corresponding to an amendment to the act.) Second, another condition of liability, the provision of a disclosure of maximum liability and of means of notification, has been substantially revised, as described above, to simplify it and add flexibility. A third condition of liability, the provision of means of identification, has been relaxed in that now the issuer may provide a means to identify either the cardholder or the authorized user (rather than only the latter). Finally, the standard for notification to a card issuer of loss, theft, or possible unauthorized use differs from that in the current regulation in that anyone may provide the notification, rather than only the cardholder as under the current regulation. In addition to these substantive changes, some portions of the liability provisions have been considerably shortened and rephrased for simplicity, and certain obsolete material has been deleted.

(c) *Right of cardholder to assert claims or defenses against card issuer.* Paragraph (c) deals with the cardholder's right to assert against the card issuer any claim or defense concerning property or services purchased with a credit card, if the merchant has been unwilling to resolve the dispute.

Paragraphs (c) (1), (2), and (3) of the December proposal set forth the basic right to assert claims or defenses, certain geographic and dollar amount limitations on that right, exceptions to those limitations, and a formula for determining the maximum amount of claims or defenses assertable. In substance, these provisions are unchanged. However, for greater clarity, they have been renumbered paragraphs (c) (1) and (3), and certain material has been placed in footnotes.

Paragraph (c)(4) of the December proposal listed certain types of transactions that were excluded from the right to assert claims or defenses. This paragraph has been deleted, but its contents have been revised and now appear as a footnote to the heading of paragraph (c). The footnote exempts from the requirements of the paragraph check guarantee cards and debit cards when used in connection with overdraft credit plans, and check guarantee cards when used in connection with cash advance checks (special checks that draw on a credit account rather than an asset account).

The December proposal exempted check guarantee cards only when there was no agreement between the card issuer and the merchant relating to honoring the card or the associated checks, and the proposal did not exempt debit cards. The Board decided to broaden the exemption in the way described above because of serious operational problems cited by commenters as arising from applying the claims and defenses provisions to check guarantee and debit card transactions.

The debit card exemption applies whether the card accesses an asset account via point-of-sale terminals, automated teller machines, or in any other way, and whether the card qualifies as an "access device" under Regulation E or is only a paper-based debit card. On the other hand, when a single card serves both as an ordinary credit card and as a check guarantee or debit card, it will be subject to the provisions of § 226.12(c) when used as an ordinary credit card, but exempt when used as a check guarantee or debit card.

Another change in the exemption provision is that the exemption for use of a credit card to obtain a cash advance unrelated to any specific credit sale item has been deleted. The Board believes the exemption is unnecessary, in that such a transaction would not involve "property or services purchased with the credit card," and therefore such a transaction would not be included under the general rule of paragraph (c)(1).

Paragraph (c)(5) of the December proposal, prohibiting adverse credit reports where a claim or defense is asserted, has been renumbered paragraph (c)(2) and has been revised. First, a clause that appeared in the December proposal has been deleted; it conditioned the issuer's obligation not to make an adverse report on the issuer's knowing (or having reason to know) that the claim or defense had been asserted. This language does not appear in the current regulation. Section 130(c) of the act provides that a creditor may not be held liable for any violation if the creditor shows by a preponderance of the evidence that the violation was not

intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Thus, essentially the same protection that would have been provided by the deleted language is provided by the act.

Another change is revised paragraph (c)(2) is the deletion of a sentence requiring correction of adverse credit reports in cases where the issuer has already made an adverse report, and then learns that a claim or defense has been asserted. This language also does not appear in the current regulation; the change parallels a corresponding deletion of language concerning correction of adverse credit reports in § 226.13. A number of commenters stated that the requirement to correct adverse reports would cause serious operational problems, since there is no time limit on the right to assert claims or defenses.

As a result of these changes, the provisions concerning the right to assert claims or defenses substantially parallel their counterparts in the current regulation. The provisions on excluded transactions differ, however. The language in the current regulation excluding certain cash advances has been deleted; as noted above, the Board believes that these transactions would not be covered by the general rule of paragraph (c)(1) in any event. Also, as discussed above, new exclusions have been added by footnote 24 to this paragraph. The revised regulation also differs from the current in that certain portions of this provision have been considerably simplified and shortened; no change in substance is intended.

(d) *Offsets by card issuer prohibited.* This portion of § 226.12 prohibits card issuers from offsetting a cardholder's credit card indebtedness against the cardholder's deposit account held with the card issuer. Paragraph (d)(1) sets forth the basic prohibition, and is unchanged from the December proposal.

Paragraph (d)(2) lists a number of actions of a card issuer that do not constitute violations of the prohibition on offsets. One type of permissible action is obtaining or enforcing a consensual security interest in funds of the cardholder on deposit with the issuer. The December version of this provision required that such a security interest be limited to an agreed-upon amount; as finally revised, the provision does not contain such a limitation.

The Board believes that § 169 of the act was not intended to apply to the granting of security interests in cardholders' deposit accounts. In addition, requiring that security interests obtained by depository institutions be limited to a specified amount, while security interests obtained by other types of creditors need not be so limited, would place depository institutions in a worse position than other creditors. Finally, circumvention of the offset prohibition should be prevented because (1) only consensual security interests are permitted, and thus the cardholder must affirmatively agree to grant the security interest; (2) the security interest can be enforced only through procedures by which other creditors could enforce their security interests in the same funds; and (3) any security interest granted to secure credit card indebtedness will be disclosed in the card issuer's initial disclosures to the cardholder. These requirements should eliminate the possibility of unfair surprise to the consumer, and of unfair advantage for depository institutions over other creditors that Congress sought to avoid in enacting § 169.

In the December proposal, the Board solicited comment on whether Regulation Z should contain provisions restricting the placing of holds on cardholders' deposit accounts. No such provision has been added to the regulation. However, the Board believes that placing a hold on funds in a cardholder's deposit account in connection with indebtedness arising under a credit card plan would, because the effect is the same as that of an offset, contravene the rule prohibiting offsets.

Paragraph (d)(3) states that the offset prohibition does not prohibit plans for automatic periodic debits against the cardholder's deposit account to repay the cardholder's credit card debt. These plans must be authorized in writing by the cardholder. This provision is substantively unchanged from the December proposal. Comment on the December proposal raised the question of whether it would be permissible for the issuer to debit the cardholder's deposit account to repay credit card indebtedness, not on an automatic periodic basis, but simply upon the specific request of the cardholder. For example, the cardholder might check a box on the credit card bill stub, requesting the issuer to debit the cardholder's account to pay the bill. The Board views this procedure as permissible, because the resulting debit would not constitute an offset.

Paragraph (d) as finally revised does not differ in substance from the current regulation, except that (1) various existing staff interpretations have been incorporated into the text of the regulation; (2) in addition to adding the staff position on consensual security interests to the text, that position has been changed in that such a security interest need no longer be limited to an agreed-upon amount; and (3) certain obsolete provisions (relating to automatic debit plans) have been deleted.

(e) *Prompt notification of returns and crediting of refunds.* Paragraph (e) sets certain requirements applicable to merchants and card issuers where the merchant agrees to accept a return of property, or forgive a debt for services, and accordingly to put through a credit to the consumer's credit card account. Paragraph (e)(1) requires any such merchant (other than a merchant that is also the card issuer) to transmit a credit statement to the card issuer within seven business days after accepting the return or forgiving the debt. It is unchanged from the version appearing in the December proposal. Comment on the December proposal indicated concern that merchants may be unable to meet the time limit in certain circumstances (for example, when refund requests are initiated at foreign locations). The Board notes that the seven business days begin to run when the merchant actually agrees to accept the return or forgive the debt, not at the time the refund request is initiated.

Paragraph (e)(2) requires a card issuer receiving such a credit statement to credit the consumer's account with a refund within three business days after receiving the statement. It is identical to its counterpart in the December proposal. Paragraph (e)(3) prohibits merchants from discriminating in their refund policy against credit card customers as opposed to cash customers. It is also unchanged from the December proposal.

Paragraph (e) as revised is substantively the same as the corresponding provision in the current regulation, except for the deletion of a promptness standard, which in the current regulation applies in addition to the seven-business-day and three-business-day standards.

(f) *Discounts; tie-in arrangements.* Paragraph (f)(1) provides that card issuers may not prohibit merchants from offering discounts for payment in cash instead of by credit card. This paragraph is unchanged from the December proposal. It differs from the current regulation in that it is phrased in terms of offering a discount to "a consumer," rather than to "all customers," in order to make clear that prohibiting discounts for particular customers would be as impermissible as prohibiting discounts for all customers of a merchant.

Paragraph (f)(2) provides that card issuers may not require merchants to maintain accounts, or obtain any other service not essential to the operation of a credit card plan, as a condition of participating in the plan. This paragraph is also unchanged from the December proposal. It differs from the current regulation in that an existing staff position has been incorporated in the regulatory text, to the effect that maintenance of an account for clearing purposes may be required if it is determined to be essential to the credit card plan and if no service charges or minimum balance requirements are imposed. Commenters urged that issuers be permitted to mandate the use of clearing accounts with services charges or minimum balance requirements; however, the Board believes that without the restrictions on these features of clearing accounts, the statutory provisions would be rendered meaningless.

(g) *Relation to Electronic Fund Transfer Act and Regulation E.* Paragraph (g) of the December proposal would have prohibited merchants from imposing surcharges for using a credit card rather than cash or a check. It corresponds to § 226.4(i)(4) of the current regulation. The provision has been deleted because the statutory prohibition on surcharges expired on February 27, 1981.

Paragraph (g) of the revised regulation corresponds to paragraph (h) of the December proposal. (The provision has no counterpart in the current regulation.) The paragraph provides guidance for cards or transactions that involve both credit and EFT aspects (for example, a debit card that accesses a checking account with overdraft credit privileges). It is intended to aid in determining whether Regulation Z or Regulation E rules apply regarding issuance and liability for unauthorized use. As to other § 226.12 matters, it makes clear that Regulation Z rules apply even though a transaction has EFT aspects.

The paragraph differs from the December proposal in that it primarily refers the reader to Regulation E, where the relevant rules are spelled out in detail, rather than repeating these detailed rules in full here. No change in substance is intended.

§ 226.13 Billing Error Resolution.

Section 226.13 addresses error resolution procedures and corresponds to §§ 226.2(j), 226.2(cc), and 226.14 of the current regulation, and to § 226.13 of the December proposal.

This section, like the December proposal, reflects a complete restructuring of the current regulatory provisions. The new structure should simplify the task of understanding and complying with the extremely complex statutory provisions in §§ 161 and 162 of the act. For example, under the revised regulation, the creditor's responsibilities are arranged in chronological sequence.

In addition, significant substantive changes have been made from the current regulation to facilitate creditor compliance with this section. For example, certain location requirements have been deleted, and the rules pending resolution have been streamlined.

A footnote to this section prohibits a creditor from accelerating a consumer's debt or restricting or closing the account because the consumer has exercised billing error rights, and alerts creditors to the statutory forfeiture penalty for failure to comply with any of the requirements of § 226.13. This footnote reflects protections afforded by § 701 of the Equal Credit Opportunity Act, § 161(d) of the Truth in Lending Act and § 226.14(b) of the current regulation. Although the footnote does not refer to the liability provisions of § 130 of the act, that section, of course, applies to violations of § 226.13 as it does to those of other sections.

(a) *Definition of billing error.* Section 226.13(a), which sets forth the definition of a billing error, corresponds to § 226.2(j) of the current regulation. The language of the billing error definition has been simplified in the revised regulation, and § 226.2(j)(1) of the current regulation has been divided into two paragraphs, § 226.13(a) (1) and (2), for clarity. No substantive change is intended in the definition of billing error, however, with the exception of the error defined in § 226.13(a)(7). That paragraph, which implements amended § 161(b) of the act, provides that the creditor's failure to transmit a periodic statement to the consumer's current address is a billing error, unless the creditor received notice of the address change fewer than 20 days before the end of the billing cycle requiring the periodic statement. In contrast to the current regulation, the revision specifies that notice of an address change must be in writing, and it expands the creditor's lead time from 10 to 20 days. The revised regulation differs from the December proposal by permitting the creditor to count the 20 days from the time it receives the notice, rather than from when the consumer mailed it.

(b) *Billing error notice.* Section 226.13(b) of the revised regulation corresponds to the current § 226.2(cc) ("Proper written notification of a billing error"). Most of the changes that have been made in paragraph (b) are editorial. For instance, the phrase "billing error notice" is used instead of "proper written notification of a billing error." The two footnotes to this provision reflect material in the body of the current regulation. The first footnote, which corresponds to § 226.14(a) of the current regulation and implements language in § 161(a) of the act, relieves the creditor from continuing error resolution responsibilities when the consumer concludes that no error occurred. While editorial changes have been made in the footnote, no substantive change is intended. Footnote 29, which corresponds to textual material in § 226.2(cc) of the current regulation and to § 161(a) of the act, permits creditors to require that the billing error notice not be made on the payment stub.

The regulatory text of this paragraph and the accompanying footnotes are identical to the corresponding provisions in the December proposal and implement parts of § 161(a) of the act. The timing requirements were misstated in the December **Federal Register** explanatory material. The 60-day period during which a consumer may assert a billing error notice begins when the creditor transmits the periodic statement, *not* when the consumer receives it.

(c) *Time for resolution; general procedures.* Section 226.13(c) corresponds to § 226.14(a) (1) and (2) of the current regulation and is substantively unchanged, although minor editorial revisions have been made. This provision implements parts of § 161(a) of the act. Section 226.13(c)(3) of the December proposal has been deleted from the revised regulation but will be contained in the commentary. That provison stated that a creditor could make a final correction of an alleged billing error without investigation, provided the creditor complied with all other applicable requirements of the section.

(d) *Rules pending resolution.* Section 226.13(d) consolidates all the rights and duties of the consumer and the creditor pending final resolution of the dispute. It corresponds to provisions in § 226.14 (a) through (e) of the current regulation and portions of §§ 161 and 162 of the act. This section has been reorganized from the December proposal.

Section 226.13(d)(1), which deals with a consumer's right to withhold disputed amounts, corresponds to parts of § 226.14 (a), (b), and (c) of the current regulation. A number of commenters asked for clarification of the meaning of "disputed amount" when the allegation concerns some part of the description

other than a dollar amount, such as the date or the seller's name. In such instances, the disputed amount would be the amount of the transaction or charge that corresponds to the disputed date or seller's name.

Section 226.13(d)(1) of the revised regulation and the related footnote also make clear what actions a creditor may take regarding the disputed amount pending resolution. This part of the provision implements § 161(a)(3) of the act by prohibiting a creditor from taking action to collect the disputed amount. The current regulatory provision, which also appeared in the December proposal with some modifications, immunizes a creditor from liability for inadvertently taking collection action within two days after receiving a billing error notice. In accord with the simplification principles, this latter provision has been deleted from the revised regulation. The Board believes that § 130(c) of the act adequately addresses inadvertent violations of the regulation that result from a bona fide error, despite the maintenance of procedures reasonably adapted to avoid any such error, and that a separate provision is therefore unnecessary.

Footnote 30 of the revised regulation corresponds to § 226.14 (b)(4) and (d) of the current regulation and § 226.13(d)(2) of the December proposal without substantive change. The footnote provides that a creditor is not prohibited from sending a periodic statement that reflects a disputed amount and related finance or other charges, provided that the creditor indicates on or with the periodic statement that payment of the disputed amount is not required pending resolution. In order to provide creditors with increased flexibility in designing disclosure forms, this paragraph deletes the requirement in the current regulation that the disclosure appear "on the face" of the periodic statement. In addition, to further reduce processing costs, the revised regulation differs from the current regulation and the December proposal by making clear that a creditor may preprint on all of its periodic statements that payment of any disputed amount is not required pending resolution. The footnote also provides that a creditor is not prohibited from deducting any disputed amount and related finance or other charges from the maximum amount of credit available to the consumer.

The revised regulation deletes as inappropriate regulatory material the provision in the December proposal prohibiting the imposition of additional finance or other charges on the undisputed portion of the amount solely because the consumer withholds payment of the disputed amount. The Board believes that this material should be included in the commentary.

The second sentence of § 226.13(d)(1) of the revised regulation, which corresponds to § 226.13(d)(5) of the December proposal, completely revises the requirements in current § 226.14(c) but contains only editorial changes from the December proposal. This provision sets forth the consumer's right to withhold payment, when payment is made automatically under a credit card plan. In such a plan, a cardholder authorizes a card issuer to deduct periodically an agreed-upon amount from the cardholder's account in order to pay the cardholder's indebtedness. Under the current regulation, the card issuer must prevent or restore an automatic debit of a disputed amount if it receives a billing error notice within 16 days after transmitting the first periodic statement that reflects the error. The new provision requires the card issuer to prevent an automatic debit of a disputed amount and related finance or other charges only if it receives a billing error notice up to three business days before the scheduled payment date. The card issuer does not have to restore a disputed amount if the billing error notice arrives after the three-business-day cut-off. If, however, any part of the disputed amount is still outstanding and unresolved at the time of the next automatic debit, the card issuer must prevent the automatic debit.

Section 226.13(d)(2) (Adverse credit reports prohibited), which corresponds to § 226.14(e)(1) of the current regulation, implements § 162(a) of the act by prohibiting a creditor from issuing an adverse credit report because the consumer fails to pay the disputed amount. The current regulatory provision, which was continued in modified form in the December proposal, immunizes a creditor from liability for inadvertently issuing an adverse credit report within two days after receiving a billing error notice. In addition, the current regulation and the December proposal delineated the creditor's reponsibilities if it received a billing error notice after having issued an adverse credit report regarding the disputed amount. The revised regulation returns to the statutory prohibitions, and deletes the separate provisions dealing with the grace period and corrective action. As noted in the discussion of § 226.13(d)(1), the Board believes that these provisions are unnecessary in light of § 130(c) of the act which addresses inadvertent violations. Section 226.13(d)(2) also differs from the December proposal, and reinstates the current regulatory language, by extending the prohibitions of this paragraph to any agent of the creditor.

The revised regulation also deletes the guidance in footnote 19 of the current regulation and § 226.13(d)(4) of the December proposal that the prohibition on adverse credit reports does not prohibit a creditor from reporting the amount or account as being in dispute. The Board intends to incorporate this position in the commentary.

(e) *Procedures after creditor determines that a billing error occurred as asserted.* Section 226.13(e), which corresponds to portions of § 226.14(a)(2)(i) and (b)(2) in the current regulation, outlines the creditor's responsibilities when it determines that a billing error has occurred. This provision substitutes the phrase, "a billing error occurred," for the term "erroneous billing" used in § 226.14(a)(2) and (b)(2) of the current regulation. The second part of paragraph (e)(2) of the December proposal, which permitted a creditor to notify a consumer of the correction on a periodic statement that is mailed within the time for resolution, has been deleted as inappropriate regulatory material. This position, which corresponds to footnote 18 of the current regulation, will be incorporated in the commentary. The current regulation and the December proposal contain a separate requirement that a billing error correction be identified as such on a periodic statement. The revised regulation also deletes this provision as unnecessary, in light of the general requirement that a creditor make clear disclosures, and thus the amount would need to be specifically identified when the creditor uses the periodic statement to satisfy its notice of corrections requirement. The Board intends to incorporate this guidance in the commentary.

(f) *Procedures after creditor determines different billing error or no billing error occurred.* Section 226.13(f), which corresponds to portions of § 226.14(a)(2)(ii) and (iii) in the current regulation, outlines the creditor's responsibilities when it determines, after making a reasonable investigation, that a billing error different from the error alleged by the consumer has occurred or that no billing error occurred. Footnote 31, which corresponds to material contained in § 226.14(a)(2) of the current regulation, sets forth the standard for reasonable investigation; it differs from the December proposal by reinstating the current regulatory language that a creditor may not deny a consumer's

allegation that property was not delivered unless the creditor determines that the property was actually "mailed or sent" as agreed.

The provision in § 226.13(f)(1) of the December proposal permitting the creditor to send its explanation either separately or with a periodic statement has been deleted from the revised regulation. The Board intends to incorporate this guidance in the commentary.

(g) *Creditor's rights and duties after resolution.* Section 226.13(g) corresponds to provisions in § 226.14(b)(3), (e)(1), and (e)(2) of the current regulation. This provision consolidates all of the creditor's responsibilities after determining whether a billing error occurred under paragraphs (e) and (f).

Section 226.13(g)(1), which corresponds to § 226.14(b)(3)(i) of the current regulation, requires a creditor to notify the consumer promptly if the consumer still owes all or part of a disputed amount, and to specify when payment is due. The current regulation expressly relieves the creditor from mailing a separate notification of the amount owed, if it was provided in the creditor's explanation that no billing error occurred. Although the Board continues to take the position that the requirements of paragraphs (f)(1) and (g)(1) may be met in a single notice, this interpretation will be incorporated in the commentary rather than in the revised regulation.

Section 226.13(g)(1) of the revised regulation also deletes as inappropriate regulatory material the explanation in the December proposal that the amount the consumer still owes may include minimum periodic payments that accrued during the error resolution process. The Board also believes that the amount may include related finance and other charges that accrued pending resolution. The Board intends to incorporate these positions in the commentary.

Section 226.13(g)(2) of the revised regulation, which corresponds to § 226.14(b)(3)(ii) of the current regulation, requires a creditor to allow a consumer the same free-ride period disclosed under §§ 226.6(a)(1) and 226.7(j), if any, to pay any part of the disputed amount still owed. The current regulation requires the creditor to give the consumer the greater of the customary free-ride period in which to pay, or at least ten days, if any lesser free-ride is normally given. The reference to a minimum period is deleted in the revised regulation as unnecessary, as the creditor is required to mail or deliver the periodic statement at least 14 days prior to the closing date of the free-ride period. Moreover, the revised regulation refers to the *disclosed* free-ride period rather than a customary free-ride period, in keeping with the principle that precise rules should apply whenever possible. Provisions in § 226.13(g)(2) of the December proposal that were similar to the current regulation have been changed for the reasons discussed above.

The revised regulation has no separate counterpart to § 226.14(b)(3)(iii) of the current regulation, which provides that a creditor need not give a free-ride period after error resolution if one normally is not given. The Board believes that the substance of this provision is appropriate commentary material.

Section 226.13(g)(3) corresponds to § 226.14(e)(1) of the current regulation, with one clarifying change. The current regulation permits the creditor to report an account as delinquent if an disputed amount remains unpaid after any customary free-ride period or ten days, whichever is longer. The revised regulation uses any free-ride period *disclosed* as the relevant time period, rather than any "customary" free-ride period. As discussed in connection with § 226.13(g)(2), this change is intended to furnish a more precise, easy-to-apply standard. The paragraph is unchanged from the December proposal; however, commenters asked for further clarification of the time period during which a consumer may make a payment before a creditor may issue an adverse credit report. If the creditor normally provides a free-ride period, both here and under § 226.13(g)(2), the creditor may use its usual triggering event to toll the time for payment. If no free-ride is normally given by the creditor to measure the payment period, however, the Board believes that the consumer has ten days to pay from receipt of the notice of the amount owed before the creditor may issue an adverse credit report.

Section 226.13(g)(4), which corresponds to § 226.14(e)(2) of the current regulation, imposes certain credit reporting responsibilities on a creditor that receives further written notice from a consumer disputing the amount after resolution. This provision eliminates the current requirement that the creditor report the subsequent resolution of a previously reported delinquency "in writing." It adopts the flexible approach in § 162(c) of the act permitting other reasonable forms of notice.

(h) *Reassertions of billing error.* Section 226.13(h), which relieves the creditor from further error resolution responsibility if a consumer reasserts substantially the same billing error, corresponds to language in § 161(a) of the act and to the last paragraph in § 226.14(a)(2)(iii) of the current regulation with one minor change. The revised regulation clarifies that a creditor still has post-resolution credit reporting responsibilities if the consumer sends a further written notice that the amount is still in dispute, as provided in paragraph (g)(4). This provision is unchanged from the December proposal.

(i) *Relation to Electronic Fund Transfer Act and regulations.* Section 226.13(i) of the revised regulation has no counterpart in the current regulation. It is designed to facilitate compliance when financial institutions extend credit incident to electronic fund transfers that are subject to the Board's Regulation E. The section provides that a creditor must comply with the error resolution procedures in Regulation E, and with Regulation Z § 226.13(d) (Rules pending resolution) and (g) (Creditor's rights and duties after resolution). This provision is unchanged from the December proposal.

The Board notes that § 226.14(j) of the current regulation and § 226.13(i) of the December proposal, regarding the creditor's forfeiture penalty for failure to follow the error resolution procedures properly, have no counterpart in the revised regulation. In deleting this provision, the Board adopts a longstanding staff interpretation that the forefeiture penalty, as a self-executing liability provision, does not lend itself to regulatory interpretation. As previously stated, footnote 27 is designed, in part, to alert creditors to this penalty provision.

§ 226.14 Determination of annual percentage rate.

Revised § 226.14 corresponds to § 226.5(a) of the current regulation. Section 226.14(a) defines the annual percentage rate and establishes the disclosure tolerance for open-end credit. The tolerance is the same as that under the current regulation, that is, ⅛ of one percentage point above or below the annual percentage rate determined in accordance with the section. A footnote to this paragraph incorporates the material that appeared in § 226.14(e) of the December proposal and affords creditors special protection for errors that result from the good faith use of faulty calculation tools. While the Board believes that this protection will no longer be appropriate or necessary in light of the expanded defense for such errors under § 130 of the act, the provision has been included in response to commenters that expressed concern

about the applicability of this defense before April 1, 1982, the effective date of the amended act.

The rule for determining the annual percentage rate for initial disclosures required under § 226.6(a)(2) and for advertising purposes under § 226.16(b)(2) is the same; consequently, these two instances are addressed together in revised § 226.14(b).

Section 226.14(c) states the rules applicable to the determination of the annual percentage rate for purposes of the periodic statement. The introductory language of the paragraph states that the annual percentage rate for purposes of § 226.7(d) is computed by multiplying each periodic rate by the number of periods in a year. The remainder of the section states the requirements for determination of an annual percentage rate where a finance charge is in fact imposed during the billing cycle and disclosure of the annual percentage rate is required under § 226.7(g).

Section 226.14(c)(1) corresponds to § 226.5(a)(1) of the current regulation and provides that where the finance charge is solely the product of the application of one or more periodic rates to the balance of the account, the creditor may determine the annual percentage rate by one of two methods. The creditor may either multiply the periodic rate(s) by the number of periods in a year or it may use the "quotient method." With the exception of some minor editorial changes, this section is the same as in the current regulation.

Section 226.5(a)(2) of the current regulation deals with the annual percentage rate calculation when a creditor imposes periodic finance charges in amounts based on specified ranges or brackets of balances. The paragraph was deleted from the December proposal and the Board again solicited comment as to whether any creditor relied on this paragraph to calculate an annual percentage rate. In light of the fact that the Board received no indication that any creditors rely on the paragraph, in response to either the May or December proposals, the provision has been deleted from the revised regulation.

Current regulation § 226.5(a)(3)(i)–(iii) has been restructured for clarity and now appears at § 226.14(c)(2)–(4). Section 226.14(c)(2) contains the material in current § 226.5(a)(3)(i) and, as was the case in the December proposal, the revised regulation recognizes that an annual percentage rate cannot be determined where a finance charge is imposed during a billing cycle with no outstanding balance. (See footnote 32.) Paragraphs (c) (3) and (4) contain the material in current § 226.5(a)(3) (ii) and (iii), respectively, and, with the exception of minor editorial revisions, remain the same.

A footnote has been added to § 226.14(c) (2) and (3) of the revised regulation. It deals with calculation of the annual percentage rate where a loan fee, points, or any similar charge is imposed upon the opening of an account. The regulation now provides that the amount of any such finance charge should not be added to the total finance charge in calculating the annual percentage rate.

In the December draft, the Board stated that it believed that such fees would be collected at the time of application and that they would not enter into the annual percentage rate calculation on the periodic statement. The finance charges, in that instance, would be disclosed only on the initial disclosure statement under revised § 226.6(a)(4). It appears, however, that there are instances in which such finance charges are imposed at the time the account is opened and are either billed on the subsequent periodic statement or withheld from the proceeds of the first advance on the account. In either event, since the charges do not relate to a specific transaction or activity on the account, but relate solely to the opening of the account, such charges should not be included in the calculation of the annual percentage rate. The Board believes that their inclusion would result in significant distortions of the annual percentage rate and delivery of a meaningless, possibly misleading, disclosure to consumers. Moreover, § 107(a)(2) of the act does not appear to require the inclusion of such charges in the annual percentage rate calculation for open-end plans. That section requires that the "finance charge for the period to which it relates" be divided by the "amount upon which the finance charge for that period is based." These types of finance charges are neither related to the billing period nor are they based upon a specific amount for the period.

Section 226.14(d), like the December proposal, incorporates the first two paragraphs of Board Interpretation § 226.506. It addresses the situation in which a creditor uses the quotient method to determine the annual percentage rate and applies a daily periodic rate or rates to determine some or all of the finance charge on the account. Under the current regulation and under revised paragraphs (c)(1)(ii) and (c)(2), the creditor must multiply the quotient of the finance charge divided by the balance(s) to which it is applicable by the number of "billing cycles" in a year. Where a daily periodic rate is used, the formula does not apply. This paragraph provides creditors with an alternate method to determine the annual percentage rate under those circumstances. The remainder of current Board Interpretation § 226.506 is in a footnote to Appendix F.

§ 226.15 Right of rescission.

Section 226.15 of the revised regulation corresponds to the same section of the December proposal and to § 226.9 of the current regulation. It applies to a consumer's rescission rights on an open-end credit plan that is secured by the consumer's principal dwelling. Footnote 31 of the December proposal, which set forth exempted transactions, has been deleted and replaced with a new paragraph, § 226.15(f).

(a) *Consumer's right to rescind.* Under the amended statute, a consumer's rescission right arises with each transaction (defined by § 125(a) of the act also to include opening an account and increasing a credit limit) that is secured by the consumer's principal residence. Section 125(e) of the amended act provides, however, that for a three-year trial period a creditor need not provide the right to rescind at the time of each individual credit extension made under a secured open-end credit plan, if the extensions are made in accordance with a previously established credit limit for the plan. (After March 31, 1985, however, the consumer will have the right to rescind each subsequent extension made under an open-end credit plan secured by the consumer's principal dwelling.) Consequently, § 226.15(a)(1) has been revised to implement more precisely the statutory scheme.

Section 226.15(a)(1) of the revised regulation implements another statutory change in that it provides the right to rescind a transaction secured by the consumer's principal dwelling, even where that dwelling is characterized as personal property rather than real property.

The revised regulation narrows the scope of the rescission right from the current regulation by no longer applying the right to property "expected to be used as the consumer's principal dwelling." The right is limited, instead, to property used as the consumer's principal dwelling at the time the security interest is retained.

A number of commenters contended that the language in the December proposal could be read to provide the

right to rescind to a non-resident co-owner of the property. To clarify this matter, the definition of "consumer" in the revised regulation provides that, for rescission purposes, a consumer is any natural person who is both an owner and resident of a dwelling which is or will be subject to a security interest as part of the credit transaction.

Section 226.15(a)(2) of the revised regulation is substantively unchanged from § 226.9(a) of the current regulation and § 226.15(a)(2) of the December proposal.

Section 226.15(a)(3) provides that the consumer must be given three business days in which to rescind the transaction. The Board recognizes the need for a special business day definition for rescission purposes (see discussion in § 226.2). Consequently, the revised regulation, unlike the December proposal, provides that for purposes of rescission, the term means Monday through Saturday, excluding certain specified federal holidays. This business day definition corresponds to that in footnote 14 of the current regulation.

Regardless of when the required rescission notice and material disclosures are delivered, § 226.15(a)(3) provides for termination of the rescission right three years from the occurrence giving rise to the right of rescission, upon transfer of all of the consumer's interest in the property, or upon sale of the property, whichever occurs first. This provision differs from both the December proposal and the current regulation in specifically including sale of the property as an event that terminates the consumer's rescission right. A sale of the property would include a transaction in which a consumer sells the dwelling and takes back legal title through a purchase money note and mortgage. Transfer of all of the consumer's interest includes such transfers as bequests and gifts. Neither a sale of the property nor transfer of all of the consumer's interest need be voluntary. Accordingly, a foreclosure sale would terminate an unexpired right to rescind.

The footnote to § 226.15(a)(3) lists the material disclosures for purposes of this section. All of the listed material disclosures must be given whenever the right of rescission arises. The disclosures must contain sufficient information to meet the content requirements for those disclosures set forth in § 226.6. For a variable rate program, this would include the required information on the circumstances under which the rate may increase, limitations on the increase, and the effect of an increase. The Board contemplates that giving the initial disclosure statement would satisfy the requirement of providing the material disclosures.

Section 226.15(a)(4), which corresponds to § 226.9(f)(1) of the current regulation, provides that a rescission by only one consumer entitled to rescind is effective as to all consumers involved in the transaction.

(b) *Notice of right to rescind.* Section 226.15(b), which sets forth the timing, form, and content requirements for the rescission notice, is unchanged from the December proposal. The revised provision differs from § 226.9(b) of the current regulation is not requiring the use of specified language on the notice or that the notice be in a particular type size. To allow further flexibility, and Board takes the position that the notice may be either separate from the material disclosures or combined with them, even when the creditor uses an initial disclosure statement to furnish the material disclosures. This position, which differs from the rule that governs closed-end transactions, is based in part on the fact that the more liberal format requirements for open-end credit allow a creditor to combine disclosures on a multi-page document in a manner that would still be clear and conspicuous to the consumer. The notices in the appendix are models for creditors to use in complying with the requirements of this paragraph.

(c) *Delay of creditor's performance.* Section 226.15(c) of the revised regulation is unchanged from the December proposal and essentially restates § 226.9(c) of the current regulation. In light of the operational problems involved in notifying all merchants who might grant credit extensions once a consumer's account is established, a special provision (included in both the December proposal and the revised regulation) relieves the creditor from civil liability for having violated this section when a third party, with no knowledge that the credit limit has been raised or that an additional security interest has been added, provides materials or services to the consumer within the rescission period. This situation might occur, for example, when a consumer makes a credit card purchase below the merchant's floor limit, so that the card issuer is not contacted for authorization and has no opportunity to instruct the merchant to delay the transaction. The protection afforded by this provision is available to the creditor as long as it does not in fact take a security interest in the consumer's dwelling to secure debts on such materials or services.

Since agricultural credit is no longer subject to Truth in Lending, § 226.15(c) also differs from the current regulation in its deletion of the agricultural credit exemption.

(d) *Effects of rescission.* This section, which implements amended § 125(b) of the act, sets forth the effects of rescission and outlines the obligations of both the creditor and the consumer once the consumer has rescinded the transaction. The section basically restates the current regulation (with the necessary statutory amendments), but is substantially reorganized from the December proposal. The December proposal addressed in separate sections the differing effects of rescission when an individual credit extension is rescinded, in contrast to when a consumer rescinds upon the occurrence of some other transaction (for example, an increase in the credit limit). When a consumer rescinds within the initial three-day rescission period after one of the latter occurrences, the creditor is required to delay providing the consumer with goods and services, and therefore the property exchange procedures applicable to the rescission of individual credit extensions are not relevant. However, when a consumer exercises a right of rescission that did not expire within the original period (for example, because material disclosures were never given) the property exchange provisions might well be applicable because of intervening credit extensions. By restructuring the paragraph, the Board intends no substantive change from the December proposal in the effects of rescission when no credit extension is involved. In addition to cancelling the applicable portion of the security interest, the credit limit increase, or the plan, the creditor would be obliged to return any amounts related to the event that gives rise to the rescission right. For example, if a consumer rescinds the plan when it is opened, the creditor would be obliged to return any membership or application fee paid; a consumer who rescinds an increase in the credit limit would be refunded any fee imposed for a new credit report.

When a consumer rescinds a credit extension, the consumer is not liable for any amount, including any finance charge, related to the credit extension. The Board emphasizes that the term "any amount" does not refer to cash advances or to property given by the creditor to the consumer. The term does include such amounts as application and commitment fees and sums that may have been expended by the creditor to purchase services from other parties, such as title fees and required appraisal or survey fees. Moreover, because § 125(b) of the act requires the creditor

to return money or property given as earnest money, downpayment, or otherwise, the creditor must also return any money or property given by the consumer to third parties in connection with the credit transaction. The Board emphasizes, however, that creditors are not responsible for returning money given by the consumer to third parties unrelated to the credit transaction.

Section 226.15(d) (2) and (3) sets forth the procedures for the cancellation of the security interest and the exchange of property between the consumer and the creditor. Section 226.15(d)(2) of the revised regulation also reflects the statutory amendment expanding from 10 to 20 days the time period within which the creditor must return a consumer's money or property and take the necessary action to terminate the security interest. Further, to reflect the staff's longstanding interpretation of this provision, the term calendar days is used to describe the time period.

Section 226.15(d)(3) provides that the consumer may retain possession of any money or property received from the creditor until the creditor has performed under paragraph (d)(2). Once the creditor has met its obligations, the consumer must tender the money or property to the creditor. (For example, a consumer would tender to a card issuer the amount of purchases made with a bank credit card, or the actual appliances to the merchant in a two-party situation.) If the tender of property would be impracticable, the consumer may offer to pay its reasonable value. Property may be tendered at the location of the property or at the consumer's residence, but money must be tendered at the creditor's place of business. The latter rule has been specifically incorporated into the regulation.

This paragraph also provides that if a creditor does not take possession of the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation. The 20-day limit in this paragraph also reflects a statutory change. The period does not begin until the consumer tenders the property.

Section 226.15(d)(4) reflects amended § 125(b) of the act. It provides that a court may modify the procedures outlined in paragraphs (d)(2) and (d)(3).

(e) *Consumer's waiver of right to rescind.* This provision is unchanged from the December proposal but it differs significantly from the provisions of § 226.9(e) of the current regulation about the nature of the emergency giving rise to a consumer's waiver of the rescission right. Under the revised regulation, the consumer need only determine that the extension of credit is needed to meet a bona fide personal financial emergency. This standard essentially mirrors that in § 125(d) of the act. While the requirements are eased, this provision continues to prohibit the use of preprinted forms for purposes of waiver, in order to prevent any abuse of the waiver rule.

The Board emphasizes that waiver or modification of the rescission right should not become a pro forma matter, but should occur only in rare circumstances. Although several commenters urged that a waiver automatically insulate a creditor from liability for failing to provide the rescission right, the Board believes that such protection is unwarranted. Accordingly, before accepting a waiver, creditors must assure themselves that the reasons given for the waiver are both substantial and credible and that the waiver is in all respects bona fide. This requirement, combined with the prohibition on the use of preprinted forms, will prevent abusive practices, while at the same time permitting consumers to waive the rescission right in appropriate circumstances. The Board also notes that under § 226.28 of the revised regulation creditors are required to retain evidence of compliance for a period of two years. This includes rescission waivers. This paragraph also retains the rule in § 226.9(f)(2) of the current regulation, which requires that the waiver be signed by all consumers entitled to rescind.

(f) *Exempt transactions.* This paragraph of the revised regulation sets forth the types of transactions that are exempt from the right of rescission in an open-end credit plan. The paragraph corresponds to footnote 31 of the December proposal and § 226.9(g) of the current regulation.

In implementing amended § 125(e)(1) of the act, § 226.15(f)(1) differs from the December proposal in that it exempts residential mortgage transactions from the right of rescission. In the accompanying material to the December proposal, the Board suggested that residential mortgage transactions would never be made on bona fide open-end credit plans, and therefore the exemption was not necessary. Several commenters noted, however, that an advance on a bona fide open-end credit plan could be made for a downpayment for the purchase of a dwelling with other advances contemplated on the open-end plan. In such a case, the advance for the purchase of the dwelling would be exempt from the rescission right. Accordingly, the exemption for residential mortgage transactions has been included in the revised regulation.

In addition, § 226.15(f)(2) reinstates the statutory and current regulatory provision that the right to rescind does not apply to plans in which a state agency is a creditor. This differs from the December proposal by deleting the proposed exemption for plans in which a federal agency is a creditor.

§ *226.16 Advertising.*

This section deals with the advertising of open-end credit plans; it corresponds to the provisions of § 226.10 of the current regulation and § 226.16 of the December proposal.

Section 226.16(a), like § 226.10(a) of the current regulation, sets forth the general requirement that creditors may advertise only those terms that they actually arrange or offer. In response to requests from commenters the words "or will arrange or offer" have been added to clarify that creditors may advertise the terms of upcoming programs without being in violation of this section.

Section 226.16(b) corresponds to the same section in the December proposal and to § 226.10(c) of the current regulation. It sets forth those terms, so-called "trigger" terms, which, when appearing in an advertisement, require the disclosure of additional credit terms also set forth in this section. This section also details which disclosures must be made an advertisement contains a trigger term.

As a result of statutory changes to § 143 of the act, the "triggering" terms have been reduced to the initial disclosures as set forth in § 226.6, and the additional disclosures required by the use of those terms have been modified to include only finance charges and membership charges.

Section 226.16(c), generally, corresponds to and is substantially the same as § 226.10(b) of the current regulation, setting forth the requirements for advertising in catalogs and multiple-page advertisements.

Paragraphs 226.16(c)(2), however, has no counterpart in the current regulation. The provision, which is unchanged from the December proposal, incorporates into the revised regulation the essence of current Board Interpretation § 226.1002. That interpretation provides that a catalog or multiple-page advertisement complies with the regulation if the table or schedule of terms included in the advertisement incorporates all appropriate disclosures for a representative scale of amounts up to a level of the more commonly sold higher-priced property or services offered.

Subpart C—Closed-End Credit

Subpart C incorporates all provisions in Regulation Z that relates to closed-end credit. It includes not only the general rules for content, timing and form of closed-end disclosures, but all advertising, rescission and annual percentage rate provisions of the regulation as they apply to such transactions.

§226.17 General disclosure requirements.

Section 226.17 contains the general requirements relating to the time, form and content of closed-end credit disclosures. The section is based on §§ 121, 122, 124 and 128 of the act and §§ 226.6 and 226.8 of the current regulation.

(a) *Form of disclosures.* This paragraph prescribes the manner in which Truth in Lending disclosures must be presented. The rules, based on §§ 122 and 128(b) of the act, are designed to highlight for consumers the essential credit terms.

Disclosures must be segregated from other matters. They may be presented in a separate document or incorporated in documents containing other terms related to the transaction. If the disclosures are included in documents containing other terms (such as the contract), they must be separated from the other items. This may be done, for example, by placing the disclosures in a boxed section of the form or by separating them from the contract provisions with bold print dividing lines. This approach differs from the current regulation which permitted disclosures to be interspersed with other material on the contract documents. The phrase "either on the credit contract or on a separate document" has been deleted from paragraph (a)(1) as unnecessary. In addition, the disclosures need no longer appear "beginning on the front of the document." The Board believes that this requirement is unnecessary. However, the location of the required disclosures remains subject to the regulation's general clear and conspicuous standard.

Paragraph (a)(1) and accompanying footnotes contain special rules and exceptions to the general requirement of segregation of required disclosures. The last sentence of the paragraph *requires* that the itemization of the amount financed under § 226.18(c) always appear separate from the segregated disclosures. Footnote 38 *permits* four disclosures required by § 226.18 to appear apart from the segregated disclosures. These disclosures are the creditor's identity under § 226.18(a), variable rate information under § 226.18(f)(4), credit life or property insurance premiums under § 226.18(n), and certain charges related to a security interest which are excludable from the finance charge under § 226.18(o). Any of these disclosures may appear with the segregated disclosures, together or separately on other documents, or combined with the itemization of the amount financed under § 226.18(c)(1).

Footnote 37 to paragraph (a)(1) specifically permits the inclusion of five items of information even though they are not "directly related" to the segregated disclosures: an acknowledgment of receipt, the consumer's name, account number, and address, and the date of the transaction. These last two items are additions to those in the December proposal.

The term "directly related," as used in this paragraph, is construed very narrowly in order to implement the congressional intent in requiring the segregation of Truth in Lending disclosures. No additional information may appear with the federal disclosures, except as specifically permitted.

Paragraph (a)(2) states that the words "finance charge" and "annual percentage rate" must be presented more conspicuously than the other required disclosures. This paragraph is based on § 122(a) of the act and § 226.6(a) of the current regulation. It is substantially similar to its counterpart in the December proposal, with minor editorial revisions.

Section 226.6(a) of the current regulation requires that numerical amounts be expressed as numerals and that those numerals meet a minimum type size standard. Those requirements have been eliminated as unnecessary.

(b) *Time of disclosures.* This paragraph, which implements § 128(b) of the act, states the timing rules for closed-end credit disclosures. It continues to reflect the original regulatory requirement, found in § 226.8(a), that disclosures be provided before consummation of the transaction. However, as noted in the discussion of § 226.2 above, the definition of consummation has been modified. Consummation is defined as the time at which the consumer becomes contractually obligated on a credit transaction, as determined by applicable law. This is contrary to staff interpretations of the current regulation which held that consummation could occur upon the payment of a nonrefundable fee, even in the absence of a legally binding obligation.

(c) *Basis of disclosures and use of estimates.* This paragraph is designed to provide guidance to creditors in making disclosures, particularly when the necessary information may not be known with any certainty at the time the disclosures are made. This paragraph reflects a number of editorial changes as well as substantive revisions.

Paragraph (c)(1) requires that disclosures reflect the terms of the legal obligation between the parties. This approach differs from interpretations of the current regulation, which looked to the actual agreement between the parties as the basis for disclosures even if that agreement was contrary to the legal obligation.

One editorial change has been made to this paragraph. The phrase "legal obligation" replaces the phrase "legally enforceable obligation" in the December proposal. This change was made to avoid any implication that a creditor may be subject to a Truth in Lending violation if a court reviewed the credit transaction and determined that an already agreed-upon contract term was unenforceable on the basis of equity or other grounds.

Paragraph (c)(2) provides that disclosures may be estimated if the exact information is unknown at the time the disclosures are made. This provision is based on § 121(c) of the act and § 226.6(f) of the current regulation. Under the revised regulation, as in the present rule, a creditor has no liability for an inaccurate disclosure if the necessary information is not reasonably available by the time of consummation. However, even if a disclosure is validly marked as an estimate before consummation, the creditor may still be required to redisclose if more accurate information is available by the time of consummation, as set forth in § 226.17(f). The estimates must be made in good faith, on the basis of the best information reasonably available, and designated as estimates in the segregated disclosures. No further explanation of the basis for the disclosures may be included with those disclosures, although an explanation may appear as additional information apart from the segregated disclosures.

Paragraph (c)(3) permits certain factors to be disregarded by creditors in making calculations and disclosures for Truth in Lending purposes. The four factors designated are very similar to §§ 226.6(j) and 226.8(s) of the present regulation, with one revision. Paragraph (c)(3)(ii) permits creditors to disregard the fact that payment schedules may change as a result of the creditor's "business day," rather than "Saturday, Sunday or holiday."

Paragraph (c)(4) permits creditors to ignore certain payment schedule variations in making calculations and

disclosures and incorporates in one provision two separate but similar "minor irregularities" rules. Both the December proposal and the current regulation contain one special rule regarding schedule irregularities for annual percentage rate calculations (§ 226.22(e) and § 226.5(b)(5), respectively) and another rule for irregularities for all other calculations (§ 226.17(c)(4) and § 226.8(r), respectively). The annual percentage rate rule has permitted creditors to disregard the effects of a first period variation and any payment irregularity caused by that period variation. The non-annual percentage rate rule has also permitted creditors to disregard first period variations, but has limited the resulting payment irregularities that could be ignored to only the *final* payment.

To eliminate the unnecessary complexity of two separate but similar rules, new § 226.17(c)(4) combines in one provision both of the special "minor irregularities" rules, adopting the slightly broader scope found in the annual percentage rate rule. Under the revised regulation, creditors may treat as regular certain odd first periods and *any* odd payments flowing from that odd first period, in calculating and disclosing all required terms. In the current regulation and the December proposal, a footnote to this provision addresses the manner in which the term of the transaction, the first period and the regular period may be measured. This material has been deleted from the regulation, and the issue will be addressed in the commentary. The Board anticipates the text of the footnote will be incorporated in the commentary without substantive change.

Paragraph (c)(5) continues the policy in § 226.4(g) of the current regulation of requiring that disclosures for demand obligations be calculated on the basis of a specified maturity. Like the December proposal, this paragraph provides for an assumed maturity of one year, rather than the one-half year specified in the current regulation. Under § 226.18(i), the demand feature must be disclosed, as well as the assumed one-year maturity, where applicable.

Disclosures for demand obligations should be based on the alternate maturity date, rather than an assumed maturity of one year, only in those cases in which the alternate maturity date is stated in the legal obligation between the parties. This is contrary to interpretations of the current regulation, which require that the disclosures be based on any informal side agreement between the parties that might differ from the legal obligation. Under the revised regulation, when the parties have only informally agreed to a repayment schedule, the obligation is viewed purely as a demand obligation with the disclosures based on an assumed maturity date of one year. However, when the repayment agreement constitutes a legal obligation between the parties (as determined by state law) the disclosures must be based on that agreement.

Several types of mortgages include features which, in the Board's view, make them demand obligations. Some obligations may contain a demand feature which may be exercised at any point during the term, while others may convert to demand obligations after a fixed term. The latter type has been addressed in Board Interpretation § 226.816 of the current Regulation Z. Another example of a mortgage with a demand feature is one containing the call option required by the Federal National Mortgage Association (FNMA). In states prohibiting due-on-sale clauses, FNMA requires mortgages purchased by it to include a call option rider that may be exercised after seven years. These mortgages are generally written as long-term obligations, but contain a demand feature which may only be exercised within a thirty-day period at seven years. The disclosures for these mortgages should be based upon the legally enforceable alternate maturity date, unless there is none; in that case, disclosures should be based on an assumed one-year term. For instance, if a mortgage containing the seven-year FNMA call option were written as a thirty-year obligation, the disclosures would be based on the thirty-year term since that is the alternate maturity date.

The Board does not consider typical balloon payment mortgages, where payments are based on a long-term amortization schedule, but with final payment due after a shorter term, to be demand obligations. In these transactions, no demand feature is actually provided for in the contract. For example, a mortgage with a payment schedule based on 30 years and a term of five years would not be treated as a mortgage with a demand feature, in the absence of any contractural demand provision.

Paragraph (c)(6)(i), based on § 226.8(i) of the current regulation, provides rules relating to the treatment of multiple advances under a written agreement to extend credit up to a certain amount. It permits the creditor either to treat all of the advances as a single transaction or to disclose each advance as a separate transaction. Under the current regulation, all advances must be disclosed as a single transaction. Except for minor editorial revisions, this paragraph is substantially similar to § 226.17(c)(6)(ii) of the December proposal.

Paragraph (c)(6)(ii), previously designated as paragraph (c)(6)(iii) in the December proposal, provides a similarly flexible rule for the disclosure of construction loans that may be permanently financed. These transactions have two distinct phases, similar to two separate transactions. The construction period usually involves several disbursements of funds at times and in amounts that are unknown at the beginning of that period, and the consumer generally pays only accrued interest until construction is completed. Unless the obligation is paid at that time, the loan then converts to permanent financing in which the loan amount is amortized just as in a standard mortgage transaction. This special rule permits the creditor to give either one combined disclosure for both the construction financing and the permanent financing, or a separate set of disclosures for the two phases. It is available whether the consumer was initially obligated to accept construction financing only or both construction and permanent financing. If the consumer is obligated on both phases and the creditor chooses to give two sets of disclosures, both sets must be given to the consumer initially, because both transactions would be consummated at that time.

Paragraphs (c)(6)(i) and (ii) are not mutually exclusive. For example, in a transaction that finances the construction of a dwelling which may be permanently financed by the same creditor, the construction phase may consist of a series of advances under an agreement to extend credit up to a certain amount. In such cases, the creditor may disclose the construction phase as one or more than one transaction and also disclose the permanent financing as a separate transaction.

The substance of Board Interpretation § 226.813 has been incorporated as Appendix D to the revised regulation. Its use is limited to multiple advance loans for the construction of a dwelling.

Paragraph (c)(6)(i) in the December proposal, which concerned splitting and consolidating transactions, has been deleted in the revised regulation. In most instances, the determination of whether a single transaction is involved is not difficult but the Board recognizes that guidance may be needed in unusual

circumstances. For example, it may be unclear on what basis a creditor should disclose the same-day purchase of a television and a stereo, or a loan that includes the incidental sale of insurance. Creditors must retain considerable flexibility in structuring their transactions in order to meet the needs of their customers, as well as their own operational requirements. Similarly, the regulation should allow flexibility to creditors in tailoring disclosures to those transactions. Thus, in the first example the creditor could disclose the sales as either one or two credit sale transactions. In the second example, the creditor may disclose the loan and the sale of insurance as one transaction (either loan or credit sale) or disclose on the basis of two transactions, one a loan and the other a credit sale.

Comment was solicited in the December proposal on the disclosure of "wrap-around" mortgages. This type of transaction involves a creditor's "wrapping" the outstanding balance on an existing loan and advancing additional funds to a borrower. The borrower makes a single payment to the new creditor, who makes the payments on the pre-existing loan to the original creditor. The Board believes that "wrap-around" loans should be treated as new transactions, but with the disclosures calculated as they would be for a refinancing. This approach is based on Official Staff Interpretation FC–0146, which treats "wrap-around" loans as the equivalent of refinancings. To illustrate, the amount financed would equal the principal balance remaining on the original obligation plus the amount of the new advances.

(d) *Multiple creditors; multiple consumers.* This paragraph provides special rules for transactions involving more than one creditor or consumer. It is based on § 121(a) and (b) of the act, as well as § 226.6(d) and (e) of the current regulation.

The first sentence has been revised from its counterpart in the December proposal to allow multiple creditors to decide among themselves which one is to provide the required disclosures. The Board has left this decision to the creditors because a uniform rule designating which creditor must provide disclosures could not readily accommodate a variety of situations and might have imposed a greater burden than necessary on creditors. In any case, however, the consumer must receive a complete integrated set of disclosures, rather than partial disclosures from each creditor.

In view of the revised definition of "creditor," transactions involving multiple creditors are not likely to occur. When there are multiple creditors, however, *all* disclosures for the transaction must be given, even if the disclosing creditor would not otherwise have been obligated to make a particular disclosure. For example, when an automobile dealer and a bank are both creditors financing the sale of a car, the total sale price under § 226.18(j) must be disclosed, even though the creditors have agreed that the non-seller bank will make the disclosures.

(e) *Effect of subsequent events.* This paragraph, which is similar to § 226.6(g) of the current regulation, protects creditors against liability for inaccurate disclosures when a later event occurs to make those disclosures inaccurate. However, creditors may still be responsible for providing more accurate information to consumers, as outlined in §§ 226.17(f), 226.19 and 226.20.

(f) *Early disclosures.* This paragraph, which has no counterpart in the current regulation, provides special redisclosure rules when creditors make early disclosures to consumers. Under the current regulation, if a creditor discloses before the point of consummation and a subsequent event makes the disclosures inaccurate in any way, all new disclosures must be provided. In the Board's view, this may discourage creditors from providing information at an earlier time, when that information could be most useful to consumers in comparing credit sources.

To address this problem, the December proposal would have relieved creditors of any redisclosure responsibility when early disclosures were given. Because this approach does not assure that consumers receive updated information regarding significant changes in credit costs, the new regulation requires redisclosure under certain circumstances when the creditor makes disclosures before the date of consummation. Applying the standard set forth for certain mortgage transactions in § 128(b) of the act and § 226.19 of the revised regulation, paragraph (f) requires creditors that choose to disclose before the date of consummation to redisclose before consummation when the annual percentage rate has changed from the disclosed rate by more than ⅛ of 1 percentage point in regular transactions or more than ¼ of 1 percentage point in irregular transactions, as defined in the general annual percentage rate rules in § 226.22(a). At their option, creditors may either furnish a complete set of new disclosures or disclose only the changed terms.

(g) *Mail or telephone orders—delay in disclosures.* This paragraph provides special timing rules for mail or telephone transactions. It implements § 128(c) of the act, and is based on § 226.8(g) and Board Interpretation § 226.802 of the current regulation, with the additon of the total sale price as a required disclosure.

This paragraph permits a creditor to delay making the disclosures until the due date of the first payment if certain conditions are met. If the conditions are not met, the general timing rules apply, and disclosures must be made before consummation. Paragraph (f)(2) of the December proposal, which reflected this general rule, has been deleted as unnecessary.

The list of required information has been expanded from the December proposal to require the same information on variable rates as required by § 226.18(f)(1)–(3). The Board believes that information regarding variable rates is essential to informed credit decisions, particularly in light of the increasing prevalence of this term and its impact on other credit information. The paragraph also reflects several minor editorial revisions from its counterpart in the December proposal.

(h) *Series of sales—delay in disclosures.* This paragraph provides special timing rules for credit sales that are made in a series under an agreement permitting subsequent sales to be added to an outstanding balance. It implements § 128(d) of the act, and is based on § 226.8(h) and Board Interpretations §§ 226.804 and 226.805 of the current regulation. Several editorial changes have been made in the paragraph, but it remains substantially similar to its counterpart in the December proposal.

(i) *Interim student credit extensions.* This paragraph restates, with one substantive revision, the special rule for interim student credit extensions found in footnote 37 to § 226.18 of the December proposal and in Board Interpretation § 226.809 of the current regulation. It permits creditors in certain student credit extensions to omit disclosure of the finance charge, payment schedule, total of payments and total sale price.

The substantive change relates to the types of student credit extensions that may utilize this special rule. Although the credit extension must still be of an interim nature and for educational purposes, it need no longer be guaranteed by any state, federal or private agency. In the Board's view, the abbreviated disclosures are necessitated by the interim nature of the extensions, and the fact that they are guaranteed is not relevant to the coverage of the rule.

"Interim credit extension" is intended to cover transactions without a set

repayment schedule. This phrase is used in place of "student loan" since some transactions of this type are actually credit sales, as, for example, where a university is the creditor.

§ *226.18 Content of disclosures.*

Section 226.18 sets forth the disclosures required in closed-end credit transactions and corresponds generally to current § 226.8(b), (c), and (d).

The disclosures required by this section need be made only as applicable. Multiple-purpose standard forms, designed for use with a variety of transactions, may be used so long as the required disclosures are clear and conspicuous. Where the amounts of several numerical disclosures are the same, the "as applicable" language would also permit creditors to combine the terms, so long as it is done in a clear and conspicuous manner. For example, if in a particular transaction the amount financed equals the total of payments, the creditor may disclose "amount financed/total of payments," together with descriptive language, followed by a single amount. However, if the terms are separated on the disclosure statement and separate space is provided for each amount, both disclosures must be completed, even though the same amount is entered in each space.

Footnote 37 in the December proposal provided special abbreviated disclosures for certain student credit extensions. In revised form that footnote has been incorporated in § 226.17 as new paragraph (i).

Five of the disclosures required by this section must be further explained to the consumer in a manner similar to the descriptive phrases shown in the regulation. While the regulation does not require each term and its descriptive phrase to be placed together in any particular manner, creditors may not separate them in such a way as to obscure their relationship to each other.

(a) *Creditor.* This paragraph corresponds to § 226.8(a) of the current regulation and requires that the creditor making the disclsoures be identified. At the creditor's option, the creditor's address or telephone number may be included, although the name of the creditor is sufficient. As discussed in § 226.17(a), this disclosure is one of four in § 226.18 that may appear apart from the segregated disclosures.

(b) *Amount financed.* Paragraph (b) requires disclosure of the "amount financed," using that term, and a descriptive explanation. In variable rate transactions, the information in the descriptor may be revised to reflect the variable rate feature.

A number of comments on the December proposal expressed concern regarding the calculation of the amount financed, as set forth in paragraph (b). Their concern focused on the fact that, as then drafted, paragraphs (b)(1) and (b)(3) read together appeared to call for two deductions of the same finance charge that resulted in an erroneously low amount financed. Under § 226.18(b), all finance charges must be deducted from the amount of credit in calculation of the amount financed. If the principal loan amount reflects finance charges which meet the definition of a prepaid finance charge in § 226.2, those charges would be included in the paragraph (b)(1) amount and deducted under paragraph (b)(3). However, if the principal loan amount includes finance charges which do not meet the definition of a prepaid finance charge (such as add-on or discount interest added to the face amount of the obligation), the amount referred to in paragraph (b)(1) must exclude those finance charges.

Because an accurate paragraph (b)(1) amount is essential to calculating an accurate amount financed and because the presence of an add-on or discount finance charge in a loan frequently complicates this process, the following examples illustrate the application of paragraph (b) to these types of transactions. Each example assumes a loan request of $1000 for one year, subject to a 6% precomputed interest rate, with a $10 loan fee collected at consummation.

In the first example, the creditor assesses add-on interest of $60 which is added to the $1000 in loan proceeds for an obligation with a face amount of $1060. In this example, the principal for purposes of paragraph (b)(1) is $1000; no amounts are added under paragraph (b)(2), and the $10 loan fee (a prepaid finance charge) is deducted under paragraph (b)(3). The amount financed is $990.

The second and third examples both assume the application of a discount finance charge, on the same terms as set forth above. The difference between these latter two examples—and a source of confusion regarding discount transactions under Regulation Z—lies in the amount of loan proceeds provided to the consumer. In one instance, the creditor distributes $940 to the consumer, who is liable for an obligation with a face amount of $1000. In this example, the principal under paragraph (b)(1) is $940, which results in an amount financed of $930, after deduction of the $10 prepaid finance charge under paragraph (b)(3). In the other instance, the creditor collects the discount finance charge by increasing the face amount of the obligation to $1060, with the consumer receiving $1000. The principal under paragraph (b)(1) is thus $1000 and the amount financed $990, after deducting the $10 prepaid finance charge under paragraph (b)(3).

In paragraph (b)(1), "principal loan amount" essentially corresponds to the term "amount of credit" found in present § 226.8(d)(1). In the second portion of this paragraph, relating to credit sales, the phrase "cash price (subtracting any downpayment)" corresponds to the "unpaid balance of cash price" in present § 226.8(c)(3). "Downpayment" includes any pick-up payment that meets the § 226.2 definition of downpayment. As explained in that section, a creditor has the option of treating a deferred downpayment as part of the downpayment if that deferred payment meets the criteria set forth in the definition. Deferred downpayments that are not treated as part of the downpayment (either because they do not meet the definition or the creditor simply chooses not to treat them as a downpayment) are included in the amount financed. Deferred downpayments that do meet the § 226.2 definition and are treated as such are not part of the amount financed under § 226.18(b)(1).

Paragraph (b)(2) refers primarily to those charges which would be characterized as "other charges" under § 226.8(c) and (d) of the current regulation. These would normally include any fees that are not part of the finance charge, to the extent that the customer decides to finance them rather than paying them separately at consummation of the transaction. This paragraph would not encompass any amount already accounted for under paragraph (b)(1). For purposes of calculation, the creditor may, at its option, include any such amounts (other than finance charges) as part of the basic credit amount in paragraph (b)(1), rather than adding them separately under paragraph (b)(2). These two paragraphs require only that such amounts not be either counted twice or ignored in calculating the amount financed.

Paragraph (b)(3) requires the deduction of any prepaid finance charges from the amount financed. As discussed in § 226.2, prepaid finance charges are defined to include amounts withheld from the proceeds and amounts paid separately by the consumer.

(c) *Itemization of amount financed.* This paragraph requires a written itemization of the amount financed at

the customer's request. Creditors may provide a written itemization of the amount financed as a matter of course, without awaiting a request from the customer. If the creditor chooses not to provide an itemization as a matter of course, the disclosures must include a statement of the customer's right to receive that itemization.

The order of the items listed in this paragraph has been changed and now parallels the model form that is contained in Appendix H. The itemization must be separated from the remainder of the required disclosures and must be provided at the same time as the other disclosures.

This paragraph establishes only a minimum standard for the itemization of the amount financed. At the creditor's option, more information may be included in the itemization, such as additional categories or a mathematical progression that depicts the arithmetic relationship of the items.

In the December proposal, the Board requested comment on whether transactions subject to the Real Estate Settlement Procedures Act (RESPA) should be exempt from paragraph (c). RESPA requires creditors to provide good faith estimates of closing costs similar to the amount financed itemization. The legislative history indicates that creditors subject to RESPA could comply with that Truth in Lending requirement by using the estimates of closing costs. The comments also support a complete exemption. Therefore, footnote 39 to paragraph (c) exempts RESPA transactions entirely from the requirements of that paragraph.

Paragraph (c)(1)(i) normally reflects the amount of the check given to the consumer in the transaction. Paragraph (c)(1)(ii) would typically include a credit sale balance with the creditor or the payment of the loan balance on a prior loan.

Paragraph (c)(1)(iii) calls for disclosure of amounts such as the following: amounts paid to other creditors of the customer in bill consolidation loans; amounts paid to insurance companies for credit life or property insurance; amounts paid to credit bureaus, appraisers or public officials. Amounts paid to other persons generally must be identified by name except as noted in footnote 40, which permits a generic identification for certain types of charges.

(d) *Finance charge.* This paragraph, which requires disclosure of the total finance charge, is substantially revised from both the current regulation and the December proposal.

A new footnote to the paragraph provides a tolerance for disclosure of the finance charge. The disclosed finance charge will be considered accurate if it is not more than $5 above or below the exact finance charge in a transaction involving an amount financed of $1000 or less, or not more than $10 above or below the exact finance charge where the amount financed exceeds $1000. In the December proposal, the Board solicited comment on a general finance charge tolerance equivalent to ⅛ of 1 percent of the annual percentage rate. While the current regulation includes several cause-related tolerances, such as the so-called "minor irregularities" provisions, Regulation Z has never provided a *per se* margin of error unrelated to particular causes. The Board believes that a slight tolerance for de minimis errors is appropriate, particularly in light of the specific congressional authorization for non-annual percentage rate tolerances, but not one so large as to significantly understate the true cost of credit for consumers. The footnote to this paragraph therefore provides for a small *per se* tolerance for minor discrepancies. This tolerance is in addition to the existing tolerances for minor irregularities and other specific causes, which have been incorporated into the revised regulation.

Paragraph (d) also reflects two other revisions from the current regulation that incorporate statutory changes. First, the regulation no longer calls for itemization of the components of the finance charge. Second, real estate transactions are no longer exempt from disclosure of the total finance charge.

(e) *Annual percentage rate.* Paragraph (e) corresponds to § 226.8(b)(2) of the original regulation. It requires disclosure of the annual percentage and a descriptive phrase briefly defining that term. As in paragraph (d), the creditor may modify the descriptive phrase for variable rate transactions. The de minimis exception to this disclosure found in current § 226.8(b)(2) has been retained in accordance with the statute, and is set forth in a footnote to this paragraph.

(f) *Variable rate.* In a substantially revised form, paragraph (f) corresponds to § 226.8(b)(8) of the current regulation and requires additional disclosures for transactions in which the annual percentage rate may increase. It reflects two substantive changes from its counterpart in the December proposal and the current regulation.

First, a new footnote to this section exempts from the requirements of § 226.18(f) transactions in which the creditor has complied with variable rate regulations of other federal agencies. This exemption eliminates redundant disclosure of a variable rate provision which is already described for consumers under other regulations.

Second, paragraph (f)(4) has been changed to reflect the extension of the hypothetical increase to all variable rate transactions, rather than only real estate transactions with variable rate features. Variable rate transactions are becoming increasingly common for credit extensions outside of the real estate loan context and non-residential mortgage transactions may also involve large amounts of money. Even in small transactions, the hypothetical example is needed because it better provides the customer with an understanding of the impact a potential increase has in terms of dollars and cents.

No specific numerical basis for the hypothetical disclosure is required. The Board believes this requirement should be flexible in order to enable creditors to tailor the example to their own credit programs and their lending environment. At the creditor's option, the disclosed hypothetical may be either general or transaction-specific. The creditor may provide a standard example that represents the general type of credit offered by the creditor or an example that directly reflects the terms and conditions of the particular transaction.

Several editorial changes have also been made in paragraph (f) which are not intended to affect the substance of the paragraph. Material in paragraphs (f)(1) and (f)(3) of the December proposal, relating to identification of an index and reference to payment schedule changes, will be incorporated into the commentary.

For all transactions subject to the requirements of this pargraph, the disclosures must be given for the full term of the transaction, with all disclosures calculated on the basis of the rate in effect at the time of consummation of the transaction.

The limitations referred to in paragraph (f)(2) do not include any legal limits in the nature of usury or rate ceilings under state or federal statutes or regulations. In addition, paragraph (f) does not apply to increases resulting from delinquency (including late payment), default, assumption, acceleration or transfer of the collateral.

In the December proposal, the Board solicited comment on the proper treatment under Regulation Z of several unusual mortgage financing arrangements. After futher analysis and consideration of comments received, the Board has determined that at least two such mortgages—renegotiable rate

mortgages and shared appreciation mortgages—should be viewed as variable rate transactions.

Renegotiable rate mortgage instruments as described in Offical Staff Interpretation FC–0172 involve a series of short-term loans secured by a long-term mortgage, where the lender is obligated to renew the short-term loans at the customer's option. At the time of renewal, the interest rate may increase. Disclosures must be given for the term of the mortgage (e.g. 30 years) with all disclosures calculated on the basis of the rate in effect at the time of consummation of the transaction.

"Shared equity" or shared appreciation" mortgages bear a fixed rate of interest and contingent interest based on the consumer's equity in the mortgaged property. The contingent interest is payable in a lump sum at a specified time. All disclosures should be based on the fixed interest rate, while the shared appreciation feature, including the conditions for its imposition, the time at which it would be collected, and the limitation on the creditor's share, must be described under § 226.18(f).

Graduated payment mortgages are not considered variable rate transactions and are not subject to the disclosure requirements of this paragraph.

(g) *Payment schedule.* Under paragraph (g), which corresponds to current § 226.8(b)(3), creditors must disclose the payment schedule. This paragraph contains two material changes from its counterpart in the December proposal.

A footnote to the December proposal permitted creditors to make an abbreviated disclosure of payment schedules involving payment amounts not varying more than five percent in a series. This special rule, which has no counterpart in the current regulation, was intended to accommodate the same types of disclosure problems addressed in current Interpretation § 226.808 and similar special rules. After consideration of the comments received and further analysis, the Board has determined that the proposed five percent rule should not be adopted. The comments indicated that this provision did not resolve the problems it was intended to address and may have needlessly complicated the disclosures.

As an alternative, paragraph (g) incorporates a special rule similar to Interpretation § 226.808. Paragraph (g)(2) permits creditors to make an abbreviated payment schedule disclosure where the application of a rate to a declining balance creates irregular payments. Transactions of the type specifically described in the Board Interpretation, as well as mortgage transactions such as those discussed in Official Staff Interpretations FC–0003, FC–0025, FC–0030, and FC–0104, may take advantage of this provision. In the abbreviated payment schedule, the creditor must disclose the dollar amount of both the highest and lowest payments and a reference to the variations in payments.

Creditors may combine the disclosures permitted by paragraph (g)(2) with the general payment schedule requirements, in transactions such as graduated payment mortgages where only a portion of the payment schedule may fit the conditions set forth in the paragraph. For example, in a graduated payment mortgage where payments rise sharply for five years and then decline gradually over the next 25 years as the mortgage insurance premium decreases, the first five years would be disclosed pursuant to the general rule in paragrph (g) of the regulation and the next 25 years could be disclosed according to the footnote.

As in present Interpretation § 226.808, the special rule provided in paragrpah (g)(2) applies only to the payment schedule disclosure. Whether or not the payment schedule is disclosed pursuant to the paragraph, the actual amounts of payments must be taken into account in calculating and disclosing the finance charge and the annual percentage rate.

A portion of Board Interpretation § 226.815 has been added as paragraph (g)(1). In demand obligations with no alternate maturity date, the creditor has the option of disclosing only the due dates or periods of scheduled interest payments in the first year. The other required disclosures under paragraph (g) need not be given for those transactions.

For purposes of this paragraph, payments may include amounts beyond the amount financed and finance charge. These would include certain insurance premiums of the type described in Official Staff Interpretation FC–0157, where the premiums are not part of either the amount financed or the finance charge, as well as real estate escrow amounts such as taxes added to the payments in mortgage transactions. The Board believes that the inclusion of these items in the payment schedule may provide a more accurate picture of the amount the creditor actually collects from the consumer and may assist consumers in better understanding the terms of transactions.

As discussed in § 226.2, deferred downpayments or "pick-up payments" that meet the conditions set forth in the definition of downpayment may be treated as part of the downpayment. Even if treated as a downpayment, that amount may nevertheless be disclosed as part of the payment schedule, at the creditor's option.

(h) *Total of payments.* Paragraph (h) corresponds to § 226.8(b)(3) of the current regulation and requires disclosure of the total of payments, using that term. The paragraph also requires that the disclosure contain a descriptive explanation similar to that contained in the regulation. The descriptive explanation may be modified for variable rate transactions with a brief phrase such as "based on the current annual percentage rate which may change."

The total of payments is the sum of the payments disclosed under § 226.18(g). For example, if the creditor disclosed a deferred portion of the downpayment as part of the payment schedule, that payment must be reflected in the total disclosed under this paragraph.

The footnote to this paragraph permits creditors to omit disclosure of the total of payments in single-payment transactions. This exception does not apply to a transaction calling for a single payment of principal combined with periodic payments of interest.

(i) *Demand feature.* This paragraph requires special disclosures for demand obligations. It is based on Interpretation § 226.815 of the current regulation, but in a substantially revised form. The demand disclosure requirement applies to transactions that are payable on demand from the outset of the transaction, as well as to transactions that are not payable on demand at the time of consummation but convert to a demand status after a stated period. The latter type of transaction would include mortgages with demand features as addressed in Board Interpretation § 226.816 and Federal National Mortgage Association call option mortgages. As discussed in § 226.17(c)(5), those transactions would be considered demand obligations subject to paragraph (i).

The demand feature triggering the disclosures required by this paragraph is intended to include only those demand features provided for by the parties as part of the agreement. For example, this provision would not apply to transactions which convert to a demand status as a result of the customer's default. In addition, loans without an ascertainable maturity date are not considered demand loans unless the agreement actually provides for a demand feature.

Demand obligations with an alternate stated maturity are subject to the same disclosure requirements as other

transactions, including disclosure of the payment schedule. Thus, if those demand loans call for periodic interest payments, the number, amounts and timing of the payments must be shown under paragraph (g). In addition, the term of the payment schedule must reflect that alternate maturity date and not the assumed one-year term, which applies only to obligations without a stated maturity.

As explained in paragraph (g), demand obligations with no alternate maturity date may take advantage of a special rule similar to current Board Interpretation § 226.815 in disclosing the payment schedule. Under paragraph (g)(1), creditors need only disclose the due dates or periods of payments of any scheduled interest payments for one year.

(j) *Total sale price.* This paragraph, which requires disclosure of the total sale price in a credit sale transaction, is unchanged from the December proposal. It corresponds to the "deferred payment price" in § 226.8(c)(8)(ii) of the current regulation and is the sum of the cash price, other charges of the type described in paragraph (b)(2), and the finance charge. A new definition of downpayment has been added to the regulation in § 226.2. That definition addresses the treatment of deferred downpayments and the continued availability of Board Interpretation § 226.504.

(k) *Prepayment.* This paragraph requires that the consumer be told whether or not a penalty will be imposed or a rebate given in the event of prepayment of the obligation in full. This section has been substantially revised from § 226.8(b) of the current regulation.

The revised regulation, in accordance with § 128(a)(11) of the amended statute, eliminates the requirement that an explanation be given of how rebates or penalties would be computed. The only disclosure required is whether or not a penalty and/or rebate will occur if the obligation is prepaid in full.

Paragraph (k)(1) applies to simple interest obligations. Paragraph (k)(2) covers transactions with precomputed finance charges. These two paragraphs, like current § 226.8(b)(6) and (7), are intended to distinguish two separate types of transactions according to the nature of the finance charges imposed. The regulation recognizes, however, that a single transaction may include both types of finance charges, requiring disclosure under both paragraph (k)(1) and paragraph (k)(2).

Both paragraphs require a disclosure of "whether or not" a rebate will be given or a penalty imposed, reflecting the statutory language. This language requires a negative disclosure in transactions where prepayment will not result in a refund or penalty; silence in such cases will not comply with paragraph (k).

The disclosure requirements apply to any prepayment, whether voluntary or involuntary, as in the case of prepayments resulting from acceleration. If a penalty or refund is possible for any type of prepayment, even though not for all, a positive disclosure is required. Any difference in rebate or penalty policy, depending on whether prepayment is voluntary or not, may not be disclosed with the segregated disclosures.

Reflecting the approach taken in the December proposal, paragraph (k)(1) defines simple interest obligations very narrowly to include only those transactions in which the interest calculation takes account of each reduction in principal. This definition would exclude charges, including certain types of mortgage insurance premiums, that may be calculated on the basis of a declining principal balance but do not take every principal reduction into account.

The word "penalty" as used in paragraph (k)(1) encompasses only those charges which are assessed strictly because of the prepayment in full of the obligation, as an addition to all other amounts. Charges assessed or contemplated at the outset of the transaction, such as points in a mortgage loan, would not be considered a penalty for purposes of this paragraph. However, the Board considers a minimum finance charge in a simple interest transaction as a penalty for purposes of paragraph (k)(1).

Paragraph (k)(2) encompases any finance charge that does not meet the requirements of paragraph (k)(1). This provision includes typical precomputed finance charges such as add-on or discount finance charges, as well as simple interest transactions that do not fit the strict requirements of paragraph (k)(1). Paragraph (k)(2) has been redrafted to more closely reflect the statutory language of § 128(a)(11), with no substantive change intended. Although the word "rebate" is used in the regulation, creditors retain some flexibility in terminology, as illustrated by the use of the word "refund" in the model form in Appendix H.

(l) *Late payment.* Paragraph (l) 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. This is a change in emphasis from the current regulation, which requires disclosure of default charges as well as charges imposed solely for individual late payments.

This provision does not apply to a variety of terms which, in the Board's view, do not constitute late payment charges. Several of these terms have been addressed in official staff interpretations and will be reflected in the commentary to the regulation. For example, as stated in Official Staff Interpretation FC–0054, a right of acceleration is not a late payment charge. Fees imposed for actual collection costs, such as attorneys fees assessed prior to maturity, are also not late payment charges for purposes of paragraph (1). As indicated in Official Staff Interpretation FC–0063, the continued accrual of a finance charge in a simple interest obligation need not be disclosed as a late charge, unless a higher rate of interest is imposed once a payment is overdue.

The use of a statutorily required limit as the basis for disclosure under this paragraph is permissible. For example, stating that the charge in the event of a late payment is 5% of the late amount, not to exceed $5.00, is sufficient.

(m) *Security interest.* Paragraph (m) requires disclosure of a security interest. This provision is unchanged from the December proposal but has been significantly reduced by statute from § 226.8(b)(5), its counterpart in the current regulation. The paragraph no longer requires disclosure of the type of security interest taken. In addition, the creditor need not further describe the property to which the security interest attaches if the property purchased with the credit serves as collateral for the obligation. Any transaction in which the credit is being used to purchase the collateral is considered a purchase money transaction and the more abbreviated property identification disclosure required for these types of transactions may be used, even when the obligation does not meet the definition of a credit sale. Unlike the current regulation, disclosure of after-acquired property clauses is not required.

In non-purchase money transactions, the property subject to the security interest must be identified by "item or type." This disclosure would be satisfied by a general disclosure of the category of property subject to the security interest, such as "household goods." At the creditor's option, however, a more precise identification of the goods may be provided.

The question of what constitutes a security interest that must be disclosed under this paragraph is addressed in the definition of a security interest in § 226.2 of the new regulation. As noted in that discussion, the definition is much narrower than that used in the current regulation. It excludes many incidental property interests, such as an interest in insurance proceeds, unearned insurance premium rebates, accessions and improvements.

Several commenters expressed concern over the disclosure implications of "spreader" or "dragnet" clauses. A spreader clause is one which states that the collateral for a particular loan will also secure all future extensions of credit from the creditor. The fact that collateral for other loans is being used to secure the present obligation constitutes a security interest and must be disclosed. However, the Board has determined that a specific identification of that collateral would unnecessarily complicate the disclosures and that a reminder of the interest arising from the prior indebtedness would be most helpful to consumers. The disclosure can be accomplished by language such as "collateral securing other loans with us may also secure this loan." At the creditor's option, a more specific description of the property involved may be given.

(n) *Insurance.* This paragraph requires disclosure of the information outlined in § 226.4(d), if creditors wish to exclude credit life and property insurance premiums from the finance charge. The provision is unchanged from the December proposal.

The disclosures to which this paragraph refers are contained in § 226.4(a)(5) and (6) of the current regulation. However, § 226.8 of the current regulation contains no specific counterpart to paragraph (n).

As noted in the discussion of § 226.17(a)(1), this disclosure is one of four § 226.18 terms that may appear apart from the other disclosures. If this disclosure is made separate from the other transactional disclosures, it may appear with any other information, including the amount financed explanation, any information prescribed by state law or other supplementary material. However, if the creditor includes this disclosure with the segregated disclosures, no additional information may accompany it.

(o) *Certain security interest charges.* This paragraph requires disclosure of certain charges associated with a security interest, if the creditor wishes to exclude those charges from the finance charge. It is based on § 226.4(b) of the current regulation. This provision has been amended from the December proposal by the addition of a specific description of the charges that are excludable under § 226.4(e) of the revised regulation. This will reduce the necessity for the creditor to refer to § 226.4(e) in order to determine the scope of paragraph (o). This disclosure may appear, at the creditor's option, apart from the other § 226.18 disclosures.

(p) *Contract reference.* This paragraph, requiring a reference to the contract documents for certain additional information, remains unchanged from the December proposal.

The current regulation contains no counterpart to this provision, which was added by § 128(a)(12) of the amended act. Since some disclosures have been eliminated and others abbreviated by statute, this provision requires a cross-reference to the contract documents for certain information not contained in the disclosure statement. This includes information about nonpayment, default, the right to accelerate the maturity of an obligation, and prepayment rebates and penalties.

In addition to the items required to be referenced in the disclosure, the new regulation provides for two optional contract references. In the Board's view, the inclusion of a contract reference for security interest and assumption information may be useful to consumers.

The specific language of paragraph (p) is not mandatory. A creditor may alter the statement with a reference to the specific contract document, such as "promissory note" or "retail installment contract."

In the December proposal, the Board solicited comment on whether creditors should be permitted to separate portions of the statement and place each component with the particular disclosure to which it relates. Although most comments did not oppose this possibility, the Board believes, after further analysis, that the entire text of the contract reference should appear in one location. Placing a contract reference near each pertinent substantive disclosure would lengthen and complicate the disclosures.

(q) *Assumption policy.* This paragraph provides that in residential mortgage transactions, the consumer must be told whether or not a subsequent purchaser or assignee may be permitted to assume the obligation on its original terms. It implements amended § 128(a)(13) of the act, a new required disclosure with no counterpart in the current regulation.

A number of commenters expressed concern that the disclosure required by this paragraph would commit them to permitting assumptions, when in fact the ultimate decision would depend on circumstances unknown at the time of disclosure. To alleviate this concern, creditors may include a brief phrase such as "subject to conditions" or "under certain circumstances" in complying with paragraph (q).

(r) *Required deposit.* This paragraph requires a statement that the annual percentage rate does not reflect the effect of a required deposit, which is defined as a deposit that the creditor requires the consumer to maintain as a condition of a specific credit extension. This requirement has no counterpart in the December proposal and is based, in substantially revised form, on the concept of required deposit balances in § 226.8(e)(2) of the current regulation.

Under the current regulation, a required deposit balance must be disclosed to the consumer and taken into account in calculation of the annual percentage rate. While the Board believes that the existence of the required deposit is of importance to consumers and should be disclosed, the calculations necessary to reflect the deposit in the annual percentage rate are extremely complex and impose a substantial burden on creditors. Therefore, the revised regulation requires creditors to inform consumers of the presence of a required deposit and its potential effect on the cost of credit, but eliminates the requirement that the deposit be included in calculation of the annual percentage rate.

The footnote to this paragraph sets forth three types of deposits that need not be considered required deposits subject to the requirement. Use of the phrase "need not" permits creditors to include the disclosure required by paragraph (r) even in cases where there is doubt as to whether the deposit constitutes a "required deposit" within the meaning of the paragraph.

The first exception is based, in expanded form, on the escrow account exception in current § 226.8(e)(2)(i). Unlike the current regulation, the exception is not limited to real estate transactions, nor is it restricted to escrows for taxes and insurance. For example, the escrow account may be for maintenance fees (such as condominium fees) or for repairs, as in the case of completion escrows.

The second exception is for deposits that earn at least 5 per cent per year. The Board believes that where the consumer receives more than nominal interest on the deposit, that amount need not be viewed as a required deposit. This exception applies whether

the deposit is held by the creditor itself or by a third party.

The third exception is for Morris Plan transactions. This is a deposit balance that will be wholly applied toward satisfaction of the consumer's obligation in the transaction. This provision is similar to what appears in § 226.8(e)(2)(ii) of the current regulation.

The exceptions in § 226.8(e)(2) (iii) and (iv) of the current regulation for pre-existing deposits offered as security and "forced savings" plans have been deleted. However, if such deposits earn at least 5 per cent, they need not be considered required deposits.

In an effort to assist creditors in determining whether this disclosure is required and to ease the burden of compliance, the Board believes a list of transactions that do not fit the general definition is important. The following situations need *not* be treated as required deposits:

- requirement that a borrower be a customer or a member, even if there is a fee or a minimum balance involved
- deposits that are immediately available to the customer
- required property insurance escrow on a mobile home transaction
- refund of interest when the obligation is paid in full
- escrow of condominium fees
- funds deposited with the creditor to be disbursed (for example, for construction) before the loan proceeds are advanced
- escrow of loan proceeds to be released when the repairs are completed

This list is not intended to be all-inclusive but rather to give guidance in determining whether a deposit is a required deposit for purposes of this paragraph.

Proposed Official Staff Interpretation FC–0171, published for comment on March 31, 1980 (45 FR 02771), addressed the application of the required deposit balance provisions in the current regulation to so-called "loop-hole" accounts. In those transactions, a portion of the funds necessary for the purchase of a certificate of deposit is advanced to the consumer by the issuing bank. The interpretation states that the portion of the deposit contributed by the consumer is not a required deposit balance under § 226.8(e)(2). Paragraph (r) specifically exempts these deposits from the required deposit provision, since the portion of the funds contributed by the consumer is subject to an interest rate of more than 5 per cent. Because the revised regulation clearly resolves the primary issue addressed in that letter, proposed Official Staff Interpretation FC–0171 is being withdrawn as unnecessary.

§ 226.19 Certain residential mortgage transactions.

This section, which implements § 128(b)(2) of the act, has no corresponding provision in current Regulation Z. The rule requires early disclosure of credit terms in residential mortgage transactions that are subject to the Real Estate Settlement Procedures Act (RESPA). Disclosures must be given the earlier of (1) three business days after the creditor's receipt of a written application, or (2) consummation. "Business day" is defined in § 226.2 of the regulation. This three-day requirement coincides with the time period contained in RESPA for providing good faith estimates of settlement costs.

Paragraph (a) is unchanged from § 226.19 of the December proposal. The Board solicited comment on the proper definition of "written application" and, in particular, whether the definition should correspond to that in RESPA. The majority of commenters agreed with the Board that "application" should parallel RESPA in light of the congressional intent that RESPA and Truth in Lending disclosures be coordinated. Thus, "written application" is defined as in RESPA and is subject to any interpretations of that term by the Department of Housing and Urban Development. Although a few commenters raised serious problems regarding the use of RESPA terminology in this regard, the Board believes that the clear meaning of the act, in the light of congressional intent, mandates a parallel approach. The commentary will more fully explain the relationship between the use of "application" in RESPA and its use in this section.

The December proposal also solicited comment on whether an application that is rejected or withdrawn within three days requires early disclosures under this section. The commenters overwhelmingly agreed that such disclosures would be unnecessary, and the Board reaffirms its earlier position that this type of application requires no early disclosure.

As in the December proposal, the tolerance contained in paragraph (b), which governs whether new disclosures must be made at consummation or settlement, reflects the tolerance contained in § 226.22(a). The general tolerance is ⅛ of 1 percentage point above or below the annual percentage rate originally disclosed, but irregular transactions, as defined in § 226.22, will be measured against a ¼ of 1 percentage point tolerance.

The redisclosure requirements set forth in paragraph (b) are unchanged from the December proposal, except for editorial revisions that do not affect the substance of the paragraph. Only the changed terms, rather than a complete set of new disclosures, need be disclosed in the event that the annual percentage rate falls outside of the tolerance. Many commenters asserted that this provision would considerably alleviate the burden of redisclosure. Other commenters, however, claimed that furnishing a complete set of new disclosures would be easier than providing only the changed terms. Recognizing that due to operating procedures, redisclosure of all the credit terms may be less burdensome for certain creditors, the Board wishes to clarify that creditors have the option of giving either a complete set of new disclosures or only the changed terms.

Paragraph (b) has been altered from the December proposal to permit settlement, as an alternative to consummation, as an optional time for redisclosure. This option to redisclosing at consummation is provided in the act, and the majority of commenters regarded the option as worthwhile. Because Congress intended this provision to reduce duplication of disclosure when possible, "settlement," as used in this section, follows the RESPA definition. "Consummation" is defined in § 226.2 of Regulation Z.

Section G(4) in Appendix G of the December proposal, which contained the model form for combining the good faith estimates of settlement costs under RESPA and the itemization of the amount financed under Truth in Lending, has been deleted. Since the legislative history indicates that furnishing the good faith estimates under RESPA would satisfy the itemization requirement under Truth in Lending, the Board believes that the model form for combining these disclosures is unnecessary. Instead, disclosure of the itemization of the amount financed will be satisfied by the good faith estimates under RESPA, as noted above in the discussion of § 226.18(c).

In the December proposal, comment was solicited on whether special types of mortgage transactions, which have become increasingly common, warrant specific treatment in the regulation. Those mentioned were "wrap-around" mortgages, "shared equity" or "shared appreciation" mortgages, and mortgages with a demand feature. "Wrap-around" mortgages and mortgages with a demand feature have been addressed in the **Federal Register** material on § 226.17(c), which relates to the basis of disclosures. The **Federal Register** notice accompanying § 226.18(f) deals with the

disclosure of "shared appreciation" mortgages as variable rate transactions. All of these mortgages will also be discussed in greater detail in the commentary.

Comment was also solicited in the December proposal on another alternative mortgage issue. The Board expressed concern about the overlapping coverage of these mortgages by different regulations. That issue is now addressed in § 226.18(f) and discussed in the **Federal Register** material accompanying that provision. In some instances, compliance with disclosure requirements contained in other regulations will constitute compliance with the variable rate provisions of Regulation Z.

§ 226.20 Subsequent disclosure requirements.

(a) *Refinancings.* This paragraph requires new Truth in Lending disclosures when an existing obligation is satisfied and replaced by a new obligation. This definition substantially changes the concept of refinancing reflected in § 226.8(j) of the current regulation, which generally treats any change in terms as a new transaction requiring new disclosures. Paragraph (a) is similar to its counterpart in the December proposal, with the addition of five exceptions to the new definition.

The revised definition of refinancing most closely resembles the events intended to be covered by refinancing disclosures. The Board's primary concern in originally creating the concept of refinancing, which is not required by statute, was to address the practice of "flipping," in which an obligation involving precomputed finance charges is prepaid and replaced with a new obligation. This practice may permit lenders to obtain a higher yield, by application of favorable rebate methods to calculate unearned finance charges on the original obligation. New disclosures at this time may provide consumers with useful information regarding the cost of refinancing under these circumstances. The new standard also provides a simpler and more precise rule for determining when a new transaction occurs, in contrast to the current definition in § 226.8(j). Particularly since the new definition is more in accord with the definition of refinancing used in the credit industry, creditors should be able to readily determine whether new disclosures are required when an event occurs after consummation of the original transaction.

The new definition is revised from the December proposal to exempt from refinancing five events which the Board believes should not require new disclosures. Depending on the way in which these occurrences are structured, they may not in all cases constitute refinancings under the new definition, even without a specific exception in the regulation. The exceptions in § 226.20(a) simply insure that these events will not under any circumstances require new disclosures. Most of the exceptions, such as renewals of single-payment obligations and reductions in annual percentage rates, have been exempt from disclosure under the current regulation. In other cases, the Board believes that an exception is appropriate because the event is not one for which the consumer is likely to make a new credit decision, as for example, an agreement resulting from a judicial proceeding.

Paragraph (a)(1) exempts from disclosure a renewal of a single-payment obligation on terms essentially similar to the terms of the original obligation, so long as Truth in Lending disclosures were given on the earlier obligation. In an abbreviated form, it incorporates existing Board Interpretation § 226.811.

Paragraph (a)(2) requires no further disclosures when the new obligation involves a reduction in the annual percentage rate, with no change in terms beyond the payment schedule revisions necessary to reflect the reduction. It is substantially similar to current Board Interpretation § 226.817.

Paragraph (a)(3) exempts from refinancing disclosures agreements that arise from a judicial proceeding. This would include formal workout agreements and reaffirmations of debts discharged in bankruptcy, so long as the agreements involve a court proceeding.

Paragraph (a)(4) excludes informal workout agreements or similar arrangements between a creditor and consumer resulting from the consumer's default or delinquency, including changes relating to restructuring of the payment schedule or the additional collateralization of the transaction. However, this paragraph would not exempt such agreements from redisclosure if the change in terms includes an increase in the annual percentage rate or the advance of additional credit beyond amounts already accrued plus insurance premiums.

Paragraph (a)(5), which is based on current Board Interpretation § 226.814, exempts from redisclosure the renewal of optional insurance added to an existing credit transaction. Under this paragraph, the creditor need not make new disclosures relating to the insurance financing at the time of renewal of the insurance coverage. The increase in the existing obligation itself would not constitute a refinancing requiring new disclosures since that obligation is not extinguished. As under the present regulation, however, the initial purchase of the insurance must be accompanied by the appropriate Truth in Lending disclosures.

(b) *Assumptions.* This paragraph defines an assumption to include only those transactions in which a creditor expressly agrees in writing to accept a subsequent consumer as a primary obligor on an existing residential mortgage transaction. If the assumption meets the definition set forth in the first sentence of paragraph (b), the creditor must provide new disclosures to the assuming consumer.

Paragraph (b), which has no statutory counterpart, is based on § 226.8(k) and Board Interpretation § 226.807 of the current regulation. It differs from the current regulation in that it is limited to residential mortgage transactions, and from the December proposal in that it incorporates a portion of Board Interpretation § 226.807. This special rule permits creditors in transactions involving add-on or discount finance charges to make abbreviated disclosures of certain credit terms. In simple interest transactions, a complete set of new disclosures, based on the remaining obligation, must be provided before the assumption occurs. This is in accord with the current regulation.

The scope of the revised provision, other than its limitation to residential mortgage transactions, is very similar to the current regulatory provision. In order to incur disclosure responsibilities, the creditor must specifically agree to accept a subsequent party as a primary obligor in the transaction. Mere approval of creditworthiness or receipt of notification of a change in records does not constitute an assumption, although the retention of the original consumer as an obligor does not by itself preclude the transaction from being an assumption.

The acceptance by the creditor of a subsequent obligor may be accompanied by a change in terms in the obligation. The imposition of new terms does not by itself exclude a transaction from the assumption definition, so long as the criteria set forth including the continuation of an "existing residential mortgage transaction," are met. Any such changes in credit terms must be reflected in the disclosures given to the assuming consumer.

§ 226.21 Treatment of credit balances.

Section 226.21, which establishes the requirements for the treatment of credit balances, has no counterpart in the closed-end credit provisions of the current regulation. It implements § 165 of the act, the scope of which was broadened to apply to any type of credit account, not merely open-end accounts.

The act provides that a credit balance in excess of one dollar created by transmittal of funds in excess of the total balance due on the account, rebates of unearned finance charges or insurance premiums, or amounts otherwise owed to or held for the benefit of an obligor must be either credited to the consumer's account or refunded upon the consumer's request. The corresponding provision in the regulation mirrors the act, except that, in accordance with the open-end credit provision, it has been revised to clarify that a creditor may require the consumer's request to be in writing.

With respect to closed-end credit, the Board believes that these requirements will be applicable to such situations as the full payment of a loan by transmittal of funds in excess of the total balance due on the account, and the early payoff of a loan entitling the debtor to a rebate of insurance premiums and finance charges. The statutory language regarding "total balance due" refers to repayment of the total outstanding balance. Thus, this provision applies only where payments and credits exceed the total balance owed and not where the customer has simply paid an amount in excess of the installment payment due for a certain period.

The act requires a creditor to make a good faith effort to refund to the consumer by cash, check or money order any part of the credit balance remaining in the account for more than six months. Paragraph (c) of the regulation has been revised since the December proposal to permit a creditor to refund by crediting a deposit account of the consumer held with the creditor in lieu of refunding by cash, check or money order. For example, where a consumer maintains both a checking (or savings) account and an installment loan account with the same creditor, and a credit is created in the installment account by transmittal of funds in excess of the total balance owed, a creditor may refund the excess by crediting it to the consumer's checking (or savings) account.

When any part of a credit balance remains in a consumer's account for more than six months, the act and the regulation require the creditor to make a good faith effort to refund it to the consumer. A creditor may, however, without a request from the consumer, make the refund before the expiration of six months. When the creditor does not know the consumer's current location, the Board contemplates that the minimum tracing requirement will include use of the consumer's last known address and telephone number. A creditor is not required to trace the consumer when the amount of the credit balance is less than one dollar. If the consumer cannot be traced, the disposition of the money remaining in the account after six months is a matter of state or other applicable law. If the consumer cannot be traced through the last known address or telephone number, that law—and not Regulation Z—determines whether the creditor may treat the balance as income or make other disposition of it.

Section 226.21 does not override contractual arrangements between the creditor and consumer regarding entitlement to rebates of unearned finance charges and insurance premiums. With respect to such rebates, this section applies only in those situations where the borrower has not contracted away his or her entitlement to rebates of unearned finance charges and/or insurance premiums in the event of prepayment.

This section is not intended to limit a creditor's right of set-off under state law nor to override a creditor's contractual arrangement with a debtor. For example, if the collateral securing an account is repossessed and sold as a result of a debtor's default, a creditor is permitted to use any surplus from the sale to offset a deficieny in any other account that was also secured by the collateral sold, so long as such offset is permitted by state law or contractually agreed to by the parties. Likewise, if a creditor accelerates a loan as a result of default and obtains a rebate of insurance premiums, the creditor may use the rebate to offset the outstanding, unpaid loan balance.

§ 226.22 Determination of annual percentage rate.

The general rule for determining the annual percentage rate remains similar to the December proposal but contains two significant revisions from § 226.5 of the current regulation. These revisions concern the tolerance for irregular transactions and the special protection for faulty calculation tools.

Section 107(c) of the act authorizes the Board to provide a tolerance greater than ⅛ of 1 percentage point in transactions involving irregular payments. The December proposal included a ¼ of 1 percentage point tolerance for irregular transactions, defined as those involving multiple advances, irregular payments or irregular payment amounts. In view of the potential difficulty of calculating an annual percentage rate in complex transactions and congressional recognition of this fact, the Board continues to believe that the wider tolerance is appropriate. Therefore, § 226.22(a)(3) provides a tolerance of ¼ of 1 percentage point for irregular transactions. However, the definition of an irregular transaction has been revised from the December proposal to exclude transactions whose only irregularity is an odd first or final payment or an odd first period. The Board believes that a greater tolerance for these transactions is unnecessary since these payment schedule variations do not unduly complicate annual percentage rate calculations.

The payment schedule irregularities provision, formerly the minor irregularities provision under § 226.5(b)(5) of the current regulation and § 226.22(e) of the December proposal, has been deleted from § 226.22 and incorporated in § 226.17(c)(4). No substantive change is intended by this revision. As discussed more fully in § 226.17, the same minor irregularities rule as before continues to apply to annual percentage rate calculations, but is now extended to *all* calculations under the regulation. Annual percentage rates computed using this rule are not afforded the ¼ of 1 percentage point tolerance for irregular transactions, unless the transaction includes an irregularity other than an odd first period or odd first or last payment.

Supplement I, which contains the explanations, equations and technical instructions for calculating the actuarial annual percentage rate, has been redesignated as Appendix J, and is set forth below. As indicated in the discussion of the appendices, several minor revisions have been made to this material.

Section 226.5(c) of the current regulation insulates creditors from liability for errors resulting from good faith use of faulty calculation tools. In light of the expanded defense for such erors in § 130, the civil liability section of the act, the Board belives that this regulatory provision will no longer be necessary under the revised act. Therefore, after April 1, 1982, this provision will be eliminated from the regulation. Until that time, the special rule is incorporated into footnote 45a, formerly § 226.22(f) in the December proposal.

§ 226.23 *Right of rescission.*

(a) *Consumer's right to rescind.* Paragraph (a) implements § 125(a) of the act and represents a substantial change from the general rule in § 226.9(a) of the current regulation. It provides the right to rescind a transaction secured by a consumer's principal dwelling.

The scope of this provision has been modified in two ways. Unlike the original regulation, the revised regulation applies not only to real property used as the consumer's principal dwelling, but to personal property as well. Moreover, unlike the current regulation, the revised regulation no longer applies to property "expected to be used" as the consumer's principal dwelling but is limited to property used as the consumer's principal dwelling at the time the security interest is retained.

As was the case in the original regulation, a security interest need not be retained at consummation to give rise to the right of rescission. For example, materialmen's or mechanic's liens arising by operation of law may not arise until performance has begun. The right of rescission is still applicable in such transactions, even when the security interest has not yet been created.

To give rise to the right of rescission, the security interest must be retained as part of the credit transaction. Therefore, a materialmen's lien obtained by a contractor who is not a party to the credit transaction, but merely receives the proceeds of the consumer's unsecured bank loan, does not create a rescindable transaction between either the bank and the customer or the contractor and the customer. In that case, the security interest is not a term of the credit transaction but merely obtained by an unrelated third party. Nevertheless, a security interest acquired by a contractor who is a creditor in the transaction gives rise to the right to rescind, because the security interest is retained in connection with the credit extension. The same result occurs when a materialmen's lien is retained by a subcontractor of a creditor-contractor, even when the latter has waived its rights under the law. In the Board's view, the subcontractor is acting as an agent of the creditor-contractor in such cases, and the security interest therefore forms part of the credit transaction. This position incorporates Board Interpretation § 226.901.

Under paragraph (a)(1), a consumer has the right to rescind only if the transaction involves the consumer's principal dwelling and the consumer's ownership interest in that dwelling is or will be subject to a security interest. A number of commenters contended that the language in the December proposal could be interpreted to provide the right to rescind to a nonresident co-owner of a dwelling. To avoid such interpretations, the definition of "consumer" in § 226.2 has been expanded to clarify that, for purposes of rescission, a consumer is any natural person who is both an owner and a resident of a dwelling that is or will be subject to a security interest as part of the credit transaction. The definition therefore encompasses persons who are not parties to the credit agreement but who have signed the security agreement. As a signatory to the security agreement, that person is a party to the credit transaction and is obligated to the extent that his or her ownership interest is encumbered by the creditor's security interest. Accordingly, joint owners in this situation must be given the right of rescission, so long as the property represents the joint owners' principal dwelling.

The footnote to paragraph (a)(1) provides that the addition of a security interest to a preexisting obligation is rescindable. The right of rescission applies only to the added security interest, however, and not to the original obligation. In such situations only the paragraph (b) notice need be delivered, not new material disclosures.

Paragraph (a)(2), which corresponds to § 226.9(a) of the current regulation, describes how the right of rescission may be exercised. It further provides that the consumer's notification that the transaction has been rescinded is considered given to the creditor when mailed or filed for telegraphic transmission. However, the 20-day limit for performing the obligations in paragraph (d)(2) does not begin to run until the creditor receives the notice.

Paragraph (a)(3) requires that consumers be given three business days to rescind the transaction. This three-day period runs from the last of three events: consummation, delivery of the rescission notice required by paragraph (b) and delivery of the "material disclosures" as defined in the footnote to the paragraph. The definition of "business day" as applied to rescission differs from the December proposal. The definition in footnote 14 to § 226.9 of the current regulation has been retained and is incorporated in § 226.2 of the revised regulation.

The last portion of paragraph (a)(3) provides for termination of an unexpired right of rescission three years from consummation, upon transfer of all of the consumer's interest in the property, or upon sale of the property, whichever is first. This provision differs from both the original regulation and the December proposal in that a third event, sale of the property, has been added. A sale of the property would include a transaction in which the consumer sells the dwelling, and takes back legal title through a purchase money note and mortgage. Transfer of all the consumer's interest includes such transfers as bequests and gifts. Neither a sale of the property nor a transfer of all of the consumer's interest need be voluntary. Accordingly, a foreclosure sale would terminate an unexpired right to rescind.

Paragraph (a)(4) reflects the rule in § 226.9(f)(1) of the original regulation. It provides that rescission by any one consumer entitled to rescind is effective as to all consumers involved in the transaction.

(b) *Notice of the right to rescind.* Paragraph (b) is for the most part similar to § 226.9(b), its counterpart in the current regulation. Creditors are required to deliver two copies of the notice of the right to rescind to each consumer entitled to rescind, and that notice must be on a separate document that identifies the transaction. Identification of the transaction may be made by simply giving the date of the transaction. Unlike the current regulation, however, the revised regulation prescribes no specific text or format for the notice. Instead, to give creditors greater flexibility, only five required disclosures other than the identification of the transaction have been specified. The notices in Appendix H provide models for creditors to use in complying with these requirements. The creditor may provide a separate form that the 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 appendix.

(c) *Delay of creditor's performance.* Paragraph (c) is substantially similar to § 226.9(c) of the current regulation and has no statutory counterpart. It prohibits disbursement of money (other than into escrow), performance of services, and delivery of materials until the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded.

(d) *Effects of rescission.* Paragraph (d) is based on § 226.9(d) of the current regulation and reflects amended § 125(b) of the act. It describes the effects of rescission and outlines the obligations of both the creditor and consumer, once the consumer has rescinded. Paragraph (d)(1) provides that the security interest giving rise to the rescission right becomes void when the consumer exercises that right. Upon rescission, the

consumer is not liable for any amount, including any finance charge. The term "any amount" includes any money or property given by the consumer to the creditor or a third party in connection with the credit transaction. It includes charges such as application and commitment fees or fees for a title search or appraisal, whether paid to the creditor, paid directly to a third party or passed on from the creditor to the third party. The fact that these amounts may not represent profit to the creditor but rather were used by the creditor to purchase services is irrevelant in determining whether the consumer is liable for them. However, the Board emphasizes that the term "any amount" does not apply to any money or property given by the creditor to the consumer. Similarly, creditors need not return any money given by the consumer to third parties outside of the credit transaction.

Although the original regulation and the amended statute use the language "any finance or other charge," the term "any amount" merely incorporates the staff's longstanding interpretation of that language. Furthermore, although undefined in the revised regulation, the term "other charge" in the current regulation has become a term of art which does not include all the fees which must be returned by the creditor. Use of the same term to define different amounts would be confusing.

Paragraph (d)(2) also reflects the statutory amendment expanding from 10 to 20 days the time period within which the creditor must return a consumer's money or property and take the necessary action to terminate the security interest. Further, to reflect the staff's longstanding interpretation of this provision, the term "calendar days" is used to describe the time period.

Paragraph (d)(3) provides that the consumer may retain possession of any money or property received from the creditor until the creditor has performed under paragraph (d)(2). Once the creditor has met its obligations, the consumer must tender the money or property to the creditor. If the tender of property would be impracticable, the consumer may pay its reasonable value. Property may be tendered at the location of the property or at the consumer's residence, but money must be tendered at the creditor's place of business. This provision has been specifically incorporated into the text of the regulation.

Paragraph (d)(3) also provides that if a creditor does not take possession of the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation. The 20-day limit in this paragraph also reflects the statutory change. The Board emphasizes that the 20-day period does not begin until the consumer tenders the property.

Paragraph (d)(4) reflects amended § 125(b) of the act and provides that the procedures outlined in paragraphs (d)(2) and (d)(3) may be modified by a court.

(e) *Consumer's waiver of right to rescind.* Paragraph (e) prescribes how and when a consumer may waive the right to rescind. It differs from its counterpart in the current regulation but mirrors the standard used in § 125(d) of the act. There no longer need be an emergency which endangers persons or property. The consumer need only determine that the extension of credit is necessary to meet a bona fide personal financial emergency.

Some commenters were concerned that the relaxed standard would result in abuse of the waiver provisions. The Board emphasizes that waiver or modification of the rescission right should not become a pro forma matter, but should occur only in rare circumstances. Although several commenters urged that a waiver automatically insulate a creditor from liability for failing to provide the rescission right, the Board believes that such protection is unwarranted. Accordingly, before accepting a waiver, creditors must assure themselves that the reasons given for the waiver are both substantial and credible and that the waiver is in all respects bona fide. This requirement, combined with the continued prohibition against the use of preprinted forms, will prevent abusive practices, while at the same time permit consumers to waive the rescission right in appropriate circumstances. The Board wishes to further emphasize that under § 226.25 of the revised regulation creditors are required to retain evidence of compliance for a period of two years. This includes rescission waivers.

Paragraph (e) also retains the rule in § 226.9(f)(2) of the current regulation, which requires that the waiver be signed by all consumers entitled to rescind.

(f) *Exempt transactions.* Paragraph (f) is based on amended § 125(e) of the act and is significantly revised from § 226.9(g) of the current regulation.

Paragraph (f)(1) exempts from the right of rescission a residential mortgage transaction, as that term is defined in § 226.2. This exception is based on current § 226.9(g)(1), relating to first lien purchase money transactions, but differs in two material respects. First, property need not be classified as real property under state law in order for the exception to apply. Second, the lien status of the mortgage is irrelevant for purposes of the exemption; the fact that the mortgage has junior lien status does not by itself preclude application of § 226.23(f)(1). As in the current regulation, however, the exception applies to loans to finance the construction as well as the acquisition of a principal dwelling.

A question arises under paragraph (f)(1) as to whether a loan to acquire an existing dwelling and to make improvements to that dwelling is exempt. In the Board's judgment, even though a portion of the proceeds is used for purposes other than acquisition or initial construction, the entire transaction may be viewed as a residential mortgage transaction and therefore exempt from the right of rescission. This assumes, however, that the loan for acquisition and improvement is in fact treated as one transaction. If the loan for the acquisition of the dwelling and the subsequent advances for the improvements are treated as more than one transaction, then only the transaction financing the acquisition of the dwelling is exempt.

Paragraph (f)(2) incorporates the current position taken in Board Interpretation § 226.903 concerning the right of rescission in refinancings. The exemption applies only to new advances from the same creditor and only if the new amount financed does not exceed the unpaid principal balance plus any finance charge; however, the right of rescission does apply to refinancings by a different creditor and to that part of a refinancing by the same creditor that is in excess of the existing debt.

Paragraph (f)(3) exempts those transactions in which state agencies are creditors. It corresponds to § 226.9(g)(5) of the current regulation and is based on § 125(e)(1)(C) of the revised statute.

Paragraph (f)(4) corresponds to § 226.17(c)(6) of the revised regulation. Just as new disclosures need not be made for subsequent advances when treated as one transaction, no new rescission rights arise so long as the appropriate notice and disclosures are given at the outset. However, if the advances are treated as separate transactions, the right to rescind applies to each advance.

A number of commenters requested that a counterpart to current Board Interpretation § 226.814 be added as an exemption from the right of rescission. Paragraph (f)(5) exempts from rescission the renewal of optional insurance premiums added to an existing transaction. Disclosures, as well as any applicable right of rescission, must continue to be provided for the original purchase of the insurance.

The rule in current § 226.9(g)(4) concerning agricultural loans has been omitted pursuant to the statute. Furthermore, since exemptions from the right of rescission no longer depend on the priority status of the lien, the exemption in current § 226.9(g)(3) concerning a subsequent subordination of a security interest also has been deleted.

§ *226.24 Advertising.*

Section 226.24 contains rules for advertising closed-end consumer credit and corresponds to § 226.10 (a), (b) and (d) of the current regulation. It is substantially similar to its counterpart in the December proposal.

(a) *Actually available terms.* This paragraph is based on § 226.10(a)(1) of the current regulation, which provides that no advertisement shall state that a specific amount of credit or installment amount can be arranged unless the creditor usually and customarily arranges or will arrange such terms. This paragraph permits advertisements to state only those terms that the creditor is actually prepared to offer. It is not intended to inhibit the promotion of new credit programs, but to prohibit advertisement of terms which the creditor does not actually intend to offer. For example, a creditor may not advertise a very low annual percentage rate that will not in fact be available at any time, but may advertise a rate that will be offered for only a limited period.

(b) *Advertisement of rate of finance charge.* Paragraph (b) requires that advertised rates be stated in terms of an annual percentage rate. It corresponds to § 226.10(d)(1) of the current regulation.

Unlike the current regulation, this paragraph requires a reference to any variable rate feature. As in § 226.18(f), relating to disclosure of a variable rate, the rate increase disclosure requirement in this paragraph does not apply to any rate increase due to delinquency (including late payment), default, acceleration, assumption, or transfer of collateral.

(c) *Advertisement of terms that require additional disclosures.* This paragraph corresponds to § 226.10(d)(2) of the current regulation. Paragraph (c)(1) sets forth the credit terms which, if used in an advertisement, require disclosure of the credit terms listed in paragraph (c)(2).

This provision differs from paragraph (d)(2) of the current regulation in that the list of terms that require additional disclosures has been streamlined to correspond with the list of terms mandated by the statute. "No downpayment" and "no charge for credit" have been eliminated as terms that would require additional disclosures under the new regulation since the statute specifies only that a statement of the downpayment "if any" is a triggering term.

Similarly, the additional disclosures in paragraph (c)(2) that must be made if a specified term appears in an advertisement have been reduced to only those disclosures mandated by the statute.

Paragraph (c)(2)(ii) requires disclosure of the "terms of repayment," as provided in the statute, instead of "number, amounts and timing of repayment," as required under the current regulation. This change is designed to provide greater flexibility to creditors in making this disclosure. Repayment terms may be expressed in a variety of ways in addition to the exact repayment schedule. For example, a creditor may use a unit-cost approach in making the required disclosure, e.g., "48 monthly payments of $27.83 per $1,000 borrowed." As another example, in an advertisement for credit secured by a dwelling, when any series of payments varies because of a graduated payment feature or 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. This example reflects Board Interpretation § 226.808 of the current regulation and § 226.18(g) of the revised regulation.

The footnote to this paragraph reflects Board Interpretation § 226.1001, which deals with the advertisement of credit terms when all credit sales or loans are not made on the same basis. The advertisement of credit terms may be made by giving one or more examples of typical extensions of credit and stating all of the terms applicable to each example. The examples must be labelled as such and must reflect representative credit terms that are made available by the creditor to present and prospective customers.

(d) *Catalogs and multiple-page advertisements.* Paragraph (d), which contains special advertising rules for catalogs, brochures and similar material, corresponds to § 226.10(b) of the current regulation. It incorporates the requirement in current Board Interpretation § 226.1002 that the tables or schedules of terms in catalogs include all amounts up to the level of the more commonly sold higher priced property or services. In the Board's view, the remaining portion of that interpretation, regarding the method of computing disclosures and the $1,000 limit on the examples, is unnecessary and its inclusion would be contrary to the concept of simplification.

Subpart D—Miscellaneous

§ *226.25 Record retention.*

The general rule is set forth in paragraph (a) that creditors must retain evidence of compliance for two years from the date disclosures are required to be made or action is required to be taken. Neither the December proposal nor the corresponding provision in the current regulation, § 226.6(i), stated when the two-year period begins when certain action, instead of disclosures, is required. Language has been added in the revised regulation to cover these situations.

The language in the December proposal that creditors may retain "information sufficient to reconstruct the required disclosures" has been deleted from the revised regulation, but it will be included in the commentary. Although some commenters expressed concern about this language, the Board does not intent this provision to require more information to be retained than under § 226.6(i) of the current regulation. It permits a creditor to keep only the information it needs to reconstruct the disclosures given, rather than requiring retention of the *actual* disclosures given.

Although the explanatory material in the December proposal stated that advertising is not covered by the record retention provisions, the proposed regulation itself did not reflect this fact. Language has been included in the revision to make clear that advertising requirements under §§ 226.16 and 226.24 are not covered by the record retention rules. This continues the position in § 226.6(i)(1) of the current regulation.

Paragraph (b) of the December proposal provided examples of recordkeeping methods that could be used to retain evidence of compliance. This paragraph has been deleted from the revised regulation as inappropriate regulatory material. These examples will be incorporated in the commentary.

The revised regulation does not contain the special record retention rule in § 226.6(i)(2) of the current regulation for creditors subject to the five federal agencies participating in the Regulation Z Enforcement Guidelines. In its place, paragraph (a) provides that enforcement agencies may require creditors under their jurisdiction to retain records for a period longer than two years if necessary to carry out enforcement responsibilities under § 108 of the act.

§ 226.26 Use of annual percentage rate in oral disclosures.

This section corresponds to a new § 146 in the act, and is based on Board Interpretation § 226.101 to the current regulation. Additional provisions have been added to the December proposal to modify the requirements for transactions where the creditor cannot determine in advance the annual percentage rate. This type of modification is specifically permitted by § 146.

In the open-end credit area, the exception will allow creditors to furnish the corresponding annual percentage rate and other information about the plan, such as transaction fees and minimum charges. In closed-end credit inquiries, the creditor may state an annual percentage rate for a standard, sample transaction, as well as more specific additional information about the particular transaction asked about by the consumer. This special rule should be particularly helpful to creditors responding to inquiries about mortgage credit. They may respond in terms of the annual percentage rate in a standard example, while also providing, for instance, information on the consumer's specific case in terms of interest rate and points.

Section 226.10(f) of the current regulation has been dropped, since it implemented the original § 146, now repealed.

§ 226.27 Spanish language disclosures.

This section is unchanged from the December proposal, except for minor editorial changes to improve its readability. It continues the requirements of § 226.6(a) of the current regulation.

§ 226.28 Effect on state laws.

This section sets forth the standards for the preemption of state law. In order to be preempted, a state law must be inconsistent with the act and the implementing provisions of the regulation. A state law is preempted to the extent of the inconsistency.

Paragraph (a)(1) deals with state laws that cover the types of requirements contained in chapter 1 (General provisions), chapter 2 (Credit transactions), and chapter 3 (Credit advertising) of the act and the implementing provisions of the regulation. The general standard here is that a state law is inconsistent if it requires disclosures or actions that contradict the requirements of the federal law. A state law that requires creditors to use the same term as the federal law where the state-required term represents a different amount or has a different meaning than the federal law is inconsistent. For example, if a state law requires use of the term "finance charge," but defines the term to include certain fees that the federal law excludes, or to exclude fees the federal law includes, such a law is preempted. A state law is also inconsistent if it mandates the use of a term that is different from a federal term, but describes the same item as the federal term. For example, if a state law requires a label such as "nominal annual interest rate" for the federal "annual percentage rate," the state law would be preempted.

Although the language "contradicts" is not the same as that used in § 226.6(b)(1) of the current regulation or in § 226.31(a)(1) of the December proposal, the Board believes it properly implements congressional intent with regard to preemption. The language lends a greater degree of certainty to the preemption standard, and better illustrates the guidelines that the Board will use in making preemption determinations. The Board believes that an assessment of whether state law contradicts federal law will result in the preemption of state laws requiring disclosures that would interfere with the intent of the federal scheme of disclosures, while leaving in place those state laws that do not interfere with the federal scheme.

Paragraph (a)(1) also sets forth who may request a Board determination on inconsistency under chapters 1, 2, and 3. These include a creditor, a state, or any other interested party, although the Board may also make determinations on its own motion without a request. Furthermore, the provision specifies that after the Board has made a determination of inconsistency with respect to a specific state law, the state law requirement that the Board has identified as specifically preempted must not be followed by a creditor in making disclosures. This provision implements the prohibition contained in amended § 111(a) of the act. The Board intends to provide sufficient time to permit creditors to make whatever revisions of forms or procedures that may be necessary to conform to the individual determinations on contradictory state disclosures.

A creditor may apply the preemption standards to state law and choose not to give state-required disclosures that it concludes are inconsistent with the federal law in advance of specific Board determinations. However, the absolute prohibition against giving the state disclosures does not apply until the Board makes its determination. Therefore, a creditor may choose to give state disclosures until the Board determines that the state law is inconsistent. This option for giving state disclosures is intended to relieve any uncertainty that a creditor might have prior to Board determinations of inconsistency.

Paragraph (a)(2) sets forth the preemption rules for the fair credit billing laws. The rules are substantively unchanged from § 226.6(b)(2) of the current regulation, although some of the language and the organization have been changed to make it more understandable. Paragraph (a)(2)(iii) continues the position of the current regulation that allows only states to request a Board determination under the fair credit billing laws.

The fair credit billing provisions in the December proposal restated the statutory language that a state law furnishing greater protection to the consumer than federal law is not inconsistent. The revised provisions return to the standards in the current regulation because they seem clearer and more precise.

Paragraph (b) covering equivalent disclosure requirements implements amended § 111(a)(2) and is substantively unchanged from § 226.31(b) of the December proposal. If a state-required disclosure is determined by the Board to be substantially the same in meaning as a federal disclosure, the state disclosure may be made in place of the federal disclosure. This provision does not apply to requirements relating to the finance charge or annual percentage rate. A creditor, state, or other interested party may make a request to the Board for an equivalency determination.

Paragraph (c) refers to Appendix A, which contains the procedures to be used in requesting a Board determination on preemption.

§ 226.29 State exemptions.

This section corresponds to § 226.12 of the current regulation. The substance of this section was contained in Appendix A of the December proposal. The material on exemptions has been rearranged to parallel the material covering the effect on state laws. This section sets forth the standards for exemptions and Appendix B contains the procedures for applying for and granting of an exemption. The reference in the December proposal to a list of the exemptions granted has been eliminated since there are no exemptions yet under the revised regulation.

Paragraph (a) sets forth the standards for exemption determinations and paragraph (b) states the fact that exemptions will not extend to the civil liability provisions of the act. They are the same as those in § 226.12(a) of the current regulation and Appendix A of the December proposal. The "substantially similar" standard is interpreted as requiring state provisions to be generally the same as the federal provisions, including provisions for reimbursement to consumers equivalent to those called for in amended § 108 of the act.

As mentioned in the notice accompanying the December proposal, the five existing exemptions under the original statute and regulation will be automatically revoked on April 1, 1982, when the new statute and regulation replace the old. The exemptions will continue fully effective until that time. The five exempt states will have one year to amend their statutes and regulations, apply for new exemptions, and receive determinations from the Board.

Appendix A—Effect on State Laws

This appendix sets forth the procedures to be followed in requesting Board determinations of whether a state law is inconsistent with or is substantially the same as federal law. The procedures were adapted from § 226.31(c) of the December proposal and from Supplement V of the current regulation (§ 226.70). The detailed explanations of the procedures have been very much streamlined, but the appendix provides the basic rules for filing requests, public comment (either upon request or upon the Board's own motion), and notification of determinations.

A delayed effective date for preemption determinations provided in § 226.31(c)(4) of the December proposal has been deleted. The Board intends, however, to provide sufficient time for creditors to revise their forms and procedures to comply with determinations.

Appendix B—State Exemptions

Appendix B sets forth the procedures for granting exemptions to states. These procedures were contained in Supplements II (Credit transactions), IV (Credit card issuance and liability), V (Credit billing), and VI (Consumer leasing) to the current regulation. The appendix represents a combination and streamlining of the procedures set forth in Supplements II, IV, and V, in order to provide uniform procedures for exemptions from chapters 2 and 4 of the act. The supplement covering procedures for consumer leasing exemptions has been separately incorporated into the new Regulation M on consumer leasing. Appendix A of the December proposal has been replaced by revised § 226.29, which sets out the exemption standards, and by this appendix, which sets out the exemption procedures.

The revisions to the appendix are designed to establish precise, simple rules that will be easy to understand and use, and to clarify those items of information that the Board deems essential for consideration of exemption applications.

The detailed material on criteria for determinations included in the supplements to the current regulation is not found in revised Appendix B. This deletion has been made to simplify the regulation, but with no intent to change the substance of the provisions. For example, as under the current regulation, the classes of transactions eligible for exemptions will continue to be only broad classes, and will not include narrow categories of credit transactions. Much of the other detail in the current supplements has been deleted, since these provisions are implicit in the requirement that an applicant submit a comparison of state and federal provisions and a statement of reasons for its claim that an exemption should be granted.

An important point should be emphasized about restitution. The amended act contains a new § 108(e) requiring creditors to reimburse consumers in certain cases involving understated annual percentage rates and finance charges. The Board believes that a state must adopt restitution provisions that are at least equivalent to those called for by the act. In addition, to assist the Board in determining the adequacy of enforcement, the supporting documentation to the application should contain material on examination procedures, practices and policies relating to enforcement of the regulation, including examination manuals, and instructions to examiners and training materials issued to the examiners. The application should also contain a thorough discussion of how creditors will be required to reimburse consumers for certain violations involving understated annual percentage rates and finance charges.

A delayed effective date for exemptions provided in Appendix B of the December proposal has been deleted. The Board intends, however, to provide sufficient time for creditors to revise their forms and procedures to comply with the laws of states receiving an exemption.

Appendix C—Issuance of Staff Interpretations

This appendix is based on Appendix B of the December proposal. The substance of Section I of the December proposal, covering general information on official staff interpretations, is contained in the revised appendix, with one addition. Language has been added to explain that a commentary to the regulation will be used as the primary vehicle for issuing official staff interpretations of the regulation. In most situations, official staff interpretations will not be issued separately but, instead, will be incorporated in this commentary. The Board believes that because the commentary will be amended periodically and on a regular basis, it represents the most practical method of providing guidance to creditors on how to comply with the regulation.

Language from Section II of the December proposal discussing the procedures for issuance of interpretations has been deleted as unnecessary regulatory material. Such procedures would have very limited applicability, since periodic updates of the commentary will be the regular vehicle for issuing interpretations.

Appendix D—Multiple Advance Construction Loans

Appendix D remains substantially unchanged from the December proposal except for a revision of the rule in Part II. B. for computing the first payment period and the resulting change to the APR computations. The appendix incorporates the substance of current Board Interpretation § 226.813, which provides a special procedure that creditors may use at their option in calculating and disclosing the terms of multiple-advance transactions when the amounts and timing of advances may be unknown at consummation of the transaction. In a revised format, this appendix utilizes a similar mathematical basis as the interpretation, but has been redrafted for greater clarity. The format reflects the approach taken in § 226.17(c)(6) which permits creditors to provide separate or combined disclosures for the construction period and the permanent financing, if any.

The appendix is limited specifically to construction loans. Currently, all multiple-advance transactions may take advantage of Board Interpretation § 226.813. In view of the fact that its assumptions, formulas, and examples are based only on the typical construction loan, the Board believes that its use for other types of

transactions, where such assumptions may not be valid, is inappropriate. Therefore, the Board limits this appendix to those multiple-advance construction loans which are either payable in a single sum at the close of the construction period or converted to permanent financing by the same creditor at that time.

Appendix E—Rules for Card Issuers That Bill on a Transaction-by-Transaction Basis

Appendix E incorporates current Board Interpretation § 226.709 and deals with the application of some of the provisions of open-end credit to card issuers that bill consumers on a transaction-by-transaction basis. Except for minor editorial changes, the appendix is unchanged from the December proposal and the current Board Interpretation.

Appendix F—Annual Percentage Rate Computations for Certain Open-End Credit Plans

Appendix F corresponds to Appendix E of the December proposal and incorporates footnote 5(a) to § 226.5(a)(3)(ii) of the current regulation. It deals with the annual percentage rate computation for open-end credit plans in which both a periodic rate and a transaction charge are applied during the same billing cycle. In addition to the examples that appear in the current regulation, the appendix incorporates a sixth example in which the transaction amount exceeds the amount of the balance subject to the periodic rate. Except for editorial changes and the additional example, the appendix is the same as the previous proposals and the current regulation.

Appendices G and H (Open-End and Closed-End Model Forms and Clauses)

General

Appendices G and H contain model forms and clauses for open-end plans and closed-end credit transactions. They are being issued pursuant to amended § 105(b) of the act which requires the Board to publish model forms for common transactions. In response to many of the commenters, the Board is providing a greater variety of models than were in the December proposal. Samples are also included which illustrate ways creditors may revise the closed-end models for use in various kinds of transactions.

As provided in § 105(b) of the act, use of the model forms is not required, but creditors using them properly will be deemed to be in compliance with the regulation. Creditors may make certain types of changes to the forms without losing the protection provided in the statute. For example, creditors may rearrange the format by using a vertical, rather than a horizontal, format, or by relocating the required descriptors. For instance, the descriptors may be placed outside the boxes containing the corresponding disclosures or may be grouped together as a glossary of terms in a separate section of the segregated disclosures. As § 105(b) of the act provides, however, the rearrangement of the models may not be so extensive as to affect the substance, clarity, or meaningful sequence of the forms. Any revisions with that effect would deprive creditors of the protection from civil liability afforded by the act.

In addition to changing the format, creditors would still satisfy the substantially similar standard where they delete from the model forms disclosures that are inapplicable to a transaction or a plan. Examples of ways to delete inapplicable information include crossing out, whiting out, filling in "N/A" (not applicable), checking a box for applicable disclosures, or circling applicable disclosures. Moreover, the "substantially similar" standard would not necessarily prohibit creditors from altering the forms or clauses to incorporate state "plain English" requirements.

Appendix G

Appendix G contains model disclosure notices and clauses for open-end transactions and corresponds to Appendix F in the December proposal. Four areas are covered by these models: (1) balance computation methods, G–1; (2) liability for unauthorized use, G–2; (3) billing error rights, G–3 and G–4; and (4) right to rescind, G–5 through G–9.

Model G–1 corresponds to § F(1) of the December proposal and contains four model disclosures for different balance computation methods. These disclosures may be used either in the initial disclosures under § 226.6 or the periodic disclosures under § 226.7. Several changes have been made in the disclosures to make them easier to read and understand and to state more precisely the balance computation methods. As is clear from the models given, the Board does not believe that "short-hand" descriptions of the balance computation methods are sufficient for purposes of the act and regulation.

It is expected that creditors will include the phrase "a portion of" the finance charge where the total finance charge includes other amounts, such as transaction charges, that are not due to the application of a periodic rate. In addition, where unpaid finance charges are subtracted in the balance calculation, that fact must be stated so that the disclosure of the computation method is accurate.

Model G–1(a) corresponds to § F(1)(a) of the December proposal and deals with the adjusted balance method. With the exception of minor editorial changes, it is the same as the December proposal.

Model G–1(b) corresponds to § F(1)(b) of the December proposal and deals with the previous balance method. The model has been changed and now refers to the balance owed at the beginning of the billing cycle; it also states that payments and credits received during the billing cycle are not subtracted. The last sentence of the model, which appears in brackets, reflects the total dollar amount of payments and credits received during the billing cycle. This disclosure is required on the periodic statement by § 127(b)(7) of the act and § 226.7(e) of the revised regulation. None of the other models contain this language because all assume that payments and credits received during the billing cycle are subtracted. If this is not the case, however, the language relating to payments and credits would have to be changed, and the disclosure of the dollar amount would have to be added.

Models G–1(c) and (d) correspond to § F(1) (c) and (d) of the December proposal and describe the average daily balance method excluding current transactions and the average daily balance method including current transactions, respectively. The models have been rewritten in an effort to state the computation methods more clearly and simply.

Models G–2 corresponds to § F(4) of -is the model
for the notice of liability for unauthorized use of a credit card that is required under § 226.12(b)(2). The model is unchanged from the December proposal.

Models G–3 and G–4 correspond to §§ F(2) and F(3) of the December proposal and set out models for the long form billing error rights statement and the alternative billing error rights statement, respectively. With the exception of some minor editorial changes, the model notices are the same as those in the December proposal. As always, the model notices may be modified by deleting inapplicable information. For instance, if the creditor does not have the ability to automatically debit a consumer's savings or checking account for payment, it may delete the paragraph relating to stopping such a debit as it relates to a disputed amount. Also, if the

limitations on the rights stated in the special rule for credit card purchases are not applicable to a creditor, the limitations may be deleted. If the limitations are inapplicable for other reasons that are stated in revised § 226.12(c)(3), the notice may be modified accordingly. These notices also contain optional language and phrases that creditors may use. For example, if the creditor requires that notice of a billing error be submitted on something other than the payment ticket or other material accompanying the periodic disclosures, the notice must contain a statement to that effect. Also, the creditor may choose either to insert its address in the notice or to refer to the address that appears elsewhere on the bill.

Models G–5, G–6, and G–7 correspond to §§ F(6), F(5), and F(7) of the December proposal and set out notices of the right to rescind at the opening of an account, at the time of each transaction, and upon an increase in the credit limit, respectively. Models G–8 and G–9 are new. They have been added in response to commenters' requests to address situations where the right to rescind arises because the security on an account has either been added or increased. All of the notices of the right to rescind have been reorganized, and their language has been simplified further. The last paragraph of each of the rescission model forms contains a date by which the consumer's notice of cancellation must be sent or delivered. That date is three business days after the date of the event triggering the rescission right given in (1). A parenthetical has been added to the paragraph to address the situation in which the consumer's right to rescind the transaction exists beyond three business days following the date of the transaction, for example, where the notice or material disclosures are delivered late or where the date given in (1) is an estimate. The language of the parenthetical is not optional; without it, the date given in the paragraph may be misleading.

Appendix H

Appendix H contains model disclosure forms and clauses for closed-end credit transactions, as well as several samples of completed forms. Some changes have been made to the forms contained in §§ G(1) and G(2) of the December proposal in order to improve their clarity and readability. In models H–1 and H–2, for example, dotted lines are not utilized to indicate disclosures that are not required in all transactions. Instead, it is left to creditors to delete any of the disclosure items in the models that are not applicable to a given transaction.

Another change is that checkboxes rather than brackets have been used for alternative disclosures. Several commenters suggested this revision which will enable creditors simply to check the appropriate alternative for the prepayment and security interest disclosures, and consumers to check the appropriate box for the itemization of the amount financed option. Of course, in some cases creditors must fill in a blank (for example, a brief description of other property subject to a security interest) in addition to checking the correct box. Creditors are not required to use the checkbox approach.

Certain disclosures have been relocated in order to provide a more logical presentation. The filing fee information now appears directly below the security interest information, and the late charge disclosure directly above the prepayment disclosure. This rearrangement groups together related items. Finally, the symbol for estimated disclosures has been clarified to apply to any type of estimate, not just dollar amount estimates, as in the December proposal.

All of the models in Appendix H are written in the second person, instead of the first person, as was the case in Appendix G of the December proposal. However, disclosures requiring consumers to elect an option (for example, regarding the itemization of the amount financed and the credit insurance option) remain in the first person. The change was made in response to several commenters' concern that the use of the second person in the federal disclosure statement would make the disclosures more understandable to consumers, especially when other documents are written in the second person. Creditors, however, are not required to design their disclosure forms in the second person.

A few of the items included in §§ G(1) and G(2) of the December proposal have been eliminated. In models H–1 and H–2, the name of the creditor and the acknowledgment of receipt have both been deleted since the regulation does not require them to appear with the federal disclosures. The assumption disclosure has also been deleted because it applies only to residential mortgage transactions. This disclosure has been included as a model clause in H–6 and may be inserted into the disclosure form when applicable, as may the model clauses in H–4, H–5, and H–7 for variable rate obligations, demand obligations, and required deposits, respectively.

The credit life insurance disclosures in models H–1 and H–2 have been amended somewhat from the December proposal to reflect the fact that credit disability insurance may be offered separately by some creditors.

A few changes have been made to § G(3) of the December proposal, which corresponds to model H–3. This model is now entitled the itemization of the amount financed, rather than an explanation, to parallel the statutory language. The blank space for the total dollar figure representing the amounts paid to others has been deleted since the total amount is not a required disclosure.

As with the other model forms, appropriate revisions may be made to the amount financed itemization. For example, the items may be rearranged if creditors wish to present them in a mathematical progression. Also, additional categories may be included. In credit sales, for example, the amount given directly to the consumer may be shown as the result of the cash price minus the downpayment. Another type of additional information which may be included is the identification of individual government officials who receive various fees. As the model shows, the regulation permits creditors simply to label this category as fees paid to public officials without individually identifying the officials, but creditors may wish to show more detail.

Section G(4) in the December proposal, which combined the itemization of the amount financed with the good faith estimates required under the Real Estate Settlement Procedures Act (RESPA), has been deleted. The Board has taken this action in light of the legislative history indicating that the furnishing of good faith estimates under RESPA would satisfy Truth in Lending's requirement for an itemization of the amount financed. This change is in line with the Congress' general intent to simplify disclosures by eliminating duplicative information.

The model clauses in for variable rate transactions, contained in § G(6) of the December proposal, have been expanded in model H–4 by the addition of clauses illustrating the required hypothetical example. Creditors may refer either to the incremental change in rate or payment amount, or may refer to the resulting rate or payment amount. The Board intends that creditors have flexibility in constructing an appropriate example.

The model clauses for demand obligations set out in model H–5 are unchanged from § G(7) of the December proposal.

Two new model clauses have been added. Model H–6 contains the assumption clause which is required for residential mortgage transactions. This clause was deleted from the basic model forms because it is required only in a limited number of transactions. The revised disclosure refers to the fact that assumptions may be "subject to conditions," since this is so commonly the case in mortgage transactions. Model H–7 sets out the clause that must be included in disclosure statements for transactions involving required deposits. Sample H–11 includes this clause.

Some editorial changes have been made to the model rescission notice, which was set out in § G(5) of the December proposal. The format of models H–8 and H–9 has been conformed to the open-end rescission models contained in revised Appendix G, with the models divided into two sections entitled "Your Right to Cancel" and "How to Cancel." The "date of the transaction," listed as the first event triggering the right of rescission, means the date of consummation of the transaction as defined in § 226.2 of the regulation.

An additional rescission notice, model H–9, has been provided for a refinancing to which the right of rescission attaches. The Board agreed with commenters who suggested that a form showing the effects of rescission in a refinancing would be useful.

Appendix H also contains samples which illustrate how creditors may adapt the models for use in various kinds of specific transactions. The samples demonstrate the kinds of adjustments, rearrangements, additions, and deletions that a creditor may make to the forms and still be deemed to be in compliance with the regulation (assuming, of course, that the amounts of the disclosures are accurate and that the general clear and conspicuous standard is observed). For example, the Truth in Lending statement may include the following types of additional information: the creditor's address (Sample H–11); the consumer's name (Samples H–10, H–11, H–13 through H–15), address (Samples H–11, H–13 through H–15), and account number (Samples H–11, H–13 through H–15); the date of the transaction (Samples H–12 and H–13); and an acknowledgment of receipt (Sample H–10).

The samples also demonstrate various methods creditors may use to delete disclosures that are inapplicable to certain transactions. Examples of items that creditors may delete in appropriate cases include the following: the itemization of the amount financed option (Samples H–12 through H–15); the credit life and disability insurance disclosure (Samples H–11 and H–12); the property insurance disclosure (Samples H–10 through H–12, and H–14); the "filing fees" and "non-filing insurance" disclosure (Samples H–11 and H–12); the prepayment penalty and rebate (Samples H–12 and H–14); and the captions for disclosure items such as property insurance and demand feature (Sample H–13).

Another type of revision that creditors may make to the model forms applies to the late charge disclosure. If a creditor has a set policy regarding late charges (either a dollar amount or a percentage of the payment), the inapplicable portion may be deleted, or "N/A" or "0" may be put in the appropriate blank (Samples H–10, H–13, and H–14). If a creditor charges the lesser of two types of late charges, the necessary revisions may be made to reflect this fact (Samples H–11 and H–12).

Sample H–10 illustrates an automobile credit sale. The cash price is $7,500 with a downpayment of $1,500. there is an 8% add-on interest rate. The term is 3 years, with 36 equal monthly payments. The credit life insurance premium and the filing fees are financed by the creditor. There is a $25 credit report fee paid by the consumer before consummation.

Sample H–11 illustrates an installment loan. The amount of the loan is $5,000. There is a 12% simple interest rate. The term is 2 years. The date of the transaction is expected to be April 15, 1981, with the first payment due June 1, 1981. The odd days' interest is collected with the first payment. The remaining 23 monthly payments are equal.

Sample H–12 illustrates a refinancing. The amount of the loan is $5,000. There is a 15% simple interest rate. The term is 3 years. The date of the transaction is April 1, 1981, with the first payment due on May 1, 1981. The first 35 monthly payments are equal, with a varying final payment due on April 1, 1984. The credit disability insurance premium is financed.

Samples H–13 through H–15 illustrate various mortgage transactions. It has been assumed that these mortgages are subject to the Real Estate Settlement Procedures Act (RESPA). As a result, no option regarding the itemization of the amount financed has been included in the samples, because providing the good faith estimates of settlement costs required by RESPA satisfies Truth in Lending's amount financed itemization requirement.

Sample H–13 illustrates a mortgage with a demand feature. The loan amount is $44,900, payable in 360 monthly installments at a simple interest rate of 14.75%. The interim interest ($294.34) is collected as a prepaid finance charge at the time of consummation of the loan (April 15, 1981). The property insurance premiums are not included in the payment schedule. The demand feature disclosure is applicable to the seven-year call option required by the Federal National Mortgage Association (FNMA) in states where due-on-sale clauses are prohibited.

Sample H–14 illustrates a variable rate mortgage. The loan amount is $44,900 payable in 360 monthly installments at an initial interest rate of 14.75%. All periods are regular. Two points have been imposed and included in the prepaid finance charge. The note provides that the interest rate may vary with the lender's prime rate, with the maximum permissible increase over the term of the mortgage being 5%. The interest rate may not vary more frequently than once a year, and may not increase by more than 1% annually. The rate fluctuations will be reflected in the monthly payment amount.

Sample H–15 illustrates a graduated payment mortgage. The loan amount is $44,900, payable in 360 monthly installments at a simple interest rate of 14.75%. Two points, as well as an initial mortgage guarantee insurance premium of $225.00, are included in the prepaid finance charge. The mortgage guarantee insurance premiums are calculated on the basis of 1/4 of 1% of the outstanding principal balance under an annual reduction plan. The abbreviated disclosure permitted under § 226.18(g)(2) is used for the payment amount in years 6 through 30.

Appendix I—Federal Enforcement Agencies

This appendix is unchanged from Appendix I in the December proposal.

Appendix J—Annual Percentage Rate Computations for Closed-End Credit Transactions

Appendix J contains the rules and equations for calculating the annual percentage rate in closed-end credit transactions. It incorporates Supplement I of the current regulation with the exception of the two minor revisions discussed below.

A minor technical revision has been made to paragraph (b)(2) to make clear that the "term of the transaction" never begins any earlier than the date of consummation.

Another revision to current Supplement I concerns the treatment of single advance/single payment transactions. Some commenters expressed concern about Supplement I's two alternative rules (§ 226.40(b)(5) (vi)

and (vii)) for determining the number of unit-periods per year to be used in calculating the annual percentage rate. In a transaction with a term equal to a whole number of months, paragraph (vi) must be used, while paragraph (vii) must be applied to all other transactions. These two rules may produce different annual percentage rates for two transactions that are identical save for the starting date. A consumer may be quoted different rates for the same transaction by different creditors merely because the starting dates differ. The Board believes that requiring these paragraphs to be mutually exclusive may impede consumers' ability to compare credit sources and may unnecessarily disrupt normal creditor practices.

Therefore, Appendix J revises the rule in paragraph (b)(5)(vi) to Supplement I by permitting creditors, in all cases where the transaction term equals a whole number of months, to use either the 12-month method or the 365-day method to compute the number of unit periods per year.

(3) *Text of amendments.* In consideration of the foregoing and pursuant to the authority granted in § 105 of the Truth in Lending Act as amended by Sec. 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604), the Board amends Regulation Z (12 CFR Part 226) as follows:

1. Effective April 1, 1982, all sections of Regulation Z in effect on March 31, 1981, are removed; all material accompanying Regulation Z in effect on March 31, 1981 (including appendices, interpretations, official staff interpretations, and supplements), is also removed effective April 1, 1982.

2. Effective April 1, 1981, Regulation Z Part 226 is revised as follows:

PART 226—TRUTH IN LENDING

Subpart A—General

Sec.
226.1 Authority, purpose, coverage, organization, enforcement and liability.
226.2 Definitions and rules of construction.
226.3 Exempt transactions.
226.4 Finance charge.

Subpart B—Open-End Credit

226.5 General disclosure requirements.
226.6 Initial disclosure statement.
226.7 Periodic statement.
226.8 Identification of transactions.
226.9 Subsequent disclosure requirements.
226.10 Prompt crediting of payments.
226.11 Treatment of credit balances.
226.12 Special credit card provisions.
226.13 Billing error resolution.
226.14 Determination of annual percentage rate.
226.15 Right of rescission.
226.16 Advertising.

Subpart C—Closed-End Credit

Sec.
226.17 General disclosure requirements.
226.18 Content of disclosures.
226.19 Certain residential mortgage transactions.
226.20 Subsequent disclosure requirements.
226.21 Treatment of credit balances.
226.22 Determination of annual percentage rate.
226.23 Right of rescission.
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Subpart D—Miscellaneous

226.25 Record retention.
226.26 Use of annual percentage rate in oral disclosures.
226.27 Spanish language disclosures.
226.28 Effect on state laws.
226.29 State exemptions.
Appendix A—Effect on state laws.
Appendix B—State exemptions.
Appendix C—Issuance of staff interpretations.
Appendix D—Multiple advance construction loans.
Appendix E—Rules for card issuers that bill on a transaction-by-transaction basis.
Appendix F—Annual percentage rate computations for certain open-end credit plans.
Appendix G—Open-end model forms and clauses.
Appendix H—Closed-end model forms and clauses.
Appendix I—Federal enforcement agencies.
Appendix J—Annual percentage rate computations for closed-end credit transactions.

Authority: Sec. 105 of the Truth in Lending Act as amended by section 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604 *et seq.*).

Subpart A—General

§ 226.1 Authority, purpose, coverage, organization, enforcement and liability.

(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 and Fair Credit Billing Acts, which are contained in Title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*).

(b) *Purpose.* The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The regulation also gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not govern charges for consumer credit.

(c) *Coverage.* (1) In general, this regulation applies to each individual or business that offers or extends credit when four conditions are met: (i) the credit is offered or extended to consumers; (ii) the offering or extension of credit is done regularly;[1] (iii) the credit is subject to a finance charge or is payable by a written agreement in more than 4 installments; and (iv) the credit is primarily for personal, family, or household purposes.

(2) If a credit card is involved, however, certain provisions apply even if the credit is not subject to a finance charge, or is not payable by a written agreement in more than 4 installments, or if the credit card is to be used for business purposes.

(d) *Organization.* The regulation is divided into subparts and appendices as follows:

(1) Subpart A contains general information. It sets forth: (i) the authority, purpose, coverage, and organization of the regulation; (ii) the definitions of basic terms; (iii) the transactions that are exempt from coverage; and (iv) the method of determining the finance charge.

(2) Subpart B contains the rules for open-end credit. It requires that initial disclosures and periodic statements be provided. It also describes special rules that apply to credit card transactions, treatment of payments and credit balances, procedures for resolving credit billing errors, annual percentage rate calculations, rescission requirements, and advertising rules.

(3) Subpart C relates to closed-end credit. It contains rules on disclosures, treatment of credit balances, annual percentage rate calculations, rescission requirements, and advertising.

(4) Subpart D contains rules on oral disclosures, Spanish language disclosure in Puerto Rico, record retention, effect on state laws, and state exemptions.

(5) There are several appendices containing information such as the procedures for determinations about state laws, state exemptions and issuance of staff interpretations, special rules for certain kinds of credit plans, a list of enforcement agencies, and the rules for computing annual percentage rates in closed-end credit transactions.

(e) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 113, 130, 131, and 134 contain provisions relating to liability for failure to comply with the requirements of the act and the regulation.

[1] The meaning of "regularly" is explained in the definition of "creditor" in § 226.2(a).

§ 226.2 Definitions and rules of construction.

(a) *Definitions.* For purposes of this regulation, the following definitions apply:

(1) *"Act"* means the Truth in Lending Act (15 U.S.C. 1601 *et seq.).*

(2) *"Advertisement"* means a commercial message in any medium that promotes, directly or indirectly, a credit transaction.

(3) *"Arranger of credit"* means a person who regularly arranges for the extension of consumer credit [2] by another person if:

(i) A finance charge may be imposed for that credit, or the credit is payable by written agreement in more than 4 installments (not including a downpayment); and

(ii) The person extending the credit is not a creditor.

(4) *"Billing cycle"* or *"cycle"* means the interval between the days or dates of regular periodic statements. These intervals shall be equal and no longer than a quarter of a year. An interval will be considered equal if the number of days in the cycle does not vary more than 4 days from the regular day or date of the periodic statement.

(5) *"Board"* means the Board of Governors of the Federal Reserve System.

(6) *"Business day"* means a day on which a creditor's offices are open to the public for carrying on substantially all of its business functions. However, for purposes of rescission under §§ 226.15 and 226.23, the term means all calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(a), such as New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

(7) *"Card issuer"* means a person that issues a credit card or that person's agent with respect to the card.

(8) *"Cardholder"* means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay consumer credit obligations arising from the issuance of a credit card to another natural person. For purposes of § 226.12(a) and (b), the term includes any person to whom a credit card is issued for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

(9) *"Cash price"* means the price at which a creditor, in the ordinary course of business, offers to sell for cash the property or service that is the subject of the transaction. At the creditor's option, the term may include the price of accessories, services related to the sale, service contracts and taxes and fees for license, title, and registration. The term does not include any finance charge.

(10) *"Closed-end credit"* means consumer credit other than "open-end credit" as defined in this section.

(11) *"Consumer"* means a cardholder or a natural person to whom consumer credit is offered or extended. However, for purposes of rescission under §§ 226.15 and 226.23, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest.

(12) *"Consumer credit"* means credit offered or extended to a consumer primarily for personal, family, or household purposes.

(13) *"Consummation"* means the time that a consumer becomes contractually obligated on a credit transaction.

(14) *"Credit"* means the right to defer payment of debt or to incur debt and defer its payment.

(15) *"Credit card"* means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.

(16) *"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:

(i) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

(ii) 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.

(17) "*Creditor*" means:

(i) A person (A) who regularly extends consumer credit [3] that is subject to a finance charge or is payable by written agreement in more than 4 installments (not including a downpayment), and (B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(ii) An arranger of credit.

(iii) For purposes of §§ 226.4(c)(8) (discounts), 226.9(d) (finance charge imposed at time of transaction), and 226.12(e) (Prompt notification of returns and crediting of refunds), a person that honors a credit card.

(iv) For purposes of Subpart B, any card issuer that extends either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than 4 installments.

(v) For purposes of Subpart B (except for the finance charge disclosures contained in §§ 226.6(a) and 226.7 (d) through (g) and the right of rescission set forth in § 226.15) and Subpart C, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than 4 installments.

(18) "*Downpayment*" means an amount, including the value of any property used as a trade-in, paid to a seller to reduce the cash price of goods or services purchased in a credit sale transaction. A deferred portion of a downpayment may be treated as part of the downpayment if it is payable not later than the due date of the second otherwise regularly scheduled payment and is not subject to a finance charge.

(19) "*Dwelling*" means a residential structure that contains 1 to 4 units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

(20) "*Open-end credit*" means consumer credit extended by a creditor under a plan in which:

(i) The creditor reasonably contemplates repeated transactions;

(ii) The creditor may impose a finance charge from time to time on an outstanding unpaid balance; and

(iii) 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 generally made available to the extent that any outstanding balance is repaid.

(21) "*Periodic rate*" means a rate 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.

(22) "*Person*" means a natural person or an organization, including a corporation, partnership, proprietorship,

[2] A person regularly arranges for the extension of consumer credit only if it arranged credit more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

[3] A person regularly extends consumer credit only if it extended credit more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

association, cooperative, estate, trust, or government unit.

(23) "*Prepaid finance charge*" means any finance charge paid separately in cash or by check before or at consummation of a transaction, or withheld from the proceeds of the credit at any time.

(24) "*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 in the consumer's principal dwelling to finance the acquisition or initial construction of that dwelling.

(25) "*Security interest*" means an interest in property that secures performance of a consumer credit obligation and that is recognized by state or federal law. It does not include incidental interests such as interests in proceeds, accessions, additions, fixtures, insurance proceeds (whether or not the creditor is a loss payee or beneficiary), premium rebates, or interests in after-acquired property. For purposes of disclosure under §§ 226.6 and 226.18, the term does not include an interest that arises solely by operation of law. However, for purposes of the right of rescission under §§ 226.15 and 226.23, the term does include interests that arise solely by operation of law.

(26) "*State*" means any state, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(b) *Rules of construction.* For purposes of this regulation, the following rules of construction apply:

(1) Where appropriate, the singular form of a word includes the plural form and plural includes singular.

(2) Where the words "obligation" and "transaction" are used in this regulation, they refer to a consumer credit obligation or transaction, depending upon the context. Where the word "credit" is used in this regulation, it means "consumer credit" unless the context clearly indicates otherwise.

(3) Unless defined in this regulation, the words used have the meanings given to them by state law or contract.

(4) Footnotes have the same legal effect as the text of the regulation.

§ 226.3 Exempt transactions.

This regulation does not apply to the following:

(a) *Business, commercial, agricultural, or organizational credit.*[4]

(1) An extension of credit primarily for a business, commercial or agricultural purpose.

(2) An extension of credit to other than a natural person, including credit to government agencies or instrumentalities.

(b) *Credit over $25,000 not secured by real property or a dwelling.* An extension of credit not secured by real property, or by personal property used or expected to be used as the principal dwelling of the consumer, in which the amount financed exceeds $25,000 or in which there is an express written commitment to extend credit in excess of $25,000.

(c) *Public utility credit.* An extension of credit that involves public utility services provided through pipe, wire, other connected facilities, or radio or similar transmission (including extensions of such facilities), 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 accounts.* Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(e) *Home fuel budget plans.* An installment agreement for the purchase of home fuels in which no finance charge is imposed.

§ 226.4 Finance charge.

(a) *Definition.* The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

(b) *Example of finance charge.* The finance charge includes the following types of charges, except for charges specifically excluded by paragraphs (c) through (e) of this section:

(1) Interest, time price differential, and any amount payable under an add-on or discount system of additional charges.

(2) Service, transaction, activity, and carrying charges, including any charge imposed on a checking or other transaction account to the extent that the charge exceeds the charge for a similar account without a credit feature.

(3) Points, loan fees, assumption fees, finder's fees, and similar charges.

(4) Appraisal, investigation, and credit report fees.

(5) Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss.

(6) Charges imposed on a creditor by another person for purchasing or accepting a consumer's obligation, if the consumer is required to pay the charges in cash, as an addition to the obligation, or as a deduction from the proceeds of the obligation.

(7) Premiums or other charges for credit life, accident, health, or loss-of-income insurance, written in connection with a credit transaction.

(8) Premiums or other charges 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 a credit transaction.

(9) Discounts for the purpose of inducing payment by a means other than the use of credit.

(c) *Charges excluded from the finance charge.* The following charges are not finance charges:

(1) Application fees charged to all applicants for credit, whether or not credit is actually extended.

(2) Charges for actual unanticipated late payment, for exceeding a credit limit, or for delinquency, default, or a similar occurrence.

(3) Charges imposed by a financial institution for paying items that overdraw an account, unless the payment of such items and the imposition of the charge were previously agreed upon in writing.

(4) Fees charged for participation in a credit plan, whether assessed on an annual or other periodic basis.

(5) Seller's points.

(6) Interest forfeited as a result of an interest reduction required by law on a time deposit used as security for an extension of credit.

(7) The following fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount:

(i) Fees for title examination, abstract of title, title insurance, property survey, and similar purposes.

(ii) Fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents.

(iii) Notary, appraisal, and credit report fees.

(iv) Amounts required to be paid into escrow or trustee accounts if the

[4] Extensions of credit that are exempt under paragraph (a)(1) and (2) remain subject to § 226.12(a) and (b) governing the issuance of credit cards and the liability for their unauthorized use.

amounts would not otherwise be included in the finance charge.

(8) Discounts offered to induce payment for a purchase by cash, check, or other means, as provided in § 167(b) of the act.

(d) *Insurance.* (1) Premiums for credit life, accident, health, or loss-of-income insurance may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage is not required by the creditor, and this fact is disclosed.

(ii) The premium 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 also shall be disclosed. The premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under § 226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(iii) The consumer signs or initials an affirmative written request for the insurance after receiving the disclosures specified in this paragraph. Any consumer in the transaction may sign or initial the request.

(2) Premiums for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property,[5] may be excluded from the finance charge if the following conditions are met:

(i) The insurance coverage may be obtained from a person of the consumer's choice,[6] and this fact is disclosed.

(ii) If the coverage is obtained from or through the creditor, the premium for the initial term of insurance coverage shall be disclosed. If the term of insurance is less than the term of the transaction, the term of insurance shall also be disclosed. The premium may be disclosed on a unit-cost basis only in open-end credit transactions, closed-end credit transactions by mail or telephone under § 226.17(g), and certain closed-end credit transactions involving an insurance plan that limits the total amount of indebtedness subject to coverage.

(e) *Certain security interest charges.* If itemized and disclosed, the following charges may be excluded from the finance charge:

(1) Taxes and 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) The premium 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) *Prohibited offsets.* Interest, dividends, or other income received or to be received by the consumer on deposits or investments shall not be deducted in computing the finance charge.

Subpart B—Open-End Credit

§ 226.5 General disclosure requirements.

(a) *Form of disclosures.* (1) The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing,[7] in a form that the consumer may keep.[8]

(2) The terms "finance charge" and "annual percentage rate," when required to be disclosed with a corresponding amount or percentage rate, shall be more conspicuous than any other required disclosure.[9]

(b) *Time of disclosures.* (1) *Initial disclosures.* The creditor shall furnish the initial disclosure statement required by § 226.6 before the first transaction is made under the plan.

(2) *Periodic statements.* (i) The creditor shall mail or deliver a periodic statement as required by § 226.7 for each billing cycle at the end of which an account has a debit or credit balance of more than $1 or on which a finance charge has been imposed. A periodic statement need not be sent for an account if the creditor deems it uncollectible, or if delinquency collection proceedings have been instituted, or if furnishing the statement would violate federal law.

(ii) The creditor shall mail or deliver the periodic statement at least 14 days prior to any date or the end of any time period required to be disclosed under § 226.7(j) in order for the consumer to avoid an additional finance or other charge.[10] A creditor that fails to meet this requirement shall not collect any finance or other charge imposed as a result of such failure.

(c) *Basis of disclosures and use of estimates.* Disclosures shall reflect the terms of the legal obligation between the parties. If any information necessary for accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available and shall state clearly that the disclosure is an estimate.

(d) *Multiple creditors; multiple consumers.* If the credit plan involves more than one creditor, only one set of disclosures shall be given, and the creditors shall agree among themselves which creditor must comply with the requirements that this regulation imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the account. If the right of rescission under § 226.15 is applicable, however, the disclosures required by §§ 226.6 and 226.15(b) shall be made to each consumer having the right to rescind.

(e) *Effect of subsequent events.* If a disclosure becomes inaccurate because of an event that occurs after the creditor mails or delivers the disclosures, the resulting inaccuracy is not a violation of this regulation, although new disclosures may be required under § 226.9(c).

§ 226.6 Initial disclosure statement.

The creditor shall disclose to the consumer, in terminology consistent with that to be used on the periodic statement, each of the following items, to the extent applicable:

(a) *Finance charge.* The circumstances under which a finance charge will be imposed and an explanation of how it will be determined, as follows:

(1) 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. If such a time period is provided, a creditor may, at its option and without disclosure, impose no finance charge when payment is received after the time period's expiration.

(2) A disclosure of each periodic rate that may be used to compute the finance charge, the range of balances to which it is applicable,[11] and the corresponding

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[5] This includes single interest insurance if the insurer waives all right of subrogation against the consumer.

[6] A creditor may reserve the right to refuse to accept, for reasonable cause, an insurer offered by the consumer.

[7] The disclosure required by § 226.9(d) when a finance charge is imposed at the time of a transaction need not be written.

[8] The alternative summary billing rights statement provided for in § 226.9(a)(2), and the disclosures made under § 226.10(b) about payment requirements need not be in a form that the consumer can keep.

[9] The terms need not be more conspicuous when used under § 226.7(d) on periodic statements and under § 226.16 in advertisements.

[10] This timing requirement does not apply if the creditor is unable to meet the requirement because of an act of God, war, civil disorder, natural disaster, or strike.

[11] A creditor is not required to adjust the range of balances disclosure to reflect the balance below which only a minimum charge applies.

annual percentage rate.[12] When different periodic rates apply to different types of transactions, the types of transactions to which the periodic rates apply shall also be disclosed.

(3) An explanation of the method used to determine the balance on which the finance charge may be computed.

(4) An explanation of how the amount of any finance charge will be determined,[13] including a description of how any finance charge other than the periodic rate will be determined.

(b) *Other charges.* The amount of any charge other than a finance charge that may be imposed as part of the plan, or an explanation of how the charge will be determined.

(c) *Security interests.* The fact that the creditor has or will acquire a security interest in the property purchased under the plan, or in other property identified by item or type.

(d) *Statement of billing rights.* A statement that outlines the consumer's rights and the creditor's responsibilities under §§ 226.12(c) and 226.13 and that is substantially similar to the statement found in Appendix G.

§ 226.7 Periodic statement.

The creditor shall furnish the consumer with a periodic statement that discloses the following items, to the extent applicable:

(a) *Previous balance.* The account balance outstanding at the beginning of the billing cycle.

(b) *Identification of transactions.* An identification of each credit transaction in accordance with § 226.8.

(c) *Credits.* Any credit to the account during the billing cycle, including the amount and the date of crediting. The date need not be provided if a delay in crediting does not result in any finance or other charge.

(d) *Periodic rates.* Each periodic rate that may be used to compute the finance charge, the range of balances to which it is applicable,[14] and the corresponding annual percentage rate. If different periodic rates apply to different types of transactions, the types of transactions to which the periodic rates apply shall also be disclosed.

(e) *Balance on which finance charge computed.* The amount of the balance to which a periodic rate was applied and an explanation of how that balance was determined. When a balance is determined without first deducting all credits and payments made during the billing cycle, that fact and the amount of the credits and payments shall be disclosed.

(f) *Amount of finance charge.* The amount of any finance charge debited or added to the account during the billing cycle, using the term "finance charge." The components of the finance charge shall be individually itemized and identified to show the amount(s) due to the appliction of any periodic rates and the amount(s) of any other type of finance charge. If there is more than one periodic rate, the amount of the finance charge attributable to each rate need not be separately itemized and identified.

(g) *Annual percentage rate.* When a finance charge is imposed during the billing cycle, the annual percentage rate(s) determined under § 226.14, using the term "annual percentage rate."

(h) *Other charges.* The amounts, itemized and identified by type, of any charges other than finance charges debited to the account during the billing cycle.

(i) *Closing date of billing cycle; new balance.* The closing date of the billing cycle and the account balance outstanding on that date.

(j) *Free-ride period.* The date by which or the time period within which the new balance or any protion of the new balance must be paid to avoid additional finance charges. If such a time period is provided, a creditor may, at its option and without disclosure, impose no finance charge when payment is received after the time period's expiration.

(k) *Address for notice of billing errors.* The address to be used for notice of billing errors. Alternatively, the address may be provided on the billing rights statement permitted by § 226.9(a)(2).

§ 226.8 Identification of transactions.

The creditor shall identify credit transactions on or with the first periodic statement that reflects the transaction by furnishing the following information, as applicable.[16]

(a) *Sale credit.* For each credit transaction involving the sale of property or services, the following rules shall apply:

(1) *Copy of credit document provided.* When an actual copy of the receipt or other credit document is provided with the first periodic statement reflecting the transaction, the transaction is sufficiently identified if the amount of the transaction and either the date of the transaction or the date of debiting the transaction to the consumer's account are disclosed on the copy or on the periodic statement.

(2) *Copy of credit document not provided—creditor and seller same or related person(s).* When the creditor and the seller are the same person or related persons, and an actual copy of the receipt or other credit document is not provided with the periodic statement, the creditor shall disclose the amount and date of the transaction, and a brief identification [17] of the property or services purchased.[18]

(3) *Copy of credit document not provided—creditor and seller not same or related person(s).* When the creditor and seller are not the same person or related persons, and an actual copy of the receipt or other credit document is not provided with the periodic statement; the creditor shall disclose the amount and date of the transaction; the seller's name; and the city, and state or foreign country where the transaction took place.[19]

(b) *Nonsale credit.* A nonsale credit transaction is sufficiently identified if the first periodic statement reflecting the transaction discloses a brief identification of the transaction;[20] the

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[12] If a creditor is offering a variable rate plan, the creditor shall also disclose: (1) the circumstances under which the rate(s) may increase; (2) any limitations on the increase; and (3) the effect(s) of an increase.

[13] 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.

[14] See footnotes 11 and 13.

[15] If a variable rate plan is involved, the creditor shall disclose the fact that the periodic rate(s) may vary.

[16] Failure to disclose the information required by this section shall not be deemed a failure to comply with the regulation if: (1) the creditor maintains procedures reasonably adapted to obtain and provide the information; and (2) the creditor treats an inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with § 226.13(e). This applies to transactions that take place outside a state, as defined in § 226.2(a), whether or not the creditor maintains procedures reasonably adapted to obtain the required information.

[17] As an alternative to the brief identification, the creditor may disclose a number or symbol that also appears on the receipt or other credit document given to the consumer, if the number or symbol reasonably identifies that transaction with that creditor, and if the creditor treats an inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with § 226.13(e).

[18] An identification of property or services may be replaced by the seller's name and location of the transaction when: (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 the consumer with point-of-sale documentation for that transaction; and (4) the creditor treats an inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with § 226.13(e).

[19] The creditor may omit the address or provide any suitable designation that helps the consumer to identify the transaction when the transaction (1) took place at a location that is not fixed; (2) took place in the consumer's home; or (3) was a mail or telephone order.

[20] See footnote 17.

one of the following dates: the date of the transaction, the date of debiting the transaction to the consumer's account, or, if the consumer signed the credit document, the date appearing on the document. If an actual copy of the receipt or other credit document is provided and that copy shows the amount and at least one of the specified dates, the brief identification may be omitted.

§ 226.9 Subsequent disclosure requirements.

(a) *Furnishing statement of billing rights.* (1) *Annual statement.* The creditor shall mail or deliver the billing rights statement required by § 226.6(d) at least once per calendar year, at intervals of not less than 6 months nor more than 18 months, either to all consumers or to each consumer entitled to receive a periodic statement under § 226.5(b)(2) for any one billing cycle.

(2) *Alternative summary statement.* As an alternative ly similar to that in Appendix G.

(b) *Disclosures for supplemental credit devices and additional features.* (1) If a creditor, within 30 days after mailing or delivering the initial disclosures under § 226.6(a), adds a credit feature to the consumer's account or mails or delivers to the consumer a credit device for which the finance charge terms are the same as those previously disclosed, no additional disclosures are necessary. After 30 days, if the creditor adds a credit feature or furnishes a credit device (other than as a renewal, resupply, or the original issuance of a credit card) on the same finance charge terms, the creditor shall disclose, before the consumer uses the feature or device for the first time, that it is for use in obtaining credit under the terms previously disclosed.

(2) Whenever a credit feature is added or a credit device is mailed or delivered, and the finance charge terms for the feature or device differ from disclosures previously given, the disclosures required by § 226.6(a) that are applicable to the added feature or device shall be given before the consumer uses the feature or device for the first time.

(c) *Change in terms.* (1) *Written notice required.* Whenever any term required to be disclosed under § 226.6 is changed or the required minimum periodic payment is increased, the creditor shall mail or deliver written notice of the change to each consumer who may be affected. The notice shall be mailed or delivered at least 15 days prior to the effective date of the change. The 15-day timing requirement does not apply if the change has been agreed to by the consumer, or if a periodic rate or other finance charge is increased because of the consumer's delinquency or default; the notice shall be given, however, before the effective date of the change.

(2) *Notice not required.* No notice under this section is required when the change involves late payment charges, charges for documentary evidence, or over-the-limit charges; a reduction of any component of a finance or other charge; suspension of future credit privileges or termination of an account or plan; or when the change results from an agreement involving a court proceeding, or from the consumer's default or delinquency (other than an increase in the periodic rate or other finance charge).

(d) *Finance charge imposed at time of transaction.* (1) Any person, other than the card issuer, who imposes a finance charge at the time of honoring a consumer's credit card, shall disclose the amount of that finance charge prior to its imposition.

(2) The card issuer, if other than the person honoring the consumer's credit card, shall have no responsibility for the disclosure required by paragraph (d)(1) of this section, and shall not consider any such charge for purposes of §§ 226.6 and 226.7.

§ 226.10 Prompt crediting of payments.

(a) *General rule.* A creditor shall credit a payment to the consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance or other charge or except as provided in paragraph (b) of this section.

(b) *Specific requirements for payments.* If a creditor specifies, on or with the periodic statement, requirements for the consumer to follow in making payments, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within 5 days of receipt.

(c) *Adjustment of account.* If a creditor fails to credit a payment, as required by paragraphs (a) and (b) of this section, 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.

§ 226.11 Treatment of credit balances.

When a credit balance in excess of $1 is created on a credit account (through transmittal of funds to a creditor in excess of the total balance due on an account, through rebates of unearned finance charges or insurance premiums, or through amounts otherwise owed to or held for the benefit of a consumer), the creditor shall:

(a) Credit the amount of the credit balance to the consumer's account;

(b) Refund any part of the remaining credit balance within 7 business days from receipt of a written request from the consumer; and

(c) Make a good faith effort to refund to the consumer by cash, check, or money order, or credit to a deposit account of the consumer, any part of the credit balance remaining in the account for more than 6 months. No further action is required if the consumer's current location is not known to the creditor and cannot be traced through the consumer's last known address or telephone number.

§ 226.12 Special credit card provisions.

(a) *Issuance of credit cards.* Regardless of the purpose for which a credit card is to be used, including business, commercial, or agricultural use, no credit card shall be issued to any person except:

(1) In response to an oral or written request or application for the card; or

(2) As a renewal of, or substitute for, an accepted credit card.[21]

(b) *Liability of cardholder for unauthorized use.* (1) *Limitation on amount.* The liability of a cardholder for unauthorized use [22] 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.* 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 adequate notice [23] of the cardholder's maximum potential liability and of means by which the card issuer may be notified of loss or theft of the card. The

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[21] For purposes of this section, "accepted credit card" means any credit card that a 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.

[22] "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.

[23] "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. The notice may be given by any means reasonably assuring receipt by the cardholder.

notice shall state that the cardholder's liability shall not exceed $50 (or any lesser amount) and that the cardholder may give oral or written notification, and shall describe a means of notification (for example, a telephone number, an address, or both); and

(iii) The card issuer has provided a means to identify the cardholder on the account or the authorized user of the card.

(3) *Notification to card issuer.* Notification to a card issuer is given when steps have been taken as may be reasonably required in the ordinary course of business to provide the card issuer with the 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 card issuer does, in fact, receive the information. Notification may be given, at the option of the person giving it, 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 state law or an agreement between a cardholder and the card issuer imposes lesser liability than that provided in this paragraph, the lesser liability shall govern.

(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, this section does not prohibit the card issuer and the organization from agreeing to liability for unauthorized use without regard to this section. However, liability for unauthorized use may be imposed on an employee of the organization, by either the card issuer or the organization, only in accordance with this section.

(c) *Right of cardholder to assert claims or defenses against card issuer.*[24] (1) *General rule.* When a person who honors a credit card fails to resolve satisfactorily a dispute as to property or services purchased with the credit card in a consumer credit transaction, the cardholder may assert against the card issuer all claims (other than tort claims) and defenses arising out of the transaction and relating to the failure to resolve the dispute. The cardholder 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.[25]

(2) *Adverse credit reports prohibited.* If, in accordance with paragraph (c)(1) of this section, the cardholder withholds payment of the amount of credit outstanding for the disputed transaction, the card issuer shall not report that amount as delinquent until the dispute is settled or judgment is rendered.

(3) *Limitations.* The rights stated in paragraphs (c)(1) and (2) of this section apply only if:

(i) The cardholder has made a good faith attempt to resolve the dispute with the person honoring the credit card; and

(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 the disputed transaction occurred in the same state as the cardholder's current designated address or, if not within the same state, within 100 miles from that address.[26]

(d) *Offsets by card issuer prohibited.* (1) A card issuer may not take any action, either 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 do any of the following with regard to funds of a cardholder held on deposit with the card issuer if the same procedure is constitutionally available to creditors generally: obtain or enforce a consensual security interest in the funds; attach or otherwise levy upon the funds; or obtain or enforce a court order relating to the funds.

(3) This paragraph does not prohibit a plan, if authorized in writing by the cardholder, under which the card issuer may periodically deduct all or part of the cardholder's credit card debt from a deposit account held with the card issuer (subject to the limitations in § 226.13(d)(1)).

(e) *Prompt notification of returns and crediting of refunds.* (1) When a 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 credit card account, that creditor shall, within 7 business days from accepting the return or forgiving the debt, transmit a credit statement to the card issuer through the card issuer's normal channels for credit statements.

(2) The card issuer shall, within 3 business days from receipt of a credit statement, credit the consumer's account with the amount of the refund.

(3) If a creditor other than a card issuer routinely gives cash refunds to consumers paying in cash, the creditor shall also give credit or cash refunds to consumers using credit cards, unless it discloses at the time the transaction is consummated that credit or cash refunds for returns are not given. This section does not require refunds for returns nor does it prohibit refunds in kind.

(f) *Discounts; tie-in arrangements.* No card issuer may, by contract or otherwise:

(1) Prohibit any person who honors a credit card from offering a discount to a consumer to induce the consumer 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 or any other person, as a condition of participation in a credit card plan. If maintenance of an account for clearing purposes is determined to be essential to the operation of the credit card plan, it may be required only if no service charges or minimum balance requirements are imposed.

(g) *Relation to Electronic Fund Transfer Act and Regulation E.* For guidance on whether Regulation Z or Regulation E applies in instances involving both credit and electronic fund transfer aspects, refer to Regulation E, 12 CFR 205.5(c) regarding issuance and 205.6(d) regarding liability for unauthorized use. On matters other than issuance and liability, this section

[24] This paragraph does not apply to the use of a check guarantee card or a debit card in connection with an overdraft credit plan, or to a check guarantee card used in connection with cash advance checks.

[25] The amount of the claim or defense that the cardholder may assert shall 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 to: (1) late charges in the order of entry to the account; then to (2) finance charges in the order of entry to the account; and then to (3) any other debits in the order of entry to the account. If 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.

[26] The limitations stated in paragraph (c)(3)(ii) of this section shall not apply when the person honoring the credit card: (1) is the same person as the card issuer; (2) is controlled by the card issuer directly or indirectly; (3) is under the direct or indirect control of a third person that also directly or indirectly controls the card issuer; (4) controls the card issuer directly or indirectly; (5) is a franchised dealer in the card issuer's products or services; or (6) has obtained the order for the disputed transaction through a mail solicitation made or participated in by the card issuer.

applies to the credit aspects of combined credit/electronic fund transfer transactions, as applicable.

§ 226.13 Billing error resolution.[27]

(a) *Definition of billing error.* For purposes of this section, the term "billing error" means:

(1) A reflection on or with a periodic statement of an extension of credit that is not made to the consumer or to a person who has actual, implied, or apparent authority to use the consumer's credit card or open-end credit plan.

(2) A reflection on or with a periodic statement of an extension of credit that is not identified in accordance with the requirements of §§ 226.7(b) and 226.8.

(3) A reflection on or with a periodic statement of 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.

(4) A reflection on a periodic statement of the creditor's failure to credit properly a payment or other credit issued to the consumer's account.

(5) A reflection on a periodic statement of a computational or similar error of an accounting nature that is made by the creditor.

(6) A reflection on a periodic statement of an extension of credit for which the consumer requests additional clarification, including documentary evidence.

(7) The creditor's failure to mail or deliver a periodic statement to the consumer's last known address if that address was received by the creditor, in writing, at least 20 days before the end of the billing cycle for which the statement was required.

(b) *Billing error notice.*[28] A billing error notice is a written notice [29] from a consumer that:

(1) Is received by a creditor at the address disclosed under § 226.7(k) no later than 60 days after the creditor transmitted the first periodic statement that reflects the alleged billing error;

(2) Enables the creditor to identify the consumer's name and account number; and

(3) To the extent possible, indicates the consumer's belief and the reasons for the belief that a billing error exists, and the type, date, and amount of the error.

(c) *Time for resolution; general procedures.* (1) The creditor shall mail or deliver written acknowledgment to the consumer within 30 days of receiving a billing error notice, unless the creditor has complied with the appropriate resolution procedures of paragraphs (e) and (f) of this section, as applicable, within the 30-day period; and

(2) The creditor shall comply with the appropriate resolution procedures of paragraphs (e) and (f) of this section, as applicable, within 2 complete billing cycles (but in no event later than 90 days) after receiving a billing error notice.

(d) *Rules pending resolution.* Until a billing error is resolved under paragraphs (e) or (f) of this section, the following rules apply:

(1) *Consumer's right to withhold disputed amount; collection action prohibited.* The consumer need not pay (and the creditor may not try to collect) any portion of any required payment that the consumer believes is related to the disputed amount (including related finance or other charges).[30] If the cardholder maintains a deposit account with the card issuer and has agreed to pay the credit card indebtedness by periodic deductions from the cardholder's deposit account, the card issuer shall not deduct any part of the disputed amount or related finance or other charges if a billing error notice is received any time up to 3 business days before the scheduled payment date.

(2) *Adverse credit reports prohibited.* The creditor or its agent shall not (directly or indirectly) make or threaten to make an adverse report to any person about the consumer's credit standing, or report that an amount or account is delinquent, because the consumer failed to pay the disputed amount or related finance or other charges.

(e) *Procedures if billing error occurred as asserted.* If a creditor determines that a billing error occurred as asserted, it shall within the time limits in paragraph (c)(2) of this section:

(1) Correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable; and

(2) Mail or deliver a correction notice to the consumer.

(f) *Procedures if different billing error or no billing error occurred.* If, after conducting a reasonable investigation,[31] a creditor determines that no billing error occurred or that a different billing error occurred from that asserted, the creditor shall within the time limits in paragraph (c)(2) of this section:

(1) Mail or deliver to the consumer an explanation that sets forth the reasons for the creditor's belief that the billing error alleged by the consumer is incorrect in whole or in part;

(2) Furnish copies of documentary evidence of the consumer's indebtedness, if the consumer so requests; and

(3) If a different billing error occurred, correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable.

(g) *Creditor's rights and duties after resolution.* If a creditor, after complying with all of the requirements of this section, determines that a consumer owes all or part of the disputed amount and related finance or other charges, the creditor:

(1) Shall promptly notify the consumer in writing of the time when payment is due and the portion of the disputed amount and related finance or other charges that the consumer still owes;

(2) Shall allow any time period disclosed under §§ 226.6(a)(1) and 226.7(j), during which the consumer can pay the amount due under paragraph (g)(1) of this section without incurring additional finance or other charges;

(3) May report an account or amount as delinquent because the amount due under paragraph (g)(1) of this section remains unpaid after the creditor has allowed any time period disclosed under §§ 226.6(a)(1) and 266.7(j) or 10 days (whichever is longer) during which the consumer can pay the amount; but

(4) May not report that an amount or account is delinquent because the

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[27] A creditor shall not accelerate any part of the consumer's indebtedness or restrict or close a consumer's account solely because the consumer has exercised in good faith rights provided by this section. A creditor may be subject to the forfeiture penalty under § 161(e) of the act for failure to comply with any of the requirements of this section.

[28] The creditor need not comply with the requirements of paragraphs (c) through (g) of this section if the consumer concludes that no billing error occurred and voluntarily withdraws the billing error notice.

[29] 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 §§ 226.6(d) and 226.9(a).

[30] A creditor is not prohibited from taking action to collect any undisputed portion of the item or bill; from deducting any disputed amount and related finance or other charges from the consumer's credit limit on the account; or from reflecting a disputed amount and related finance or other charges on a periodic statement, provided that the creditor indicates on or with the periodic statement that payment of any disputed amount and related finance or other charges is not required pending the creditor's compliance with this section.

[31] If a consumer submits a billing error notice alleging either the nondelivery of property or services under paragraph (a)(3) of this section or that information appearing on a periodic statement is incorrect because a person honoring the consumer's credit card has made an incorrect report to the card issuer, the creditor shall not deny the assertion unless it conducts a reasonable investigation and determines that the property or services were actually delivered, mailed, or sent as agreed or that the information was correct.

amount due under paragraph (g)(1) of the section remains unpaid, if the creditor receives (within the time allowed for payment in paragraph (g)(3) of this section) further written notice from the consumer that any portion of the billing error is still in dispute, unless the creditor also:

(i) Promptly 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 person to whom the creditor makes a report; and

(iii) Promptly reports any subsequent resolution of the reported delinquency to all persons to whom the creditor has made a report.

(h) *Reassertion of billing error.* A creditor that has fully complied with the requirements of this section has no further responsibilities under this section (other than as provided in paragraph (g)(4) of this section) if a consumer reasserts substantially the same billing error.

(i) *Relation to Electronic Fund Transfer Act and Regulation E.* If 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 Regulation E, 12 CFR 205.11 governing error resolution rather than those of paragraphs (a), (b), (c), (e), (f), and (h) of this section.

§ 226.14 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 ⅛ of 1 percentage point above or below the annual percentage rate determined in accordance with this section.[31a]

(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(s) to be disclosed for purposes of §§ 226.6(a)(2) and 226.16(b)(2) shall be computed by multiplying each periodic rate by the number of periods in a year.

(c) *Annual percentage rate for periodic statements.* The annual percentage rate(s) to be disclosed for purposes of § 226.7(d) shall be computed by multiplying each periodic rate by the number of periods in a year and, for purposes of § 226.7(g), shall be determined as follows:

(1) If the finance charge is determined solely by applying one or more periodic rates, at the creditor's option, either:

(i) By multiplying each periodic rate by the number of periods in a year; or

(ii) 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.

(2) If the finance charge imposed during the billing cycle is or includes a minimum, fixed, or other charge not due to the application of a periodic rate, other than a charge with respect to any specific transaction during the billing cycle, by dividing the total finance charge for the billing cycle by the amount of the balance(s) to which it is applicable[32] and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.[33]

(3) If the finance charge imposed during the billing cycle is or includes a charge relating to a specific transaction during the billing cycle (even if the total finance charge also includes any other minimum, fixed, or other charge not due to the application of a periodic rate), 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,[34] 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.[35]

(4) If the finance charge imposed during the billing cycle is or 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, 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) and (3) of this section.

(d) *Calculations where daily periodic rate applied.* If the provisions of paragraphs (c)(1)(ii) or (2) of this section apply and 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 either:

(1) By dividing the total finance charge by the average of the daily balances and multiplying the quotient by the number of billing cycles in a year; or

(2) By dividing the total finance charge by the sum of the daily balances and multiplying the quotient by 365.

§ 226.15 Right of rescission.

(a) *Consumer's right to rescind.* (1)(i) Except as provided in paragraph (a)(1)(ii) of this section, in a credit plan in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind: each credit extension made under the plan; the plan when the plan is opened; a security interest when added or increased to secure an existing plan; and the increase when a credit limit on the plan is increased.

(ii) As provided in § 125(e) of the act, the consumer does not have the right to rescind each credit extension made under the plan if such extension is made in accordance with a previously established credit limit for the plan.

(2) To exercise the right to rescind, the consumer shall notify the creditor of the rescission by mail, telegram, or other means of written communication. Notice is considered given when mailed, or when filed for telegraphic transmission, or, if sent by other means, 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 occurrence described in paragraph (a)(1) of this section that gave rise to the right of rescission, delivery of the notice required by paragraph (b) of this section, or delivery of all material

[31a] An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this regulation if: (1) the error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and (2) upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes, and notifies the Board in writing of the error in the calculation tool. This footnote shall cease to be effective on April 1, 1982.

[32] If there is no balance to which the finance charge is applicable, an annual percentage rate cannot be determined under this section.

[33] Where the finance charge imposed during the billing cycle is or includes a loan fee, points, or similar charge that relates to the opening of the account, the amount of such charge shall not be included in the calculation of the annual percentage rate.

[34] See Appendix F regarding determination of the denominator of the fraction under this paragraph.

[35] See footnote 33.

disclosures,[36] whichever occurs last. If the required notice and material disclosures are not delivered, the right to rescind shall expire 3 years after the occurrence giving rise to the right of rescission, or upon transfer of all of the consumer's interest in the property, or upon sale of the property, whichever occurs first. In the case of certain administrative proceedings, the rescission period shall be extended in accordance with § 125(f) of the act.

(4) When more than one consumer has the right to rescind, the exercise of the right by one consumer shall be effective as to all consumers.

(b) *Notice of right to rescind.* In any transaction or occurrence subject to rescission, a creditor shall deliver 2 copies of the notice of the right to rescind to each consumer entitled to rescind. The notice shall identify the transaction or occurrence and clearly and conspicuously disclose the following:

(1) The retention or acquisition of a security interest in the consumer's principal dwelling.

(2) The consumer's right to rescind, as described in paragraph (a)(1) of this section.

(3) How to exercise the right to rescind, with a form for that purpose, designating the address of the creditor's place of business.

(4) The effects of rescission, as described in paragraph (d) of this section.

(5) The date the rescission period expires.

(c) *Delay of creditor's performance.* Unless a consumer waives the right to rescind under paragraph (e) of this section, no money shall be disbursed other than in escrow, no services shall be performed, and no materials delivered until after the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded. A creditor does not violate this section if a third party with no knowledge of the event activating the rescission right does not delay in providing materials or services, as long as the debt incurred for those materials or services is not secured by the property subject to rescission.

(d) *Effects of rescission.* (1) When a consumer rescinds a transaction, the security interest giving rise to the right of rescission becomes void, and the consumer shall not be liable for any amount, including any finance charge.

(2) Within 20 calendar days after receipt of a notice of rescission, the creditor shall return any money or property that has been given to anyone in connection with the transaction and shall take any action necessary to reflect the termination of the security interest.

(3) If the creditor has delivered any money or property, the consumer may retain possession until the creditor has met its obligation under paragraph (d)(2) of this section. When the creditor has complied with that paragraph, the consumer shall tender the money or property to the creditor or, where the latter would be impracticable or inequitable, tender its reasonable value. At the consumer's option, tender of property may be made at the location of the property or at the consumer's residence. Tender of money must be made at the creditor's designated place of business. If the creditor does not take possession of the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation.

(4) The procedures outlined in paragraphs (d)(2) and (3) of this section may be modified by court order.

(e) *Consumer's waiver of right to rescind.* The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, that specifically modifies or waives the right to rescind, and that bears the signatures of the consumers entitled to rescind. Printed forms for this purpose are prohibited.

(f) *Exempt transactions.* The right to rescind does not apply to the following:

(1) A residential mortgage transaction.

(2) A credit plan in which a state agency is a creditor.

§ 226.16 Advertising.

(a) *Actually available terms.* If an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor.

(b) *Advertisement of terms that require additional disclosures.* If any of the terms required to be disclosed under § 226.6 is set forth in an advertisement, the advertisement shall also clearly and conspicuously set forth the following:

(1) Any minimum, fixed, transaction, activity or similar charge that could be imposed.

(2) Any periodic rate that may be applied expressed as an annual percentage rate as determined under § 226.14(b). If the plan provides for a variable periodic rate, that fact shall be disclosed.

(3) Any membership or participation fee that could be imposed.

(c) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement gives information in a table or schedule 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 terms set forth in § 226.6 appearing anywhere else in the catalog or advertisement clearly refers to that 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.

Subpart C—Closed-End Credit

§ 226.17 General disclosure requirements.

(a) *Form of disclosures.* (1) The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related [37] to the disclosures required under § 226.18.[38] The itemization of the amount financed under § 226.18(c)(1) must be separate from the other disclosures under that section.

(2) The terms "finance charge" and "annual percentage rate," when required to be disclosed under § 226.18 (d) and (e) together with a corresponding amount or percentage rate, shall be more conspicuous than any other disclosure, except the creditor's identity under § 226.18(a).

(b) *Time of disclosures.* The creditor shall make disclosures before

[36] The term "material disclosures" means the information that must be provided to satisfy the requirements in § 226.6 with regard to the method of determining the finance charge and the balance upon which a finance charge will be imposed, the annual percentage rate, and the amount or method of determining the amount of any membership or participation fee that may be imposed as part of the plan.

[37] The disclosures may include an acknowledgment of receipt, the date of the transaction, and the consumer's name, address, and account number.

[38] The following disclosures may be made together or separately from other required disclosures: the creditor's identity under § 226.18(a), the variable rate example under § 226.18(f)(4), insurance under § 226.18(n), and certain security interest charges under § 226.18(o).

consummation of the transaction. In certain residential mortgage transactions, special timing requirements are set forth in § 226.19. 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 (g) and (h) of this section.

(c) *Basis of disclosures and use of estimates.* (1) The disclosures shall reflect the terms of the legal obligation between the parties.

(2) If any information necessary for an accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available and shall state that the disclosure is an estimate.

(3) The creditor may disregard the effects of the following in making calculations and disclosures.

(i) That payments must be collected in whole cents.

(ii) That dates of scheduled payments and advances may be changed because the scheduled date is not a business day.

(iii) That months have different numbers of days.

(iv) The occurrence of leap year.

(4) In making calculations and disclosures, the creditor may disregard any 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; and

(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.

(5) If an obligation is payable on demand, the creditor shall make the disclosures based on an assumed maturity of 1 year. If an alternate maturity date is stated in the legal obligation between the parties, the disclosures shall be based on that date.

(6)(i) A series of advances under an agreement to extend credit up to a certain amount may be considered as one transaction.

(ii) When a multiple-advance loan to finance the construction of a dwelling may be permanently financed by the same creditor, the construction phase and the permanent phase may be treated as either one transaction or more than one transaction.

(d) *Multiple creditors; multiple consumers.* If a transaction involves more than one creditor, only one set of disclosures shall be given and the creditors shall agree among themselves which creditor must comply with the requirements that this regulation imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation. If the transaction is rescindable under § 226.23, however, the disclosures shall be made to each consumer who has the right to rescind.

(e) *Effect of subsequent events.* If a disclosure becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of this regulation, although new disclosures may be required under paragraph (f) of this section, § 226.19, or § 226.20.

(f) *Early disclosures.* If disclosures are given before the date of consummation of a transaction and a subsequent event makes them inaccurate, the creditor shall disclose the changed terms before consummation, if the annual percentage rate in the consummated transaction varies from the annual percentage rate disclosed under § 226.18(e) by more than ⅛ of 1 percentage point in a regular transaction, or more than ¼ of 1 percentage point in an irregular transaction, as defined in § 226.22(a).

(g) *Mail or telephone orders—delay in disclosures.* If a creditor receives a purchase order or a request for an extension of credit by mail, telephone, or any other written or electronic communication without face-to-face or direct telephone solicitation, the creditor may delay the disclosures until the due date of the first payment, if the following information for representative amounts or ranges of credit is made available in written form to the consumer or to the public before the actual purchase order or request:

(1) The cash price or the principal loan amount.

(2) The total sale price.

(3) The finance charge.

(4) The annual percentage rate, and if the rate may increase after consummation, the following disclosures:

(i) The circumstances under which the rate may increase.

(ii) Any limitations on the increase.

(iii) The effect of an increase.

(5) The terms of repayment.

(h) *Series of sales—delay in disclosures.* If a credit sale is one of a series made under an agreement providing that subsequent sales may be added to an outstanding balance, the creditor may delay the required disclosures until the due date of the first payment for the current sale, if the following two conditions are met:

(1) The consumer has approved in writing the annual percentage rate or rates, the range of balances to which they apply, and the method of treating any unearned finance charge on an existing balance.

(2) The creditor retains no security interest in any property after the creditor has received payments equal to the cash price and any finance charge attributable to the sale of that property. For purposes of this provision, in the case of items purchased on different dates, the first purchased is deemed the first item paid for; in the case of items purchased on the same date, the lowest priced is deemed the first item paid for.

(i) *Interim student credit extensions.* For each transaction involving an interim credit extension under a student credit program, the creditor need not make the following disclosures: the finance charge under § 226.18(d), the payment schedule under § 226.18(g), the total of payments under § 226.18(h), or the total sale price under § 226.18(j).

§ 226.18 Content of disclosures.

For each transaction, the creditor shall disclose the following information as applicable:

(a) *Creditor.* The identity of the creditor making the disclosures.

(b) *Amount financed.* The "amount financed," using that term, and a brief description such as "the amount of credit provided to you or on your behalf." The amount financed is calculated by:

(1) Determining the principal loan amount or the cash price (subtracting any downpayment);

(2) Adding any other amounts that are financed by the creditor and are not part of the finance charge; and

(3) Subtracting any prepaid finance charge.

(c) *Itemization of amount financed.* (1) A separate written itemization of the amount financed, including: [39]

(i) The amount of any proceeds distributed directly to the consumer.

(ii) The amount credited to the consumer's account with the creditor.

(iii) Any amounts paid to other persons by the creditor on the consumer's behalf. The creditor shall identify those persons.[40]

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[39] Good faith estimates of settlement costs provided for transactions subject to the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*) may be substituted for the disclosures required by paragraph (c) of this section.

[40] The following payees may be described using generic or other general terms and need not be

Continued

(iv) The prepaid finance charge.

(2) The creditor need not comply with paragraph (c)(1) of this section if the creditor provides a statement that the consumer has the right to receive a written itemization of the amount financed, together with a space for the consumer to indicate whether it is desired, and the consumer does not request it.

(d) *Finance charge.* The "finance charge," using that term, and a brief description such as "the dollar amount the credit will cost you."[41]

(e) *Annual percentage rate.* The "annual percentage rate," using that term, and a brief description such as "the cost of your credit as a yearly rate."[42]

(f) *Variable rate.* If the annual percentage rate may increase after consummation, the following disclosures:[43]

(1) The circumstances under which the rate may increase.

(2) Any limitations on the increase.

(3) The effect of an increase.

(4) An example of the payment terms that would result from an increase.

(g) *Payment schedule.* The number, amounts, and timing of payments scheduled to repay the obligation.

(1) In a demand obligation with no alternate maturity date, the creditor may comply with this paragraph by disclosing the due dates or payment periods of any scheduled interest payments for the first year.

(2) In a transaction in which a series of payments varies because a finance charge is applied to the unpaid principal balance, the creditor may comply with this paragraph by disclosing the following information:

(i) The dollar amounts of the largest and smallest payments in the series.

(ii) A reference to the variations in the other payments in the series.

(h) *Total of payments.* The "total of payments," using that term, and a descriptive explanation such as "the amount you will have paid when you have made all scheduled payments."[44]

(i) *Demand feature.* If the obligation has a demand feature, that fact shall be disclosed. When the disclosures are based on an assumed maturity of 1 year as provided in § 226.17(c)(5), that fact shall also be disclosed.

(j) *Total sale price.* In a credit sale, the "total sale price," using that term, and a descriptive explanation (including 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 (b)(2), and the finance charge disclosed under paragraph (d) of this section.

(k) *Prepayment.* (1) When an obligation includes a finance charge computed from time to time by application of a rate to the unpaid principal balance, a statement indicating whether or not a penalty may be imposed if the obligation is prepaid in full.

(2) When an obligation includes a finance charge other than the finance charge described in paragraph (k)(1) of this section, a statement indicating whether or not the consumer is entitled to a rebate of any finance charge if the obligation is prepaid in full.

(l) *Late payment.* Any dollar or percentage charge that may be imposed before maturity due to a late payment, other than a deferral or extension charge.

(m) *Security interest.* The fact that the creditor has or will acquire a security interest in the property purchased as part of the transaction, or in other property identified by item or type.

(n) *Insurance.* The items required by § 226.4(d) in order to exclude certain insurance premiums from the finance charge.

(o) *Certain security interest charges.* The disclosures required by § 226.4(e) in order to exclude from the finance charge certain fees prescribed by law or certain premiums for insurance in lieu of perfecting a security interest.

(p) *Contract reference.* A statement that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties. At the creditor's option, the statement may also include a reference to the contract for further information about security interests and, in a residential mortgage transaction, about the creditor's policy regarding assumption of the obligation.

(q) *Assumption policy.* In a residential mortgage transaction, a statement whether or not a subsequent purchaser consumer may be permitted to assume the remaining obligation on its original terms.

(r) *Required deposit.* If the creditor requires the consumer to maintain a deposit as a condition of the specific transaction, a statement that the annual percentage rate does not reflect the effect of the required deposit.[45]

§ 226.19 Certain residential mortgage transactions.

(a) *Time of disclosure.* In a residential mortgage transaction subject to the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*) the creditor shall make good faith estimates of the disclosures required by § 226.18 before consummation, or shall deliver or place them in the mail not later than 3 business days after the creditor receives the consumer's written application, whichever is earlier.

(b) *Redisclosure required.* If the annual percentage rate in the consummated transaction varies from the annual percentage rate disclosed under § 226.18(e) by more than ⅛ of 1 percentage point in a regular transaction or more than ¼ of 1 percentage point in an irregular transaction, as defined in § 226.22, the creditor shall disclose the changed terms no later than consummation or settlement.

§ 226.20 Subsequent disclosure requirements.

(a) *Refinancings.* A refinancing occurs when an existing obligation that was subject to this subpart is satisfied and replaced by a new obligation undertaken by the same consumer. A refinancing is a new transaction requiring new disclosures to the consumer. The new finance charge shall include any unearned portion of the old finance charge that is not credited to the existing obligation. The following shall not be treated as a refinancing:

(1) A renewal of a single payment obligation with no change in the original terms.

(2) A reduction in the annual percentage rate with a corresponding change in the payment schedule.

(3) An agreement involving a court proceeding.

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further identified: public officials or government agencies, credit reporting agencies, appraisers, and insurance companies.

[41] The finance charge shall be considered accurate if it is not more than $5 above or below the exact finance charge in a transaction involving an amount financed of $1,000 or less, or not more than $10 above or below the exact finance charge in a transaction involving an amount financed of more that $1,000.

[42] 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.

[43] Information provided in accordance with variable rate regulations of other federal agencies may be substituted for the disclosures required by paragraph (f) of this section.

[44] In any transaction involving a single payment, the creditor need not disclose the total of payments.

[45] A required deposit need not include, for example: (1) an escrow account for items such as taxes, insurance or repairs; (2) a deposit that earns not less than 5 percent per year; or (3) payments under a Morris Plan.

(4) A change in the payment schedule or a change in collateral requirements as a result of the consumer's default or delinquency, unless the 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).

(5) The renewal of optional insurance purchased by the consumer and added to an existing transaction, if disclosures relating to the initial purchase were provided as required by this subpart.

(b) *Assumptions.* An assumption occurs when a creditor expressly agrees in writing with a subsequent consumer to accept that consumer as a primary obligor on an existing residential mortgage transaction. Before the assumption occurs, the creditor shall make new disclosures to the subsequent consumer, based on the remaining obligation. If the finance charge originally imposed on the existing obligation was an add-on or discount finance charge, the creditor need only disclose:

(1) The unpaid balance of the obligation assumed.

(2) The total charges imposed by the creditor in connection with the assumption.

(3) The information required to be disclosed under § 226.18(k), (l), (m), and (n).

(4) The annual percentage rate originally imposed on the obligation.

(5) The payment schedule under § 226.18(g) and the total of payments under § 226.18(h) based on the remaining obligation.

§ 226.21 Treatment of credit balances.

When a credit balance in excess of $1 is created in connection with a transaction (through transmittal of funds to a creditor in excess of the total balance due on an account, through rebates of unearned finance charges or insurance premiums, or through amounts otherwise owed to or held for the benefit of a consumer), the creditor shall:

(a) Credit the amount of the credit balance to the consumer's account;

(b) Refund any part of the remaining credit balance, upon the written request of the consumer; and

(c) Make a good faith effort to refund to the consumer by cash, check, or money order, or credit to a deposit account of the consumer, any part of the credit balance remaining in the account for more than 6 months, except that no further action is required if the consumer's current location is not known to the creditor and cannot be traced through the consumer's last known address or telephone number.

§ 226.22 Determination of annual percentage rate.

(a) *Accuracy of annual percentage rate.* (1) The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, that 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. Explanations, equations and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in Appendix J to this regulation.[45a]

(2) As a general rule, the annual percentage rate 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 paragraph (a)(1) of this section.

(3) In an irregular transaction, the annual percentage rate shall be considered accurate if it is not more than ¼ of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section.[46]

(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 of the tables 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 rate so determined equals the rate determined in accordance with Appendix J, 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 all 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, so long as 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 § 226.17(g)(4) (Mail or telephone orders—delay in disclosures) and (h) (Series of sales—delay in disclosures), if the same finance charge is imposed on all balances within a specified range of balances, 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.

§ 226.23 Right of rescission.

(a) *Consumer's right to rescind.* (1) In a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind the transaction, except for transactions described in paragraph (f) of this section.[47]

(2) To exercise the right to rescind, the consumer shall notify the creditor of the rescission by mail, telegram or other means of written communication. Notice is considered given when mailed, when filed for telegraphic transmission or, if sent by other means, when delivered to the creditor's designated place of business.

[45a] An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this regulation if: (1) the error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and (2) upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes and notifies the Board in writing of the error in the calculation tool. This footnote shall cease to be effective on April 1, 1982.

[46] For purposes of paragraph (a)(3) of this section, an irregular transaction is one that includes one or more of the following features: multiple advances, irregular payment periods, or irregular payment amounts (other than an irregular first period or an irregular first or final payment).

[47] For purposes of this section, the addition to an existing obligation of a security interest in a consumer's principal dwelling is a transaction. The right of rescission applies only to the addition of the security interest and not the existing obligation. The creditor shall deliver the notice required by paragraph (b) of this section but need not deliver new material disclosures. Delivery of the required notice shall begin the rescission period.

(3) The consumer may exercise the right to rescind until midnight of the third business day following consummation, delivery of the notice required by paragraph (b) of this section, or delivery of all material disclosures,[48] whichever occurs last. If the required notice or material disclosures are not delivered, the right to rescind shall expire 3 years after consummation, upon transfer of all of the consumer's interest in the property, or upon sale of the property, whichever occurs first. In the case of certain administrative proceedings, the rescission period shall be extended in accordance with § 125(f) of the act.

(4) When more than one consumer in a transaction has the right to rescind, the exercise of the right by one consumer shall be effective as to all consumers.

(b) *Notice of right to rescind.* In a transaction subject to rescission, a creditor shall deliver 2 copies of the notice of the right to rescind to each consumer entitled to rescind. The notice shall be on a separate document that identifies the transaction and shall clearly and conspicuously disclose the following:

(1) The retention or acquisition of a security interest in the consumer's principal dwelling.

(2) The consumer's right to rescind the transaction.

(3) How to exercise the right to rescind, with a form for that purpose, designating the address of the creditor's place of business.

(4) The effects of rescission, as described in paragraph (d) of this section.

(5) The date the rescission period expires.

(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 delivered until the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded.

(d) *Effects of rescission.* (1) When a consumer rescinds a transaction, the security interest giving rise to the right of rescission becomes void and the consumer shall not be liable for any amount, including any finance charge.

(2) Within 20 calendar days after receipt of a notice of rescission, the creditor shall return any money or property that has been given to anyone in connection with the transaction and shall take any action necessary to reflect the termination of the security interest.

(3) If the creditor has delivered any money or property, the consumer may retain possession until the creditor has met its obligation under paragraph (d)(2) of this section. When the creditor has complied with that paragraph, the consumer shall tender the money or property to the creditor or, where the latter would be impracticable or inequitable, tender its reasonable value. At the consumer's option, tender of property may be made at the location of the property or at the consumer's residence. Tender of money must be made at the creditor's designated place of business. If the creditor does not take possession of the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation.

(4) The procedures outlined in paragraphs (d) (2) and (3) of this section may be modified by court order.

(e) *Consumer's waiver of right to rescind.* The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signature of all of the consumers entitled to rescind. Printed forms for this purpose are prohibited.

(f) *Exempt transactions.* The right to rescind does not apply to the following:

(1) A residential mortgage transaction.

(2) A refinancing or consolidation by the same creditor of an extension of credit already secured by the consumer's principal dwelling. If the new amount financed exceeds the unpaid principal balance plus any unearned unpaid finance charge on the existing debt, this exemption applies only to the existing debt and its security interest.

(3) A transaction in which a state agency is a creditor.

(4) An advance, other than an initial advance, in a series of advances or in a series of single-payment obligations that is treated as a single transaction under § 226.17(c)(6), if the notice required by paragraph (b) of this section and all material disclosures have been given to the consumer.

(5) A renewal of optional insurance premiums that is not considered a refinancing under § 226.20(a)(5).

[48] The term "material disclosures" means the required disclosures of the annual percentage rate, the finance charge, the amount financed, the total of payments, and the payment schedule.

§ 226.24 Advertising.

(a) *Actually available terms.* If an advertisement for credit states specific credit terms, it shall state only those terms that actually are or will be arranged or offered by the creditor.

(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. 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 require additional disclosures.* (1) If any of the following terms is set forth in an advertisement, the advertisement shall meet the requirements of paragraph (c)(2) of this section:

(i) The amount or percentage of any downpayment.

(ii) The number of payments or period of repayment.

(iii) The amount of any payment.

(iv) The amount of any finance charge.

(2) An advertisement stating any of the terms in paragraph (c)(1) of this section shall state the following terms,[49] as applicable:

(i) The amount or percentage of the downpayment.

(ii) The terms of repayment.

(iii) The "annual percentage rate," using that term, and, if the rate may be increased after consummation, that fact.

(d) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by paragraph (c)(2) of this section, it shall be considered a single advertisement if:

(i) The table or schedule is clearly set forth; and

(ii) Any statement of the credit terms in paragraph (c)(1) of this section 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

[49] An example of one or more typical extensions of credit with a statement of all the terms applicable to each may be used.

the level of the more commonly sold higher-priced property or services offered.

Subpart D—Miscellaneous

§ 226.25 Record retention.

(a) *General rule.* A creditor shall retain evidence of compliance with this regulation (other than advertising requirements under §§ 226.16 and 226.24) for 2 years after the date disclosures are required to be made or action is required to be taken. The administrative agencies responsible for enforcing the regulation may require creditors under their jurisdictions to retain records for a longer period if necessary to carry out their enforcement responsibilities under § 108 of the act.

(b) *Inspection of records.* A creditor shall permit the agency responsible for enforcing this regulation with respect to that creditor to inspect its relevant records for compliance.

§ 226.26 Use of annual percentage rate in oral disclosures.

(a) *Open-end credit.* In an oral response to a consumer's inquiry about the cost of open-end credit, only the annual percentage rate or rates shall be stated, except that the periodic rate or rates also may be stated. If the annual percentage rate cannot be determined in advance because there are finance charges other than a periodic rate, the corresponding annual percentage rate shall be stated, and other cost information may be given.

(b) *Closed-end credit.* In an oral response to a consumer's inquiry about the cost of closed-end credit, only the annual percentage rate shall be stated, except that a simple annual rate or periodic rate also may be stated if it is applied to an unpaid balance. If the annual percentage rate cannot be determined in advance, the annual percentage rate for a sample transaction shall be stated, and other cost information for the consumer's specific transaction may be given.

§ 226.27 Spanish language disclosures.

All disclosures required by this regulation shall be made in the English language, except in the Commonwealth of Puerto Rico, where creditors may, at their option, make disclosures in the Spanish language. If Spanish disclosures are made, English disclosures shall be provided on the consumer's request, either in substitution for or in addition to the Spanish disclosures. This requirement for providing English disclosures on request shall not apply to advertisements subject to §§ 226.16 and 226.24 of this regulation.

§ 226.28 Effect on state laws.

(a) *Inconsistent disclosure requirements.* (1) State law requirements that are inconsistent with the requirements contained in chapter 1 (General provisions), chapter 2 (Credit transactions), or chapter 3 (Credit advertising) of the act and the implementing provisions of this regulation are preempted to the extent of the inconsistency. A state law is inconsistent if it requires a creditor to make disclosures or take actions that contradict the requirements of the federal law. A state law is contradictory if it requires the use of the same term to represent a different amount or a different meaning than the federal law, or if it requires the use of a term different from that required in the federal law to describe the same item. A creditor, state, or other interested party may request the Board to determine whether a state law requirement is inconsistent. After the Board determines that a state law is inconsistent, a creditor may not make disclosures using the inconsistent term or form.

(2)(i) State law requirements are inconsistent with the requirements contained in §§ 161 (Correction of billing errors) or 162 (Regulation of credit reports) of the act and the implementing provisions of this regulation and are preempted if they provide rights, responsibilities, or procedures for consumers or creditors that are different from those required by the federal law. However, a state law that allows a consumer to inquire about an open-end credit account and imposes on the creditor an obligation to respond to such inquiry after the time allowed in the federal law for the consumer to submit written notice of a billing error shall not be preempted in any situation where the time period for making written notice under this regulation has expired. If a creditor gives written notice of a consumer's rights under such state law, the notice shall state that reliance on the longer time period available under state law may result in the loss of important rights that could be preserved by acting more promptly under federal law; it shall also explain that the state law provisions apply only after expiration of the time period for submitting a proper written notice of a billing error under the federal law. If the state disclosures are made on the same side of a page as the required federal disclosures, the state disclosures shall appear under a demarcation line below the federal disclosures, and the federal disclosures shall be identified by a heading indicating that they are made in compliance with federal law.

(ii) State law requirements are inconsistent with the requirements contained in chapter 4 (Credit billing) of the act (other than §§ 161 or 162) and the implementing provisions of this regulation and are preempted if the creditor cannot comply with state law without violating federal law.

(iii) A state may request the Board to determine whether its law is inconsistent with chapter 4 of the act and its implementing provisions.

(b) *Equivalent disclosure requirements.* If the Board determines that a disclosure required by state law (other than a requirement relating to the finance charge or annual percentage rate) is substantially the same in meaning as a disclosure required under the act or this regulation, creditors in that state may make the state disclosure in lieu of the federal disclosure. A creditor, state, or other interested party may request the Board to determine whether a state disclosure is substantially the same in meaning as a federal disclosure.

(c) *Request for determination.* The procedures under which a request for a determination may be made under this section are set forth in Appendix A.

§ 226.29 State exemptions.

(a) *General rule.* Any state may apply to the Board to exempt a class of transactions within the state from the requirements of chapter 2 (Credit transactions) or chapter 4 (Credit billing) of the act and the corresponding provisions of this regulation. The Board shall grant an exemption if it determines that:

(1) The state law is substantially similar to the federal law or, in the case of chapter 4, affords the consumer greater protection than the federal law; and

(2) There is adequate provision for enforcement.

(b) *Civil liability.* (1) No exemptions granted under this section shall extend to the civil liability provisions of §§ 130 and 131 of the act.

(2) If an exemption has been granted, the disclosures required by the applicable state law (except any additional requirements not imposed by federal law) shall constitute the disclosures required by this act.

(c) *Applications.* The procedures under which a state may apply for an exemption under this section are set forth in Appendix B to this part.

Appendix A—Effect on State Laws

Request for Determination

A request for a determination that a state law is inconsistent or that a state

law is substantially the same as the act and regulation shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR Part 262).

Supporting Documents

A request for a determination shall include the following items:

(1) The text of the state statute, regulation, or other document that is the subject of the request.

(2) Any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies the relevant provision.

(3) A comparison of the state law with the corresponding requesting party's belief that the state provision is either inconsistent or substantially the same.

(4) Any other information that the requesting party believes may assist the Board in its determination.

Public Notice of Determination

Notice that the Board intends to make a determination (either on request or on its own motion) will be published in the **Federal Register**, with an opportunity for public comment, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision.

Subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261), all requests made, including any documents and other material submitted in support of the requests, will be made available for public inspection and copying.

Notice After Determination

Notice of a final determination will be published in the **Federal Register**, and the Board will furnish a copy of such notice to the party who made the request and to the appropriate state official.

Reversal of Determination

The Board reserves the right to reverse a determination for any reason bearing on the coverage or effect of state or federal law.

Notice of reversal of a determination will be published in the **Federal Register** and a copy furnished to the appropriate state official.

Appendix B—State Exemptions

Application

Any state may apply to the Board for a determination that a class of transactions subject to state law is exempt from the requirements of the act and this regulation. An application shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and shall be signed by the appropriate state official. The application shall be made pursuant to the procedures herein and the Board's Rules of Procedure (12 CFR Part 262).

Supporting Documents

An application shall be accompanied by:

(1) The text of the state statute or regulation that is the subject of the application, and any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies it.

(2) A comparison of the state law with the corresponding provisions of the federal law.

(3) The text of the state statute or regulation that provides for civil and criminal liability and administrative enforcement of the state law.

(4) A statement of the provisions for enforcement, including an identification of the state office that administers the relevant law, information on the funding and the number and qualifications of personnel engaged in enforcement, and a description of the enforcement procedures to be followed, including information on examination procedures, practices, and policies. If an exemption application extends to federally chartered institutions, the applicant must furnish evidence that arrangements have been made with the appropriate federal agencies to ensure adequate enforcement of state law in regard to such creditors.

(5) A statement of reasons to support the applicant's claim that an exemption should be granted.

Public Notice of Application

Notice of an application will be published, with an opportunity for public comment, in the **Federal Register**, unless the Board finds that notice and opportunity for comment would be impracticable, unnecessary, or contrary to the public interest and publishes its reasons for such decision.

Subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261), all applications made, including any documents and other material submitted in support of the applications, will be made available for public inspection and copying. A copy of the application also will be made available at the Federal Reserve Bank of each district in which the applicant is situated.

Favorable Determination

If the Board determines on the basis of the information before it that an exemption should be granted, notice of the exemption will be published in the **Federal Register**, and a copy furnished to the applicant and to each federal official responsible for administrative enforcement.

The appropriate state official shall inform the Board within 30 days of any change in its relevant law or regulations. The official shall file with the Board such periodic reports as the Board may require.

The Board will inform the appropriate state official of any subsequent amendments to the federal law, regulation, interpretations, or enforcement policies that might require an amendment to state law, regulation, interpretations, or enforcement procedures.

Adverse Determination

If the Board makes an initial determination that an exemption should not be granted, the Board will afford the applicant a reasonable opportunity to demonstrate further that an exemption is proper. If the Board ultimately finds that an exemption should not be granted, notice of an adverse determination will be published in the **Federal Register** and a copy furnished to the applicant.

Revocation of Exemption

The Board reserves the right to revoke an exemption if at any time it determines that the standards required for an exemption are not met.

Before taking such action, the Board will notify the appropriate state official of its intent, and will afford the official such opportunity as it deems appropriate in the circumstances to demonstrate that revocation is improper. If the Board ultimately finds that revocation is proper, notice of the Board's intention to revoke such exemption will be published in the **Federal Register** with a reasonable period of time for interested persons to comment.

Notice of revocation of an exemption will be published in the **Federal Register**. A copy of such notice will be furnished to the appropriate state official and to the federal officials responsible for enforcement. Upon revocation of an exemption, creditors in that state shall then be subject to the requirements of the federal law.

Appendix C—Issuance of Staff Interpretations

Official Staff Interpretations

Officials in the Board's Division of Consumer and Community Affairs are authorized to issue official staff interpretations of this regulation. These interpretations provide the protection afforded under § 130(f) of the act. Except in unusual circumstances, such interpretations will not be issued separately but will be incorporated in an official commentary to the regulation which will be amended periodically.

Requests for Issuance of Official Staff Interpretations

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.

Scope of Interpretations

No staff interpretations will be issued approving creditors' forms, statements, or calculation tools or methods. This restriction does not apply to forms, statements, tools, or methods whose use is required or sanctioned by a government agency.

Appendix D—Multiple Advance Construction Loans

Section 226.17(c)(6) permits creditors to treat multiple advance loans to finance construction of a dwelling that may be permanently financed by the same creditor either as a single transaction or as more than one transaction. If the actual schedule of advances is not known, the following methods may be used to estimate the interest portion of the finance charge and the annual percentage rate and to make disclosures. If the creditor chooses to disclose the construction phase separately, whether interest is payable periodically or at the end of construction, Part I may be used. If the creditor chooses to disclose the construction and the permanent financing as one transaction, Part II may be used.

Part I—Construction period disclosed separately.

A. If interest is payable only on the amount actually advanced for the time it is outstanding:

1. Estimated interest—Assume that one-half of the commitment amount is outstanding at the contract interest rate for the entire construction period.

2. Estimated annual percentage rate—Assume a single payment loan that matures at the end of the construction period. The finance charge is the sum of the estimated interest and any prepaid finance charge. The amount financed for computation purposes is determined by subtracting any prepaid finance charge from one-half of the commitment amount.

3. Repayment schedule—The number and amounts of any interest payments may be omitted in disclosing the payment schedule under § 226.18(g). The fact that interest payments are required and the timing of such payments shall be disclosed.

4. Amount financed—The amount financed for disclosure purposes is the entire commitment amount less any prepaid finance charge.

B. If interest is payable on the entire commitment amount without to the dates or amounts of actual disbursement:

1. Estimated interest—Assume that the entire commitment amount is outstanding at the contract interest rate for the entire construction period.

2. Estimated annual percentage rate—Assume a single payment loan that matures at the end of the construction period. The finance charge is the sum of the estimated interest and any prepaid finance charge. The amount financed for computation purposes is determined by subtracting any prepaid finance charge from one-half of the commitment amount.

3. Repayment schedule—Interest payments shall be disclosed in making the repayment schedule disclosure under § 226.18(g).

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4. Amount financed - The amount financed for disclosure purposes is the entire commitment amount less any prepaid finance charge.

Example:

Assume a $50,000 loan commitment at 10.5% interest with a 5-month construction period and a prepaid finance charge of 2 points.

(A)		(B)	
Estimated Interest:			
$25,000 x .105 ÷ 12 x 5 = $1,093.75		$50,000 x .105 ÷ 12 x 5 = $2,187.50	
Estimated APR:			
$\frac{(1,093.75 + 1,000) \times 100}{(25,000 - 1,000)} \div 5 \times 12 =$	20.94%	$\frac{(2,187.50 + 1,000) \times 100}{(25,000 - 1,000)} \div 5 \times 12 =$	31.88%
Disclosures:			
Amount financed	$49,000.00		$49,000.00
Prepaid finance charge	1,000.00		1,000.00
FINANCE CHARGE (Estimate)	2,093.75		3,187.50
ANNUAL PERCENTAGE RATE (Estimate)	20.94%		31.88%
Repayment: One payment of principal of $50,000 on 12-12-80. Interest on the amount of credit outstanding will be paid monthly.		4 monthly payments of $437.50, beginning 8-12-80, and a final payment of $50,437.50 on 12-12-80.	
Total of payments (Estimate)	$51,093.75		$52,187.50

Part II - Construction and permanent financing disclosed as one transaction.

A. The creditor shall estimate the interest payable during the construction period to be included in the total finance charge as follows:

1. If interest is payable only on the amount actually advanced for the time it is outstanding, assume that one-half of the commitment amount is outstanding at the contract interest rate for the entire construction period.

2. If interest is payable on the entire commitment amount without regard to the dates or amounts of actual disbursement, assume that the entire commitment amount is outstanding at the contract rate for the entire construction period.

B. The creditor shall compute the estimated annual percentage rate as follows:

1. Estimated interest payable during the construction period shall be treated for computation purposes as a prepaid finance charge (although it shall not be treated as a prepaid finance charge for disclosure purposes).

2. The number of payments shall not include any payments of interest only that are made during the construction period.

3. The first payment period shall consist of one-half of the construction period plus the period between the end of the construction period and the first amortization payment.

C. The creditor shall disclose the repayment schedule as follows:

1. For loans under paragraph A.1. of Part II, without reflecting the number or amounts of payments of interest only that are made during the construction period. The fact that interest payments must be made and the timing of such payments shall be disclosed.

2. For loans under paragraph A.2. of Part II, including any payments of interest only that are made during the construction period.

D. The creditor shall disclose the amount financed as the entire commitment amount less any prepaid finance charge.

Example:

Assume a $50,000 loan commitment at 10.5% interest with a 5-month construction period and a prepaid finance charge of 2 points, followed by 30-year permanent financing at the same rate with monthly amortization payments of $457.37.

Computation of Estimated APR

	Interest on Amount Advanced	Interest on Entire Commitment
Estimated construction interest:		
$25,000 x .105 ÷ 12 x 5 =	$1,093.75	$50,000 x .105 ÷ 12 x 5 = $2,187.50
Estimated total finance charge:		
360 x $457.37 =	$164,653.20	$164,653.20
Principal	- 50,000.00	- 50,000.00
Interest on Permanent Fin.	114,653.20	114,653.20
Construction Interest	+ 1,093.75	+ 2,187.50
Points	+ 1,000.00	+ 1,000.00
	$116,746.95	$117,840.70

Estimated amount financed:				
Principal	$ 50,000.00		$ 50,000.00	
Construction Interest	- 1,093.75		- 2,187.50	
Points	- 1,000.00	$ 47,906.25	- 1,000.00	$ 46,812.50
Number of payments		360		360
Payment amount		$ 457.37		$ 457.37
First payment period (5 ÷ 2) + 1		3 1/2 months	(5 ÷ 2) + 1	3 1/2 months
Estimated APR (Actuarial)		10.75%		11.03%
Estimated APR (Volume I):				
$\frac{11,674,695}{47,906.25}$ = 243.70 = FC/$100			$\frac{11,784,070}{46,812.50}$ = 251.73 = FC/$100	
First period adjustment = 3 mo., 15 days = +5.0			First period adjustment = 3 mo., 15 days = +5.0	
Using 365 payment line, the figure closest to 243.70 is 247.00, which corresponds to an APR of		11%	Using 365 payment line, the figure closest to 251.73 is 253.93, which corresponds to an APR of	11.25%

Disclosures

Amount financed	$ 49,000.00	$ 49,000.00
Prepaid finance charge	1,000.00	1,000.00
FINANCE CHARGE (Estimate)	116,746.95	117,840.70
ANNUAL PERCENTAGE RATE (Estimate)	11%	11.25%
Repayment: Interest on the amount of credit outstanding during the construction period will be paid monthly, followed by 360 monthly payments of $457.37, beginning 1-12-81.		5 monthly payments of $437.50 beginning 8-12-80, followed by 360 monthly payments of $457.37 beginning 1-12-81.
Total of payments (Estimate)	$165,746.95	$166,840.70

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Appendix E—Rules For Card Issuers That Bill on a Transaction-By-Transaction Basis

The following provisions of Subpart B apply if credit cards are issued and (1) the card issuer and the seller are the same or related persons; (2) no finance charge is imposed; (3) consumers are billed in full for each use of the card on a transaction-by-transaction basis, by means of an invoice or other statement reflecting each use of the card; and (4) no cumulative account is maintained which reflects the transactions by each consumer during a period of time, such as a month:

Section 226.6(d), and, as applicable, § 226.6(b) and (c). The disclosure required by § 226.6(b) shall be limited to those charges that are or may be imposed as a result of the deferral of payment by use of the card, such as late payment or delinquency charges.

Section 226.7(b) and § 226.7(k). Creditors may comply by placing the required disclosures on the invoice or statement sent to the consumer for each transaction.

Section 226.9(a). Creditors may comply by mailing or delivering the statement required by § 226.6(d) (See Appendix G–3) to each consumer receiving a transaction invoice during a one-month period chosen by the card issuer or by sending either the statement prescribed by § 226.6(d) or an alternative billing error rights statement substantially similar to that in Appendix G–4, with each invoice sent to a consumer.

Section 226.9(c).

Section 226.10.

Section 226.11. This section applies when a card issuer receives a payment or other credit that exceeds by more than $1 the amount due, as shown on the transaction invoice. The requirement to credit amounts to an account may be complied with by other reasonable means, such as by a credit memorandum. Since no periodic statement is provided, a notice of the credit balance shall be sent to the consumer within a reasonable period of time following its occurrence unless a refund of the credit balance is mailed or delivered to the consumer within 5 business days of its receipt by the card issuer.

Section 226.12 including § 226.12(c) and (d), as applicable. Section 226.12(e) is inapplicable.

Section 226.13, as applicable. All references to "periodic statement" shall be read to indicate the invoice or other statement for the relevant transaction. All actions with regard to correcting and adjusting a consumer's account may be taken by issuing a refund or a new invoice, or by other appropriate means consistent with the purposes of the section.

Section 226.15, as applicable.

Appendix F—Annual Percentage Rate Computations for Certain Open-End Credit Plans

In determining the denominator of the fraction under § 226.14(c)(3), no amount will be used more than once when adding the sum of the balances [1] subject to periodic rates to the sum of the amounts subject to specific transaction charges. In every case, the full amount of transactions subject to specific transaction charges shall be included in the denominator. Other balances or parts of balances shall be included according to the manner of determining the balance subject to a periodic rate, as illustrated in the following examples of accounts on monthly billing cycles:

1. Previous balance—none.

A specific transaction of $100 occurs on the 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 1½% 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 subject to the periodic rate exceeds the amount of the specific transactions (such excess in this case is 0), totaling $100.

The annual percentage rate is the quotient (which is 4½%) multiplied by 12 (the number of months in a year), i.e., 54%.

2. Previous balance—$100.

A specific transaction of $100 occurs at the 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 1½% applicable to the average daily balance. The numerator is the amount of the finance charge which is $5.25. The denominator is the amount of the transaction (which is $100), plus the amount by which the balance subject to the periodic rate exceeds the amount of the specific transaction (such excess in this case is $50), totaling $150. As explained in example 1, the annual percentage rate is 3½% 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 subject only to the periodic rate, the $100 previous balance). As explained in example 1, the annual percentage rate is 2¼% 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 consumer made a payment of $50 at the midpoint of the billing cycle, the numerator is $3.75 and the denominator is $150 (the amount of the transaction, $100, plus the balance subject to the periodic rate, the $50 adjusted balance). As explained in example 1, the annual percentage rate is 2½% 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 1½% 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 1⅔% 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 or $3.00. The periodic rate is 1½% 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 subject to the periodic rate exceeds the amount of the transaction ($0). Where the specific transaction amount exceeds the balance subject to the periodic rate, the resulting number is considered to be zero rather than a negative number ($50 − $100 = −$50). The denominator, in this case, is $100. As explained in example 1, the annual percentage rate is 3¾% x 12 = 45%.

[1] 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."

APPENDIX G—OPEN-END MODEL FORMS AND CLAUSES

G-1—Balance Computation Methods Model Clauses (§§226.6 and 226.7)

G-2—Liability for Unauthorized Use Model Clause (§226.12)

G-3—Long Form Billing Error Rights Model Form (§§226.6 and 226.9)

G-4—Alternative Billing Error Rights Model Form (§226.9)

G-5—Rescission Model Form (When Opening an Account) (§226.15)

G-6—Rescission Model Form (For Each Transaction) (§226.15)

G-7—Rescission Model Form (When Increasing the Credit Limit) (§226.15)

G-8—Rescission Model Form (When Adding a Security Interest) (§226.15)

G-9—Rescission Model Form (When Increasing the Security) (§226.15)

G-1—Balance Computation Methods Model Clauses

(a) Adjusted balance method

We figure [a portion of] the finance charge on your account by applying the periodic rate to the "adjusted balance" of your account. We get the "adjusted balance" by taking the balance you owed at the end of the previous billing cycle and subtracting [any unpaid finance charges and] any payments and credits received during the present billing cycle.

(b) Previous balance method

We figure [a portion of] the finance charge on your account by applying the periodic rate to the amount you owe at the beginning of each billing cycle [minus any unpaid finance charges.] We do not subtract any payments or credits received during the billing cycle. [The amount of payments and credits to your account this billing cycle was $_____.]

(c) Average daily balance method (excluding current transactions)

We figure [a portion of] the finance charge on your account by applying the periodic rate to the "average daily balance" of your account (excluding current transactions). To get the "average daily balance" we take the beginning balance of your account each day and subtract any payments or credits [and any unpaid finance charges]. We do not add in any new [purchases/advances/loans]. This gives us the daily balance. Then, we add all the daily balances for the billing cycle together and divide the total by the number of days in the billing cycle. This gives us the "average daily balance."

(d) Average daily balance method (including current transactions)

We figure [a portion of] the finance charge on your account by applying the periodic rate to the "average daily balance" of your account (including current transactions). To get the "average daily balance" we take the beginning balance of your account each day, add any new [purchases/advances/loans], and subtract any payments or credits, [and unpaid finance charges]. This gives us the daily balance. Then, we add up all the daily balances for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the "average daily balance."

G-2—Liability for Unauthorized Use Model Clause

You may be liable for the unauthorized use of your credit card [or other term that describes the credit card.] You will not be liable for unauthorized use that occurs after you notify [name of card issuer or its designee] at [address], orally or in writing, of the loss, theft, or possible unauthorized use. In any case, your liability will not exceed [insert $50 or any lesser amount under agreement with the cardholder.]

Appendix G

G-3—Long Form Billing Error Rights Model Form

YOUR BILLING RIGHTS
KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

Notify Us In Case of Errors or Questions About Your Bill

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us [on a separate sheet] at [address] [the address listed on your bill]. Write to us as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If you have authorized us to pay your credit card bill automatically from your savings or checking account, you can stop the payment on any amount you think is wrong. To stop the payment your letter must reach us three business days before the automatic payment is scheduled to occur.

Your Rights and Our Responsibilities After We Receive Your Written Notice

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. 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 anyone we report you to that you have a question about your bill. And, we must tell you the name of anyone we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first $50 of the questioned amount, even if your bill was correct.

Special Rule for Credit Card Purchases

If you have a problem with the quality of property or services that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the property or services. 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 if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

Appendix G

G-4—Alternative Billing Error Rights Model Form

BILLING RIGHTS SUMMARY

In Case of Errors or Questions About Your Bill

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us [on a separate sheet] at [address] [the address shown on your bill] as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

You do not have to pay any amount in question while we are investigating, but you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, we cannot report you as delinquent or take any action to collect the amount you question.

Special Rule for Credit Card Purchases

If you have a problem with the quality of goods or services that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may not have to pay the remaining amount due on the goods or services. You have this protection only when the purchase price was more than $50 and the purchase was made in your home state or within 100 miles of your mailing address. (If we own or operate the merchant, or if we mailed you the advertisement for the property or services, all purchases are covered regardless of amount or location of purchase.)

G-5—Rescission Model Form (When Opening An Account)

NOTICE OF RIGHT TO CANCEL

1. Your Right to Cancel.
We have agreed to establish an open-end credit account for you, and you have agreed to give us a [mortgage/lien/security interest] [on/in] your home as security for the account. You have a legal right under federal law to cancel the account, without cost, within three business days after the latest of the following events:

(1) the opening date of your account which is _____; or
(2) the date you received your Truth-in-Lending disclosures; or
(3) the date you received this notice of your right to cancel the account.

If you cancel the account, the [mortgage/lien/security interest] [on/in] your home is also cancelled. Within 20 days of receiving your notice, we must take the necessary steps to reflect the fact that the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must return to you any money or property you have given to us or to anyone else in connection with the account.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. How to Cancel.
If you decide to cancel the account, 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 by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of (date) (or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

_____ _____
Consumer's Signature Date

Appendix G

G-6—Rescission Model Form (For Each Transaction)

NOTICE OF RIGHT TO CANCEL

1. Your Right to Cancel.
We have extended credit to you under your open-end credit account. This extension of credit will increase the amount you owe on your account. We already have a [mortgage/lien/security interest] [on/in] your home as security for your account. You have a legal right under federal law to cancel the extension of credit, without cost, within three business days after the latest of the following events:

(1) the date of the additional extension of credit which is _____; or
(2) the date you received your Truth-in-Lending disclosures; or
(3) the date you received this notice of your right to cancel the additional extension of credit.

If you cancel the additional extension of credit, your cancellation will only apply to the additional amount and to any increase in the [mortgage/lien/security interest] that resulted because of the additional amount. It will not affect the amount you presently owe, and it will not affect the [mortgage/lien/security interest] we already have [on/in] your home. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect the fact that any increase in the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this extension of credit.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. How to Cancel.
If you decide to cancel the additional extension of credit, 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 by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of _____ (date) (or midnight of the third business day following the latest of the three events listed above).

I WISH TO CANCEL.

_____ _____
Consumer's Signature Date

Appendix G

G-7—Rescission Model Form (When Increasing the Credit Limit)

NOTICE OF RIGHT TO CANCEL

1. Your Right to Cancel.

We have agreed to increase the credit limit on your open-end credit account. We have a [mortgage/lien/security interest] [on/in] your home as security for your account. Increasing the credit limit will increase the amount of the [mortgage/lien/security interest] [on/in] your home. You have a legal right under federal law to cancel the increase in your credit limit, without cost, within three business days after the latest of the following events:

(1) the date of the increase in your credit limit which is _____; or
(2) the date you received your Truth-in-Lending disclosures; or
(3) the date you received this notice of your right to cancel the increase in your credit limit.

If you cancel, your cancellation will apply only to the increase in your credit limit and to the [mortgage/lien/security interest] that resulted from the increase in your credit limit. It will not affect the amount you presently owe, and it will not affect the [mortgage/lien/security interest] we already have [on/in] your home. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect the fact that any increase in the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this increase.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. How to Cancel.

If you decide to cancel the increase in your credit limit, 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 by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of (date) (or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

_____ _____

Consumer's Signature Date

Appendix G

G-8—Rescission Model Form (When Adding a Security Interest)

NOTICE OF RIGHT TO CANCEL

1. Your Right to Cancel.
You have agreed to give us a [mortgage/lien/security interest] [on/in] your home as security for your existing open-end credit account. You have a legal right under federal law to cancel the [mortgage/lien/security interest], without cost, within three business days after the latest of the following events:

(1) the date of the [mortgage/lien/security interest]

which is _____; or
(2) the date you received your Truth-in-Lending disclosures; or
(3) the date you received this notice of your right to cancel the [mortgage/lien/security interest].

If you cancel the [mortgage/lien/security interest], your cancellation will apply only to the [mortgage/lien/security interest]. It will not affect the amount you owe on your account. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect that any [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this increase.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may make the offer at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. How to Cancel.
If you decide to cancel the [mortgage/lien/security interest], 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 by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no

later than midnight of (date)
(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

_____ _____
Consumer's Signature Date

Appendix G

G-9—Rescission Model Form (When Increasing the Security)

NOTICE OF RIGHT TO CANCEL

1. Your Right to Cancel.
You have agreed to increase the amount of the [mortgage/lien/security interest] [on/in] your home that we hold as security for your open-end credit account. You have a legal right under federal law to cancel the increase, without cost, within three business days after the latest of the following events:

(1) the date of the increase in the security which is

_____; or

(2) the date you received your Truth-in-Lending disclosures; or

(3) the date you received this notice of your right to cancel the increase in the security.

If you cancel the increase in the security, your cancellation will apply only to the increase in the amount of the [mortgage/lien/security interest]. It will not affect the amount you presently owe on your account, and it will not affect the [mortgage/lien/security interest] we already have [on/in] your home. Within 20 calendar days after we receive your notice of cancellation, we must take the necessary steps to reflect that any increase in the [mortgage/lien/security interest] [on/in] your home has been cancelled. We must also return to you any money or property you have given to us or to anyone else in connection with this increase.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. How to Cancel.
If you decide to cancel the increase in security, 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 by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice no matter how you notify us because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of (date) (or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

_____ _____

Consumer's Signature Date

APPENDIX H—CLOSED-END MODEL FORMS AND CLAUSES

H-1—Credit Sale Model Form (§226.18)

H-2—Loan Model Form (§226.18)

H-3—Amount Financed Itemization Model Form (§226.18(c))

H-4—Variable Rate Model Clauses (§226.18(f))

H-5—Demand Feature Model Clauses (§226.18(i))

H-6—Assumption Policy Model Clause (§226.18(q))

H-7—Required Deposit Model Clause (§226.18(r))

H-8—Rescission Model Form (General) (§226.23)

H-9—Rescission Model Form (Refinancing) (§226.23)

H-10—Credit Sale Sample

H-11—Installment Loan Sample

H-12—Refinancing Sample

H-13—Mortgage with Demand Feature Sample

H-14—Variable Rate Mortgage Sample

H-15—Graduated Payment Mortgage Sample

Appendix H

H-1—Credit Sale Model Form

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. %	FINANCE CHARGE The dollar amount the credit will cost you. $	Amount Financed The amount of credit provided to you or on your behalf. $	Total of Payments The amount you will have paid after you have made all payments as scheduled. $	Total Sale Price The total cost of your purchase on credit, including your downpayment of $ _____ $

You have the right to receive at this time an itemization of the Amount Financed.
☐ I want an itemization. ☐ I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Insurance
Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Disability		I want credit disability insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

You may obtain property insurance from anyone you want that is acceptable to (creditor). If you get the insurance from (creditor), you will pay $_____.

Security: You are giving a security interest in:
☐ the goods or property being purchased.
☐ (brief description of other property).

Filing fees $_____ **Non-filing insurance** $_____

Late Charge: If a payment is late, you will be charged $_____/_____% of the payment.

Prepayment: If you pay off early, you
☐ may ☐ will not have to pay a penalty.
☐ may ☐ will not be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

_____
e means an estimate

H-2—Loan Model Form

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. %	FINANCE CHARGE The dollar amount the credit will cost you. $	Amount Financed The amount of credit provided to you or on your behalf. $	Total of Payments The amount you will have paid after you have made all payments as scheduled. $

You have the right to receive at this time an itemization of the Amount Financed.
☐ I want an itemization. ☐ I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Insurance
Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Disability		I want credit disability insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

You may obtain property insurance from anyone you want that is acceptable to (creditor). If you get the insurance from (creditor), you will pay $_____.

Security: You are giving a security interest in:
☐ the goods or property being purchased.
☐ (brief description of other property).

Filing fees $_____ **Non-filing insurance** $_____

Late Charge: If a payment is late, you will be charged $_____/_____% of the payment.

Prepayment: If you pay off early, you
☐ may ☐ will not have to pay a penalty.
☐ may ☐ will not be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

_____
e means an estimate

Appendix H

H-3—Amount Financed Itemization Model Form

Itemization of the Amount Financed of $ _____

$ _____ Amount given to you directly

$ _____ Amount paid on your account

Amount paid to others on your behalf

$ _____ to [public officials] [credit bureau] [appraiser] [insurance company]

$ _____ to (name of another creditor)

$ _____ to (other)

$ _____ Prepaid finance charge

H-4—Variable Rate Model Clauses

The annual percentage rate may increase during the term of this transaction if:
[the prime interest rate of (creditor) increases.]
[the balance in your deposit account falls below $ _____.]
[you terminate your employment with (employer).]

[The interest rate will not increase above _____%.]
[The maximum interest rate increase at one time will be _____%.]
[The rate will not increase more than once every (time period).]

Any increase will take the form of:
[higher payment amounts.]
[more payments of the same amount.]
[a larger amount due at maturity.]

Example based on the specific transaction
[If the interest rate increases by _____% in (time period),
[your regular payments will increase to $ _____.]
[you will have to make _____ additional payments.]
[your final payment will increase to $ _____.]]

Example based on a typical transaction
[If your loan were for $ _____ at _____% for (term) and the rate increased to _____% in (time period),
[your regular payments would increase by $ _____.]
[you would have to make _____ additional payments.]
[your final payment would increase by $ _____.]]

H-5—Demand Feature Model Clauses

This obligation [is payable on demand.]
[has a demand feature.]
[All disclosures are based on an assumed maturity of one year.]

H-6—Assumption Policy Model Clause

Assumption: Someone buying your house [may, subject to conditions, be allowed to] [cannot] assume the remainder of the mortgage on the original terms.

H-7—Required Deposit Model Clause

The annual percentage rate does not take into account your required deposit.

Appendix H

H-8—Rescission Model Form (General)

NOTICE OF RIGHT TO CANCEL

Your Right to Cancel

You are entering into a transaction that will result in a [mortgage/ lien/ security interest] [on/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 events occurs last:

(1) the date of the transaction, which is

_____; or

(2) the date you received your Truth in Lending disclosures; or

(3) the date you received this notice of your right to cancel.

If you cancel the transaction, the [mortgage/lien/security interest] is also cancelled. Within 20 calendar days after we receive your notice, we must take the steps necessary to reflect the fact that the [mortgage/lien/security interest] [on/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.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

How 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 by you and states your intention to cancel, and or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of (date) (or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL

_____ _____

Consumer's Signature Date

Appendix H

H-9—Rescission Model Form (Refinancing)

NOTICE OF RIGHT TO CANCEL

Your Right to Cancel

You are entering into a new transaction to increase the amount of credit provided to you. We acquired a [mortgage/lien/security interest] [on/in] your home under the original transaction and will retain that [mortgage/lien/security interest] in the new transaction. You have a legal right under federal law to cancel the new transaction, without cost, within three business days from whichever of the following events occurs last:

(1) the date of the new transaction, which is

_____; or

(2) the date you received your new Truth in Lending disclosures; or

(3) the date you received this notice of your right to cancel.

If you cancel the new transaction, your cancellation will apply only to the increase in the amount of credit. It will not affect the amount that you presently owe or the [mortgage/lien/security interest] we already have [on/in] your home. If you cancel, the [mortgage/lien/security interest] as it applies to the increased amount is also canceled. Within 20 calendar days after we receive your notice of cancellation of the new transaction, we must take the steps necessary to reflect the fact that our [mortgage/lien/security interest] [on/in] your home no longer applies to the increase of credit. We must also return any money you have given to us or anyone else in connection with the new transaction.

You may keep any money we have given you in the new transaction until we have done the things mentioned above, but you must then offer to return the money at the address below. If we do not take possession of the money within 20 calendar days of your offer, you may keep it without further obligation.

How to Cancel

If you decide to cancel the new 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 by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of (date) (or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL

_____ _____

Consumer's Signature Date

H-10—Credit Sale Sample

Big Wheel Auto

Alice Green

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.	Total Sale Price The total cost of your purchase on credit, including your downpayment of $ 1500 -
14.84 %	$1496.80	$6107.50	$7604.30	$9129.30

You have the right to receive at this time an itemization of the Amount Financed.
☐ I want an itemization. ☒ I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
36	$211.23	Monthly beginning 6-1-81

Insurance
Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life	$120 -	I want credit life insurance. Signature: Alice Green
Credit Disability		I want credit disability insurance. Signature:
Credit Life and Disability		I want credit life and disability insurance. Signature:

Security: You are giving a security interest in:
☒ the goods being purchased.
☐ _____.

Filing fees $ 12.50 **Non-filing insurance** $ _____

Late Charge: If a payment is late, you will be charged $10.

Prepayment: If you pay off early, you
☐ may ☐ will not have to pay a penalty.
☒ may ☐ will not be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

I have received a copy of this statement.

Alice Green — Signature
5-1-81 — Date

e means an estimate

Appendix H

H-11—Installment Loan Sample

Friendly Bank & Trust Co.
700 East Street
Little Creek, USA

Lisa Stone
22-4859-22
300 Maple Avenue
Little Creek, USA

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf	Total of Payments The amount you will have paid after you have made all payments as scheduled
12 %	$ 675.31	$ 5000-	$ 5675.31

You have the right to receive at this time an itemization of the Amount Financed.
☐ I want an itemization. ☒ I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
1	$262.03 e	6/1/81
23	$235.36	Monthly beginning 7/1/81

Late Charge: If a payment is late, you will be charged $5 or 10% of the payment, whichever is less.

Prepayment: If you pay off early, you ☒ may ☐ will not have to pay a penalty.

Required Deposit: The annual percentage rate does not take into account your required deposit.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

H-12—Refinancing Sample

Everyone's Credit Union

Date: April 1, 1981

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf	Total of Payments The amount you will have paid after you have made all payments as scheduled.
15 %	$1285.06	$5177.73	$6462.79

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
35	$179.53	monthly starting 5-1-81
1	$179.24	4-1-84

Insurance

Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. Signature
Credit Disability	$177.73	I want credit disability insurance. Signature Joseph Day

Security: You are giving a security interest in: ☐ the goods or property being purchased. ☒ your automobile.

Late Charge: If a payment is late, you will be charged 20% of the interest due with a minimum charge of $.05.

Prepayment: If you pay off early, you will not have to pay a penalty.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

Itemization of the Amount Financed of $ 5177.73

$ 1000- Amount given to you directly
$ 3000- Amount paid on your account

Amount paid to others on your behalf
$ _____ to public officials
$ 500- to Coop Credit Union
$ 500- to Acme Finance Co.
$ 177.73 to Pan-Galactic Ins. Co.
$ _____ for credit report

$ _____ Prepaid finance charge

H-13—Mortgage with Demand Feature Sample

Mortgage Savings and Loan Assoc.
Date: April 15, 1981

Glenn Jones
700 Oak Drive
Little Creek, USA

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you	Amount Financed The amount of credit provided to you or on your behalf	Total of Payments The amount you will have paid after you have made all payments as scheduled.
14.85 %	$156,551.54	$44,605.66	$201,157.20

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
360	$558.77	Monthly beginning 6/1/81

This obligation has a demand feature.

You may obtain property insurance from anyone you want that is acceptable to Mortgage Savings and Loan Assoc.. If you get the insurance from Mortgage Savings and Loan Assoc. you will pay $ 150-/year

Security: You are giving a security interest in:
☒ the goods or property being purchased.
☐ _____.

Late Charge: If a payment is late, you will be charged $ N/A or 5 % of the payment.

Prepayment: If you pay off early, you may have to pay a penalty.

Assumption: Someone buying your house may, subject to conditions, be allowed to assume the remainder of the mortgage on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

Appendix H

H-14—Variable Rate Mortgage Sample

State Savings and Loan Assoc.

Anne Jones
600 Pine Lane
Little Creek, USA

Account number: 210802-47

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.
15.07 %	$157,155.20	$44,002-	$201,157.20

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
360	$558.77	monthly beginning 6-1-81

Variable Rate

The annual percentage rate may increase during the term of this transaction if the prime rate of State Savings and Loan Assoc. increases. The rate may not increase more often than once a year, and may not increase by more than 1% annually. The interest rate will not increase above 19.75 %. Any increase will take the form of higher payment amounts. If the interest rate increases by 1 % in one year, your regular payment would increase to $ 594.51

Security: You are giving a security interest in the property being purchased.

Late Charge: If a payment is late, you will be charged 5% of the payment.

Prepayment: If you pay off early, you ☒ may ☐ will not have to pay a penalty.

Assumption: Someone buying your house may, subject to conditions, be allowed to assume the remainder of the mortgage on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

Appendix H

H-15—Graduated Payment Mortgage Sample

Convenient Savings and Loan

Account number: 4862-88

Michael Jones
500 Walnut Court, Little Creek USA

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.
15.37 %	$177,970.44	$43,777	$221,548.44

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
12	$446.62	Monthly beginning 6/1/81
12	$479.67	" " 6/1/82
12	$515.11	" " 6/1/83
12	$553.13	" " 6/1/84
12	$593.91	" " 6/1/85
300	varying from $637.68 to $627.37	" " 6/1/86

Security: You are giving a security interest in the property being purchased.

Late Charge: If a payment is late, you will be charged 5% of the payment.

Prepayment: If you pay off early, you

☒ may ☐ will not have to pay a penalty.

☒ may ☐ will not be entitled to a refund of part of the finance charge.

Assumption: Someone buying your home cannot assume the remainder of the mortgage on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

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Appendix I—Federal Enforcement Agencies

The following list indicates which federal agency enforces Regulation Z for particular classes of businesses. Any questions concerning compliance by a particular business should be directed to the appropriate enforcement agency.

National Banks

Office of Customer and Community Programs, Comptroller of the Currency, Washington, D.C. 20219.

State Member Banks

Federal Reserve Bank serving the district in which the State member bank is located.

Nonmember Insured Banks

Federal Deposit Insurance Corporation Regional director for the region in which the nonmember insured bank is located.

Savings Institutions Insured by the FSLIC and Members of the FHLB System (Except for Savings Banks Insured by FDIC)

The Federal Home Loan Bank Board Supervisory Agent in the district in which the institution is located.

Federal Credit Unions

Regional office of the National Credit Union Administration serving the area in which the federal credit union is located.

Creditors subject to Civil Aeronautics Board

Director, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Creditors Subject to Packers and Stockyards Act

Nearest Packers and Stockyards Administration area supervisor.

Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks and Production Credit Associations

Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578.

Retail, Department Stores, Consumer Finance Companies, All Other Creditors, and All Nonbank Credit Card Issuers (Creditors operating on a local or regional basis should use the address of the FTC Regional Office in which they operate.)

Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Appendix J—Annual Percentage Rate Computations for Closed-End Credit Transactions

(a) *Introduction.* (1) Section 226.22(a) of Regulation Z provides that the annual percentage rate for other than open end credit transactions shall be determined in accordance with either the actuarial method or the United States Rule method. This appendix contains an explanation of the actuarial method as well as equations, instructions and examples of how this method applies to single advance and multiple advance transactions.

(2) Under the actuarial method, at the end of each unit-period (or fractional unit-period) the unpaid balance of the amount financed is increased by the finance charge earned during that period and is decreased by the total payment (if any) made at the end of that period. The determination of unit-periods and fractional unit-periods shall be consistent with the definitions and rules in paragraphs (b) (3), (4) and (5) of this section and the general equation in paragraph (b)(8) of this section.

(3) In contrast, under the United States Rule method, at the end of each payment period, the unpaid balance of the amount financed is increased by the finance charge earned during that payment period and is decreased by the payment made at the end of that payment period. If the payment is less than the finance charge earned, the adjustment of the unpaid balance of the amount financed is postponed until the end of the next payment period. If at that time the sum of the two payments is still less than the total earned finance charge for the two payment periods, the adjustment of the unpaid balance of the amount financed is postponed still another payment period, and so forth.

(b) *Instructions and equations for the actuarial method.* (1) *General rule.* The annual percentage rate shall be the nominal annual percentage rate determined by multiplying the unit-period rate by the number of unit-periods in a year.

(2) *Term of the transaction.* The term of the transaction begins on the date of its consummation, except that if the finance charge or any portion of it is earned beginning on a later date, the term begins on the later date. The term ends on the date the last payment is due, except that if an advance is scheduled after that date, the term ends on the later date. For computation purposes, the length of the term shall be equal to the time interval between any point in time on the beginning date to the same point in time on the ending date.

(3) *Definitions of time intervals.* (i) A period is the interval of time between advances or between payments and includes the interval of time between the date the finance charge begins to be earned and the date of the first advance thereafter or the date of the first payment thereafter, as applicable.

(ii) A common period is any period that occurs more than once in a transaction.

(iii) A standard interval of time is a day, week, semimonth, month, or a multiple of a week or a month up to, but not exceeding, 1 year.

(iv) All months shall be considered equal. Full months shall be measured from any point in time on a given date of a given month to the same point in time on the same date of another month. If a series of payments (or advances) is scheduled for the last day of each month, months shall be measured from the last day of the given month to the last day of another month. If payments (or advances) are scheduled for the 29th or 30th of each month, the last day of February shall be used when applicable.

(4) *Unit-period.* (i) In all transactions other than a single advance, single payment transaction, the unit-period shall be that common period, not to exceed 1 year, that occurs most frequently in the transaction, except that

(A) If 2 or more common periods occur with equal frequency, the smaller of such common periods shall be the unit-period; or

(B) If there is no common period in the transaction, the unit-period shall be that period which is the average of all periods rounded to the nearest whole standard interval of time. If the average is equally near 2 standard intervals of time, the lower shall be the unit-period.

(ii) In a single advance, single payment transaction, the unit-period shall be the term of the transaction, but shall not exceed 1 year.

(5) *Number of unit-periods between 2 given dates.* (i) The number of days between 2 dates shall be the number of 24-hour intervals between any point in time on the first date to the same point in time on the second date.

(ii) If the unit-period is a month, the number of full unit-periods between 2 dates shall be the number of months measured back from the later date. The remaining fraction of a unit-period shall be the number of days measured forward from the earlier date to the beginning of the first full unit-period, divided by 30. If the unit-period is a month, there are 12 unit-periods per year.

(iii) If the unit-period is a semimonth or a multiple of a month not exceeding

11 months, the number of days between 2 dates shall be 30 times the number of full months measured back from the later date, plus the number of remaining days. The number of full unit-periods and the remaining fraction of a unit-period shall be determined by dividing such number of days by 15 in the case of a semimonthly unit-period or by the appropriate multiple of 30 in the case of a multimonthly unit-period. If the unit-period is a semimonth, the number of unit-periods per year shall be 24. If the number of unit-periods is a multiple of a month, the number of unit-periods per year shall be 12 divided by the number of months per unit-period.

(iv) If the unit-period is a day, a week, or a multiple of a week, the number of full unit-periods and the remaining fractions of a unit-period shall be determined by dividing the number of days between the 2 given dates by the number of days per unit-period. If the unit-period is a day, the number of unit-periods per year shall be 365. If the unit-period is a week or a multiple of a week, the number of unit-periods per year shall be 52 divided by the number of weeks per unit-period.

(v) If the unit-period is a year, the number of full unit-periods between 2 dates shall be the number of full years (each equal to 12 months) measured back from the later date. The remaining fraction of a unit-period shall be

(A) The remaining number of months divided by 12 if the remaining interval is equal to a whole number of months, or

(B) The remaining number of days divided by 365 if the remaining interval is *not* equal to a whole number of months.

(vi) In a single advance, single payment transaction in which the term is less than a year and is equal to a whole number of months, the number of unit-periods in the term shall be 1, and the number of unit-periods per year shall be 12 divided by the number of months in the term or 365 divided by the number of days in the term.

(vii) In a single advance, single payment transaction in which the term is less than a year and is *not* equal to a whole number of months, the number of unit-periods in the term shall be 1, and the number of unit-periods per year shall be 365 divided by the number of days in the term.

(6) *Percentage rate for a fraction of a unit-period.* The percentage rate of finance charge for a fraction (less than 1) of a unit-period shall be equal to such fraction multiplied by the percentage rate of finance charge per unit-period.

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(7) Symbols. The symbols used to express the terms of a transaction in the equation set forth in paragraph (b)(8) of this section are defined as follows:

A_k = The amount of the kth advance.

q_k = The number of full unit-periods from the beginning of the term of the transaction to the kth advance.

e_k = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the kth advance.

m = The number of advances.

P_j = The amount of the jth payment.

t_j = The number of full unit-periods from the beginning of the term of the transaction to the jth payment.

f_j = The fraction of a unit-period in the time interval from the beginning of the term of the transaction to the jth payment.

n = The number of payments.

i = The percentage rate of finance charge per unit-period, expressed as a decimal equivalent.

Symbols used in the examples shown in this supplement are defined as follows:

$\ddot{a}_{\overline{x}|}$ = The present value of 1 per unit-period for x unit-periods, first payment due immediately.

$$= 1 + \frac{1}{(1+i)} + \frac{1}{(1+i)^2} + \ldots\ldots\ldots + \frac{1}{(1+i)^{x-1}}$$

w = The number of unit-periods per year.

I = wi x 100 = The nominal annual percentage rate.

(8) General equation. The following equation sets forth the relationship among the terms of a transaction:

$$\frac{A_1}{(1+e_1 i)(1+i)^{q_1}} + \frac{A_2}{(1+e_2 i)(1+i)^{q_2}} + \ldots + \frac{A_m}{(1+e_m i)(1+i)^{q_m}} =$$

$$\frac{P_1}{(1+f_1 i)(1+i)^{t_1}} + \frac{P_2}{(1+f_2 i)(1+i)^{t_2}} + \ldots + \frac{P_n}{(1+f_n i)(1+i)^{t_n}}$$

(9) Solution of general equation by iteration process. (i) The general equation in paragraph (b)(8) of this section, when applied to a simple transaction in which a loan of $1000 is repaid by 36 monthly payments of $33.61 each, takes the special form:

$$A = \frac{33.61\ \ddot{a}_{\overline{36}|}}{(1+i)}$$

Step 1: Let I_1 = estimated annual percentage rate = 12.50 %

Evaluate expression for A, letting $i = I_1/(100w)$ = .010416667

Result (referred to as A') = 1004.674391

Step 2: Let $I_2 = I_1 + .1$ = 12.60 %

Evaluate expression for A, letting $i = I_2/(100w)$ = .010500000

Result (referred to as A'') = 1003.235366

Step 3: Interpolate for I (annual percentage rate):

$$I = I_1 + .1\left[\frac{(A - A')}{(A''-A')}\right]$$

$$= 12.50 + .1\left[\frac{(1000.000000 - 1004.674391)}{(1003.235366 - 1004.674391)}\right] = 12.82483042\ \%$$

Step 4: First iteration, let I_1 = 12.82483042 % and repeat Steps 1, 2, and 3 obtaining a new I = 12.82557859 %

Second iteration, let I_1 = 12.82557859 % and repeat Steps 1, 2, and 3 obtaining a new I = 12.82557529 %

In this case, no further iterations are required to obtain the annual percentage rate correct to two decimal places, 12.83%.

(ii) When the iteration approach is used, it is expected that calculators or computers will be programmed to carry all available decimals throughout the calculation and that enough iterations will be performed to make virtually certain that the annual percentage rate obtained, when rounded to 2 decimals, is correct. Annual percentage rates in the examples below were obtained by using a 10 digit programmable calculator and the iteration procedure described above.

(c) Examples for the actuarial method. (1) Single advance transaction, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}}\left(P\,\ddot{a}_{\overline{n}|}\right)$$

Example (i): Monthly payments (regular first period)

Amount advanced (A) = $5000. Payment (P) = $230.
Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .0969 = 9.69 %

Example (ii): Monthly payments (long first period)

Amount advanced (A) = $6000. Payment (P) = $200.
Number of payments (n) = 36.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 2-10-78. First payment, 4-1-78.
From 3-1-78 through 4-1-78 = 1 unit-period. (t = 1)
From 2-10-78 through 3-1-78 = 19 days. (f = 19/30)
Annual percentage rate (I) = wi = .1182 = 11.82%

Example (iii): Semimonthly payments (short first period)

Amount advanced (A) = $5000. Payment (P) = $219.17.
Number of payments (n) = 24.
Unit-period = 1/2 month. Unit-periods per year (w) = 24.
Advance, 2-23-78. First payment, 3-1-78. Payments made on 1st and 16th of each month.
From 2-23-78 through 3-1-78 = 6 days. (t = 0; f = 6/15)
Annual percentage rate (I) = wi = .1034 = 10.34 %

Example (iv): Quarterly payments (long first period)

Amount advanced (A) = $10,000. Payment (P) = $385.
Number of payments (n) = 40.
Unit-period = 3 months. Unit-periods per year (w) = 4.
Advance, 5-23-78. First payment, 10-1-78.
From 7-1-78 through 10-1-78 = 1 unit-period. (t = 1)
From 6-1-78 through 7-1-78 = 1 month = 30 days. From 5-23-78 through 6-1-78 = 9 days. (f = 39/90)
Annual percentage rate (I) = wi = .0897 = 8.97 %

Example (v): Weekly payments (long first period)

Amount advanced (A) = $500. Payment (P) = $17.60.
Number of payments (n) = 30.
Unit-period = 1 week. Unit-periods per year (w) = 52.
Advance, 3-20-78. First payment, 4-21-78.
From 3-24-78 through 4-21-78 = 4 unit-periods. (t = 4)
From 3-20-78 through 3-24-78 = 4 days. (f = 4/7)
Annual percentage rate (I) = wi = .1496 = 14.96 %

(2) Single advance transaction, with an odd first payment, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}}\left[P_1 + \frac{P\,\ddot{a}_{\overline{n-1}|}}{(1+i)}\right]$$

Example (i): Monthly payments (regular first period and irregular first payment)

Amount advanced (A) = $5000. First payment $\left(P_1\right)$ = $250.
Regular payment (P) = $230. Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1008 = 10.08%

Example (ii): Payments every 4 weeks (long first period and irregular first payment)

Amount advanced (A) = $400. First payment $\left(P_1\right)$ = $39.50.
Regular payment (P) = $38.31. Number of payments (n) = 12.
Unit-period = 4 weeks. Unit-periods per year (w) = 52/4 = 13.
Advance, 3-18-78. First payment, 4-20-78.
From 3-23-78 through 4-20-78 = 1 unit-period. (t = 1)
From 3-18-78 through 3-23-78 = 5 days. (f = 5/28)
Annual percentage rate (I) = wi = .2850 = 28.50%

(3) Single advance transaction, with an odd final payment, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}}\left[P\,\ddot{a}_{\overline{n-1}|} + \frac{Pn}{(1+i)^{n-1}}\right]$$

Example (i): Monthly payments (regular first period and irregular final payment)

Amount advanced (A) = $5000. Regular payment (P) = $230.
Final payment $\left(\begin{matrix}P\\n\end{matrix}\right)$ = $280. Number of payments (n) = 24.
Unit-period = 1 month. Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1050 = 10.50%

Example (ii): Payments every 2 weeks (short first period and irregular final payment)

Amount advanced (A) = $200. Regular payment (P) = $9.50.
Final payment $\left(\begin{matrix}P\\n\end{matrix}\right)$ = $30. Number of payments (n) = 20.
Unit-period = 2 weeks. Unit-periods per year (w) = 52/2 = 26.
Advance, 4-3-78. First payment, 4-11-78.
From 4-3-78 through 4-11-78 = 8 days. (t = 0; f = 8/14)
Annual percentage rate (I) = wi = .1222 = 12.22%

(4) Single advance transaction, with an odd first payment, odd final payment, with or without an odd first period, and otherwise regular. The general equation in paragraph (b)(8) of this section can be put in the following special form for this type of transaction:

$$A = \frac{1}{(1+fi)(1+i)^{t}}\left[\begin{matrix}P\\1\end{matrix} + \frac{P\,\ddot{a}_{\overline{m-2}|}}{(1+i)} + \frac{P_n}{(1+i)^{n-1}}\right]$$

Example (i): Monthly payments (regular first period, irregular first payment, and irregular final payment)

Amount advanced (A) = $5000. First payment $\left(\begin{matrix}P\\1\end{matrix}\right)$ = $250.
Regular payment (P) = $230. Final payment $\left(\begin{matrix}P\\n\end{matrix}\right)$ = $280.
Number of payments (n) = 24. Unit-period = 1 month.
Unit-periods per year (w) = 12.
Advance, 1-10-78. First payment, 2-10-78.
From 1-10-78 through 2-10-78 = 1 unit-period. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1090 = 10.90%

Example (ii): Payments every two months (short first period, irregular first payment, and irregular final payment)

Amount advanced (A) = $8000. First payment $\left(\begin{matrix}P\\1\end{matrix}\right)$ = $449.36.
Regular payment (P) = $465. Final payment $\left(\begin{matrix}P\\n\end{matrix}\right)$ = $200.
Number of payments (n) = 20. Unit-period = 2 months.
Unit-periods per year (w) = 12/2 = 6.
Advance, 1-10-78. First payment, 3-1-78.
From 2-1-78 through 3-1-78 = 1 month. From 1-10-78 through 2-1-78 = 22 days. (t = 0; f = 52/60)
Annual percentage rate (I) = wi = .0730 = 7.30%

(5) Single advance, single payment transaction. The general equation in paragraph (b)(8) of this section can be put in the special forms below for single advance, single payment transactions. Forms 1 through 3 are for the direct determination of the annual percentage rate under special conditions. Form 4 requires the use of the iteration procedure of paragraph (b)(9) of this section and can be used for all single advance, single payment transactions regardless of term.

Form 1 - Term less than 1 year:

$$I = 100w\left(\frac{P}{A} - 1\right)$$

Form 2 - Term more than 1 year but less than 2 years:

$$I = \frac{50}{f}\left\{\left[(1+f)^{2} + 4f\left(\frac{P}{A} - 1\right)\right]^{1/2} - (1+f)\right\}$$

Form 3 - Term equal to exactly a year or exact multiple of a year:

$$I = 100\left[\left(\frac{P}{A}\right)^{1/t} - 1\right]$$

Form 4 - Special form for iteration procedure (no restriction on term):

$$A = \frac{P}{(1+fi)(1+i)^{t}}$$

Example (i): Single advance, single payment (term of less than 1 year, measured in days)

Amount advanced (A) = $1000. Payment (P) = $1080.
Unit-period = 255 days. Unit-periods per year (w) = 365/255.
Advance, 1-3-78. Payment, 9-15-78.
From 1-3-78 through 9-15-78 = 255 days. (t = 1; f = 0)
Annual percentage rate (I) = wi = .1145 = 11.45%. (Use Form 1 or 4.)

Example (ii): Single advance, single payment (term of less than 1 year, measured in exact calendar months)

Amount advanced (A) = $1000. Payment (P) = $1044.
Unit-period = 6 months. Unit-periods per year (w) = 2.
Advance, 7-15-78. Payment, 1-15-79.
From 7-15-78 through 1-15-79 = 6 mos. (t = 1; f = 0)
Annual percentage rate (I) = wi = .0880 = 8.80%. (Use Form 1 or 4.)

Example (iii): Single advance, single payment (term of more than 1 year but less than 2 years, fraction measured in exact months)

Amount advanced (A) = $1000. Payment (P) = $1135.19.
Unit-period = 1 year. Unit-periods per year (w) = 1.
Advance, 7-17-78. Payment, 1-17-80.
From 1-17-79 through 1-17-80 = 1 unit-period. (t = 1)
From 7-17-78 through 1-17-79 = 6 mos. (f = 6/12)
Annual percentage rate (I) = wi = .0876 = 8.76%. (Use Form 2 or 4.)

Example (iv): Single advance, single payment (term of exactly 2 years)

Amount advanced (A) = $1000. Payment (P) = $1240.
Unit-period = 1 year. Unit-periods per year (w) = 1.
Advance, 1-3-78. Payment, 1-3-80.
From 1-3-78 through 1-3-79 = 1 unit-period. (t = 2; f = 0)
Annual percentage rate (I) = wi = .1136 = 11.36%. (Use Form 3 or 4.)

(6) Complex single advance transaction.

Example (i): Skipped payment loan (payments every 4 weeks)

A loan of $2135 is advanced on 1-25-78. It is to be repaid by 24 payments of $100 each. Payments are due every 4 weeks beginning 2-20-78. However, in those months in which 2 payments would be due, only the first of the 2 payments is made and the following payment is delayed by 2 weeks to place it in the next month.
Unit-period = 4 weeks. Unit-periods per year (w) = 52/4 = 13.
First series of payments begins 26 days after 1-25-78.
$(t_1 = 0; f_1 = 26/28)$

Second series of payments begins 9 unit-periods plus 2 weeks after start of first series. $(t_2 = 10; f_2 = 12/28)$

Third series of payments begins 6 unit-periods plus 2 weeks after start of second series. $(t_3 = 16; f_3 = 26/28)$

Last series of payments begins 6 unit-periods plus 2 weeks after start of third series. $(t_4 = 23; f_4 = 12/28)$

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$2135 = \frac{100\,\ddot{a}_{\overline{9}|}}{(1+(26/28)i)} + \frac{100\,\ddot{a}_{\overline{6}|}}{(1+(12/28)i)(1+i)^{10}} + \frac{100\,\ddot{a}_{\overline{6}|}}{(1+(26/28)i)(1+i)^{16}} + \frac{100\,\ddot{a}_{\overline{3}|}}{(1+(12/28)i)(1+i)^{23}}$$

Annual percentage rate (I) = wi = .1200 = 12.00%

Example (ii): Skipped payment loan plus single payments

A loan of $7350 on 3-3-78 is to be repaid by 3 monthly payments of $1000 each beginning 9-15-78, plus a single payment of $2000 on 3-15-79, plus 3 more monthly payments of $750 each beginning 9-15-79, plus a final payment of $1000 on 2-1-80.
Unit-period = 1 month. Unit-periods per year (w) = 12.
First series of payments begins 6 unit-periods plus 12 days after 3-3-78. $(t_1 = 6; f_1 = 12/30)$

Second series of payments (single payment) occurs 12 unit-periods plus 12 days after 3-3-78. $(t_2 = 12; f_2 = 12/30)$

Third series of payments begins 18 unit-periods plus 12 days after 3-3-78. $(t_3 = 18; f_3 = 12/30)$

Final payment occurs 22 unit-periods plus 29 days after 3-3-78. $(t_4 = 22; f_4 = 29/30)$

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$7350 = \frac{1000\,\ddot{a}_{\overline{3}|}}{(1+(12/30)i)(1+i)^{6}} + \frac{2000}{(1+(12/30)i)(1+i)^{12}} + \frac{750\,\ddot{a}_{\overline{3}|}}{(1+(12/30)i)(1+i)^{18}} + \frac{1000}{(1+(29/30)i)(1+i)^{22}}$$

Annual percentage rate (I) = wi = .1022 = 10.22%

Example (iii): Mortgage with varying payments

A loan of $39,688.56 (net) on 4-10-78 is to be repaid by 360 monthly payments beginning 6-1-78. Payments are the same for 12 months at a time as follows:

Year	Monthly payment	Year	Monthly payment	Year	Monthly payment
1	$291.81	11	$385.76	21	$380.43
2	300.18	12	385.42	22	379.60
3	308.78	13	385.03	23	378.68
4	317.61	14	384.62	24	377.69
5	326.65	15	384.17	25	376.60
6	335.92	16	383.67	26	375.42
7	345.42	17	383.13	27	374.13
8	355.15	18	382.54	28	372.72
9	365.12	19	381.90	29	371.18
10	375.33	20	381.20	30	369.50

Unit-period = 1 month. Unit-periods per year (w) = 12.
From 5-1-78 through 6-1-78 = 1 unit-period. (t = 1)
From 4-10-78 through 5-1-78 = 21 days. (f = 21/30)

The general equation in paragraph (b)(8) of this section can be written in the special form:

$$39{,}688.56 = \frac{\ddot{a}_{\overline{12}|}}{(1+(21/30)i)(1+i)^1}\left[291.81 + \frac{300.18}{(1+i)^{12}} + \frac{308.78}{(1+i)^{24}} + \ldots + \frac{369.50}{(1+i)^{348}}\right]$$

Annual percentage rate (I) = wi = .0980 = 9.80%

(7) Multiple advance transactions.

Example (i): Construction loan

Three advances of $20,000 each are made on 4-10-79, 6-12-79, and 9-18-79. Repayment is by 240 monthly payments of $612.36 each beginning 12-10-79.
Unit-period = 1 month. Unit-periods per year (w) = 12.
From 4-10-79 through 6-12-79 = (2+2/30) unit-periods.
From 4-10-79 through 9-18-79 = (5+8/30) unit-periods.
From 4-10-79 through 12-10-79 = (8) unit-periods.

The general equation in paragraph (b)(8) of this section is changed to the single advance mode by treating the 2nd and 3rd advances as negative payments:

$$20{,}000 = \frac{612.36\,\ddot{a}_{\overline{240}|}}{(1+i)^8} - \frac{20{,}000}{(1+(2/30)i)(1+i)^2} - \frac{20{,}000}{(1+(8/30)i)(1+i)^5}$$

Annual percentage rate (I) = wi = .1025 = 10.25%

Example (ii): Student loan

A student loan consists of 8 advances: $1800 on 9-5-78, 9-5-79, 9-5-80, and 9-5-81; plus $1000 on 1-5-79, 1-5-80, 1-5-81, and 1-5-82. The borrower is to make 50 monthly payments of $240 each beginning 7-1-78 (prior to first advance).
Unit-period = 1 month. Unit-periods per year (w) = 12.
Zero point is date of first payment since it precedes first advance.
From 7-1-78 to 9-5-78 = (2 + 4/30) unit-periods.

" " " 9-5-79 = (14 + 4/30) "
" " " 9-5-80 = (26 + 4/30) "
" " " 9-5-81 = (38 + 4/30) "
" " " 1-5-79 = (6 + 4/30) "
" " " 1-5-80 = (18 + 4/30) "
" " " 1-5-81 = (30 + 4/30) "
" " " 1-5-82 = (42 + 4/30) "

Since the zero point is date of first payment, the general equation in paragraph (b)(8) of this section is written in the single advance form below by treating the first payment as a negative advance and the 8 advances as negative payments:

$$-240 = \frac{240\,\ddot{a}_{\overline{49}|}}{(1+i)^1} - \frac{1800}{(1+(4/30)i)^1}\left[\frac{1}{(1+i)^2} + \frac{1}{(1+i)^{14}} + \frac{1}{(1+i)^{26}} + \frac{1}{(1+i)^{38}}\right] - \frac{1000}{(1+(4/30)i)^1}\left[\frac{1}{(1+i)^6} + \frac{1}{(1+i)^{18}} + \frac{1}{(1+i)^{30}} + \frac{1}{(1+i)^{42}}\right]$$

Annual percentage rate (I) = wi = .3204 = 32.04%

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Regulatory Analysis of Revised Regulation Z

This regulatory analysis, required under current Board policy concerning rulemaking, has been prepared following passage of the Truth-in-Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Public Law 96–211) and preparation by the Division of Consumer and Community Affairs of a draft of revised Regulation Z to implement the new act and make other changes.

Summary

The draft of revised Regulation Z prepared by staff of the Division of Consumer and Community Affairs would make major changes in the currently existing regulation. These proposed changes arise from two sources: (1) revisions in the regulation necessitated by passage of the Truth-in-Lending Simplification and Reform Act; and (2) staff proposals to simplify the existing regulatory structure further within the limits of discretion granted to the Board by the Truth-in-Lending Act.

The Simplification and Reform Act has resulted in five major kinds of proposed revisions in the Federal regulatory structure: (1) required disclosures have been reduced in number; (2) creditor compliance has been made easier in a number of ways, especially by providing model forms guaranteeing compliance if used properly; (3) civil liability of creditors has been limited to certain important disclosures; (4) the main burden of compliance enforcement has been shifted away relatively from the kinds of private actions that have contributed to complex rules and court decisions in the past and toward relatively greater reliance on administrative enforcement; and (5) certain complex legal questions that have produced conflicting court decisions in the past have been clarified. Staff efforts to simplify the regulation further have resulted in additional significant kinds of changes designed to: (1) provide clearer definitions and standards of applicability; (2) make good faith compliance easier by providing for small disclosure tolerances; (3) minimize necessity of disclosures unrelated to credit decisionmaking; (4) allow creditors greater flexibility in preparing disclosures to fit the nature of individual transactions; and (5) eliminate other complexities and ambiguities.

On balance, each of the major proposed changes in the regulatory structure should produce net consumer benefits by substantially reducing regulatory burden without sacrificing important consumer protections. Important consumer disclosures would be retained in the revised regulation, but the complexity of compliance with the Federal act and frequency of changes should be reduced. This should reduce the regulatory burden by reducing legal costs, printing expenses, employee training costs, and programming and computing expenditures. These gains would only be achieved at the expense of start-up costs. It is not possible with currently available data to estimate accurately either the long-term savings or the short-term costs associated with changing to the new requirements, but the available lead time of one year should help minimize the latter. Furthermore, it appears that long run cost reductions should outweigh the start-up costs. In this regard, possibly the most important single contribution of the new regulation is the provision of model forms that guarantee compliance with the Federal law if used properly.

I. Background

Truth in Lending, enacted by Congress as Title I of the Consumer Credit Protection Act of 1968 (Public Law 90–321, May 29, 1968), is an important element of Federal consumer protection policy in the credit area. In essence, the various Federal consumer credit protections established by Congress since 1968, including Truth in Lending, might be characterized as combining two general regulatory approaches, although in different combinations. The first approach is disclosure—requiring that certain information be disclosed to comsumers in a prescribed manner. Information disclosure is an important ingredient in most Federal consumer credit protections; but it is so essential to some, including Truth in Lending, the Real Estate Settlement Procedures Act (1974), the Home Mortgage Disclosure Act (1975), the Consumer Leasing Act (1976), and the Electronic Funds Transfer Act (1978), that these acts might properly be classified as "information protections." In contrast, the second regulatory approach involves more than disclosure: it involves requiring institutions to do or not do certain things or act in certain ways in their relations with consumers in the marketplace. In these cases disclosures might also be required, but disclosures are subordinate in importance to other elements. As a result, these regulations might be classified better as "behavioral protections" or "market protections." Examples in the credit area include the Fair Credit Reporting Act (1970), the Fair Credit Billing Act (1974), the Equal Credit Opportunjty Act (1974 and 1976), and the Fair Debt Collection Practices Act (1977). Each of these acts requires disclosures under certain circumstances, but their requirements governing the market conduct of institutions are more important.

On its face Truth in Lending (TIL) appears to be both a reasonable and simple idea, but in practice the problems have proven to be immense. The House, Senate, and Conference Committee *Reports* expressing the intentions of Congress reveal both the simplicity of the idea and the reason for its operational complexity. According to the Senate *Report:*[1]

> The basic purpose of the Truth-in-Lending bill is to provide a full disclosure of credit charges to the American consumer. The bill does not in any way regulate the credit industry nor does it prescribe ceilings on credit charges. Instead it requires that full disclosure of credit charges be made so that the consumer can decide for himself whether the charge is reasonable.

This passage makes it abundantly clear that Congress intended Truth in Lending to be a disclosure law and an information protection rather than a market protection. This notion is re-emphasized in many parts of the Committee *Reports*. However, this passage also reveals the genesis of many later problems with TIL exemplified by the concept of "full disclosure." Rather than concentrating on a few fundamental disclosures, Truth in Lending and Regulation Z have always required a much more extensive list. Apparently drafted under the assumption that more disclosure is necessarily better than less, TIL and Regulation Z have required disclosure of all information that conceivably might be useful to someone sometime. Together with the diversity of consumer credit transactions and the penalties for violating the law or regulation, this principle has contributed substantially to TIL's complexity.

Originally the Truth-in-Lending Act filled more than 13 printed pages in the Conference Committee *Report* and included 30 separate sections. In addition, the original Regulation Z filled 30 pages in 98 separate sections plus a supplement booklet dealing with APR calculations. Moreover, Truth in Lending was amended in 1970, 1974, twice in 1976, and in 1978; Regulation Z was amended many times between July 1, 1969, and March, 1980. By early 1980 the Act filled 20 printed pages in 52 numbered sections, many with lengthy

[1] United States Senate, Committee on Banking and Currency, *Truth in Lending 1967, Report to Accompany S.5* (Washington: Government Printing Office, 1967), p. 1.

subdivisions. The regulation measured 53 printed pages in 153 highly technical sections (many with subsections) plus the APR supplement.

However, probably most indicative of the difficulties surrounding TIL is the number of times that Regulation Z has been interpreted, both administratively and by the courts. By early 1980 more than 1500 interpretations had been published by the Federal Reserve Board and staff, with varying degrees of legal authority. In addition, by June 30, 1979, more than 13,000 TIL lawsuits had been filed in Federal courts, representing 2 per cent of the Federal civil caseload (but up to 50 per cent of the cases in some districts).[2] This almost continuous stream of amendments, interpretations, and court decisions, along with interacting changes in state laws affecting such things as rate ceilings and security interests, produced a situation where total compliance was very difficult, at best. As long as 9 years after the effective date of the Act (July 1, 1969), the Federal bank regulatory agencies reported that more than 80 per cent of banks were not wholly in compliance, although most violations were judged "nonsubstantive" or "technical."[3] By the late 1970's the legal situation became somewhat ironic in that much of the litigation over Truth in Lending concerned aspects of disclosures apart from credit cost disclosures, the critical elements of Truth in Lending according to Congress. Notable among disputed areas in the late 1970's were identity of the creditor, security interest issues, disclosure of loan proceeds, acceleration clause issues, and issues of rescission.[4]

As a result of the difficult legal conditions surrounding Truth in Lending a movement to "simplify" the law gained support in the second half of the 1970's. "Simplification" is, of course, a concept that is relatively easy to support in principle, although strong differences may develop when the concept is defined more closely. Possibilities include: a more clearly worded statute, a less restrictive statute, fewer required disclosures, easier to read forms, less information-packed forms, reduced liability for creditors, additional defenses (for creditors or consumers), greater preemption of state laws, a shorter regulation, a clearer regulation, fewer interpretations, more but clearer interpretations, and so forth. Nevertheless, by mid-1977 the idea of "simplifying" Truth in Lending had gained a measure of bipartisan support in the United States Senate, even if not complete agreement on details.[5] Four bills were introduced in the 95th Congress in 1977, and after extensive hearings and markup sessions, a bill was reported out by the Senate Banking Committee and passed by the Senate on May 10, 1978. However, the House took no action in the 95th Congress and the bill was reintroduced in the 96th Congress in 1979. After another hearing the bill passed the Senate again in May, 1979, and eventually (with some amendments) the Truth in Lending Simplification and Reform Act was incorporated into the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221), which was signed by the President on March 31. Shortly afterward, on May 5, 1980, the Federal Reserve Board issued for public comment a complete redraft of Regulation Z to implement the new Act.

II. Framework for Evaluation

Regulatory analysis of the draft of revised Regulation Z ultimately involves answering questions in two difficult areas. The first area involves comparing the new regulatory structure to the old: In particular, does the new structure improve upon and/or simplify the old, and what, if any, are the structural benefits of the new regulatory approach? This question is examined in Section III. The second area concerns the new regulatory structure as an information protection: Specifically, is the new approach likely to affect consumers' information needs in the credit area or have other impacts on the goals of Truth in Lending? This question forms the subject matter of Section IV.

III. Regulatory Structure

1. *Changes Required by the Simplification and Reform Act.* The Truth-in-Lending Simplification and Reform Act made extensive changes in the Truth-in-Lending Act. According to the Senate Committee on Banking, Housing, and Urban Affairs, which drafted the Reform Act, the Committee's efforts were focused on four general areas: "providing the consumer with simpler, more understandable information; making compliance easier for creditors; limiting creditor civil liability for statutory penalties to only significant violations; and strengthening administrative restitution enforcement of the act."[6] A fifth area concerned technical changes to eliminate legal problems that had arisen from inconsistent decisions among Federal district courts. Substantive changes were made in each of the five areas.

Table I lists major kinds of changes made in each of these areas by the Simplification and Reform Act and reflected in the draft of revised Regulation Z. As can be seen, the Simplification Act made such fundamental changes in each area that the 1980 amendments might be characterized better as producing a new Truth-in-Lending Act than merely as amending the old act. For example, among the important changes the number of disclosures has been reduced and the format changed, model forms have been required and other changes have been made to aid compliance, civil penalties have been limited to key disclosures, and enforcement provisions have been altered. Because changes in these and other areas of the act are so substantial, major changes are also required in Regulation Z.

Table I—Areas of Change in Draft Regulation Z Arising From the Truth-In-Lending Simplification and Reform Act

1. Changes to Provide Consumers with Simpler, More Understandable Information:

A. Reduction in the absolute number of disclosures, especially by reducing itemizations on closed-end credit.

B. Providing that supplemental information may not be intermingled with Truth-In-Lending disclosures.

C. Providing for short descriptive phrases to accompany numerical disclosures.

D. Providing that residential first mortgage disclosures be given at some time as Real Estate Settlement Procedures Act (RESPA) disclosures.

2. Changes to Make Compliance Easier for Creditors:

A. Reduction in the absolute number of disclosures.

B. Requiring that the Federal Reserve promulgate model forms which would guarantee compliance if filled in properly.

C. Providing that all amendments or interpretations requiring forms changes

[2] Source: Administrative Office of the United States Courts.

[3] Board of Governors of the Federal Reserve System, *Annual Report to Congress on Truth in Lending for the year 1978* (January 3, 1979), pp. 10-11.

[4] For a concise review of the issues and cases in these areas see David S. Willenzik, "Truth in Lending Litigation, Specific Problem Areas," *Journal of Retail Banking*, June 1979.

[5] See United States Senate, Committee on Banking, Housing and Urban Affairs, *Simplify and Reform the Truth in Lending Act, Hearings on S. 1312, S. 1501, and S. 1653*, July 11-13, 1977 (Washington: Government Printing Office, 1977).

[6] United States Senate, Committee on Banking, Housing, and Urban Affairs, *Truth in Lending Simplification and Reform Act, Report to Accompany S. 108* (Washington: Government Printing Office, 1979), p. 3.

become effective on October 1 of each year, with at least six months notice.

D. Providing for true tolerances of 1/8 percent for annual percentage rate disclosures and for wider tolerances on complex transactions under regulations of the Board.

3. Changes Affecting Civil Liability Provisions:

A. Limiting creditors' liability for statutory penalties to only those disclosures regarded as being of central importance.

B. Extending the period during which a creditor can "cure" a violation and avoid civil penalties from 15 days to 60 days after discovery.

C. Providing that "discovery" of errors might be due to examination agency reports without cutting off the time period to cure.

D. Extending "bona fide error" defense to good faith calculation, computer, and printing errors as well as to clerical errors.

4. Changes to Strengthen Administrative Restitution Enforcement:

A. Requiring administrative agencies to order refunds when finance charges or APR's are understated and when errors are part of a clear pattern or practice, are the result of gross negligence, or are willful.

B. Providing for some administrative discretion in ordering restitution, except for willful violations.

5. Changes to Clarify Legal Issues:

A. Clarification concerning creditor responsible for disclosures on transactions involving more than one institution.

B. Clarification concerning adequate disclosure of security interests.

C. Clarification concerning disclosure of acceleration clauses.

D. Clarification concerning disclosure of right of rescission on certain transactions.

Beyond the specifics of the kinds of changes listed in Table I, the extent of the alterations in the act and regulation indicates some fundamental shifts in regulatory approach. One shift involves a movement away from the concept of full disclosure of everything as a Federal Truth-in-Lending matter. Rather, the new act and draft regulation concentrate on requiring fewer disclosures, especially those believed to be most important to most consumers. The idea behind this change is that beyond these critical disclosures, regulatory burden increases faster than the usefulness of the disclosures to consumers. A second shift involves significant attempts at relieving the most burdensome compliance problems for creditors, especially by providing model forms that will guarantee compliance if used properly. A third shift moves enforcement efforts away relatively from private court suits for civil penalties and focuses enforcement effort on administrative actions by government agencies. This change was designed to help slow the flow of court decisions that has required creditors constantly to be aware of potential changes in disclosure standards and which, on occasion, has produced differing disclosure standards among judicial districts.

2. *Other Changes Proposed.* Besides changes in Regulation Z mandated by the Simplification and Reform Act, the staff draft of revised Regulation Z reflects a large number of other proposed changes, which are listed in Table II. These changes are intended to provide additional simplifications in disclosure procedures so as to provide clearer standards, eliminate complexities, and provide a greater degree of flexibility in a regulation that had become quite inflexible. However, because each of the changes involves a tradeoff between full precise disclosures (which may be complex and difficult to make and understand) and simpler disclosures (that may be less complete or precise even if more understandable), some of the changes may be controversial. Nevertheless, the changes proposed appear consistent with the Congressional mandate for regulatory simplification.

Table II—Areas of Change in Draft Regulation Z Arising From Staff Attempts to Simplify the Regulatory Structure

1. Changes Designed to Provide Clearer Standards Concerning Applicability of Provisions of the Regulation:

A. Definition of creditor subject to regulation is make more precise by providing a standard stated in terms of number of annual credits (25, or 5 real estate credits) rather than a standard in terms of "ordinary course of business."

B. Coverage of credit where there is no finance charge is limited to written agreements, thereby excluding informal installment agreements often offered by physicians and other professionals and tradesmen.

C. Definition of "consummation" before which disclosures must be made is made more precise by defining it as the point in time when a contractual obligation is established rather than when a vaguer "economic incentive" to go forward is established.

D. Determination that disclosures be based on legally enforceable obligation rather than on any informal agreement that may be at variance with the enforceable agreement.

E. Exclusion of sellers' points from the finance charge on real estate transactions thereby obviating need to determine whether sale price of property was raised to include sellers' points.

2. Changes Designed to Make Good Faith Disclosures Easier Through Greater Availability of Small Tolerances:

A. Provision for tolerance on disclosure of finance charges equal to tolerance for disclosure of annual percentage rates (⅛ of 1 percent).

B. Provisions for wider tolerance of ¼ of 1 percent on irregular transactions involving multiple advances or irregular payments.

C. Provision that slight changes in a transaction from good faith estimated disclosures do not necessitate full redisclosure.

D. Elimination of terminology requirements other than "annual percentage rate" and "finance charge" in open-end credit disclosures.

3. Changes Designed to Highlight Disclosures Relevant to Credit Decisionmaking:

A. Narrowing of definition of security interest that must be disclosed to exclude items such as proceeds of insurance that typically are unrelated to credit decisions but which have contributed to litigation and ambiguity.

B. Limiting the frequency of need for complete redisclosure when terms are changed.

C. Limiting necessity of disclosure on assumption of an obligation to the case of residential mortgages.

4. Changes Designed to Eliminate Complexities:

A. Exclusion from disclosure requirements of such transactions as utility "budget plans" and "layaway" plans that have some elements of a credit transaction but which, strictly speaking, are not credit.

B. Elimination of three-day waiting period on credit secured by residence if consumer certifies in writing (preprinted forms prohibited) that a bona fide personal financial emergency exists.

C. Elimination of need to consider compensating balances in annual percentage rate calculation.

D. Exclusion of debit cards attached to deposit accounts with check overdraft features from certain credit card requirements.

5. Changes Designed to Allow Creditor Flexibility in Preparing Disclosures to Fit the Nature of the Transaction in Question:

A. Allowing the creditor in a variable rate transaction to prepare the required

example in a way that fits the specific transaction.

B. Allowing the creditor in a transaction involving multiple credit advances to prepare disclosures that fit the specific transaction.

C. Allowing creditors flexibility either to include or exclude in disclosures any cash rebates offered by the creditor or a manufacturer.

D. Allowing creditors more flexibility in showing repayment schedules in credit advertising.

3. *Evaluating the New Regulatory Structure.* Ultimately, the regulatory structure associated with Truth in Lending, like the regulatory and administrative apparatus associated with other consumer-oriented legislation, should be evaluated in terms of its contributions to (or detractions from) (1) market efficiency and (2) consumer protection. However, in the case of TIL these criteria are especially closely related. Truth in Lending is largely an information protection, and the main purpose of information protections is to improve the functioning of markets. Unlike behavioral or market protections (like Equal Credit Opportunity) that involve direct governmental interventions to affect market behavior of participants (especially businesses), the impact of information protections is more indirect. Instead of directly altering behavior, information protection assist consumers by improving the quality or efficiency of markets.

Markets are, of course, mechanisms for exchanging goods, services, or resources for value; and the concept of efficiency refers, in a sense, to the smoothness of the exchange mechanism. The concept has two components. The first, operational efficiency, concerns the mechanics of the transfer process itself. In particular, operational efficiency refers to the ability of a market to facilitate the transfer of goods or resources without loss of real resources to the transfer mechanism. Viewed in this manner, Truth in Lending and Regulation Z certainly introduce a measure of operational inefficiency into consumer credit markets by raising creditors' costs that must be paid by consumers. However, this is only half of the question.

The second component of market efficiency is allocational efficiency. Allocational efficiency refers to the extent to which markets allocate resources to their best uses. It has both a supply side and a demand side. From the supply side the question for TIL is whether the regulatory structure interferes with market allocation of resources to areas of highest return for a given risk. In contrast, from the demand or consumer side (the focus of this analysis) the question is whether the TIL regulatory structure helps consumers *obtain* resources at least cost for a given level of credit risk. Stated in this manner the relationship between market efficiency and consumer protection is more apparent: The concept of efficiency means best value for expenditure; this is precisely the intent of an information protection.

Unfortunately, because of the number of different kinds of costs involved, the amount of operational inefficiency introduced by the TIL regulatory structure is very difficult to measure. As a result, little statistical information is available and no broad-based cost analyses have been prepared. Nevertheless, despite these gaps in the record, it is still possible to indicate some cost-causing aspects of the regulatory apparatus and to make some comparisons of the old regulatory environment with the new.[7]

A number of kinds of costs are incurred by creditors (and ultimately by consumers) as a result of Truth in Lending. In addition, each type of costs recurs (to a greater or lesser extent depending on the situation) whenever changes are made in the act or regulation. Before passage of the Simplification Act, frequent changes and interpretations of the regulation caused major compliance problems for creditors. Since one purpose of the new act is to reduce frequency of changes in the future, it should reduce costs in the long run. Nevertheless, to achieve these long-run advantages, substantial start-up costs will be incurred as the entire regulatory structure is changed. Delaying the effective date for one year and allowing transition to the new methods at any time during the year should reduce start-up costs relative to those of a more rapid implementation schedule.

A first group of costs associated with Truth in Lending is legal expenses. Legal expenses arise from a number of sources and problems. One source is the cost of designing disclosure forms that suit the credit programs of individual creditors but which also comply with Regulation Z. On some kinds of transactions (for example, large secured credit sales) required disclosures were quite complex prior to the Simplification Act, so legal preparation had to be quite detailed. Reduced disclosure requirements and issuance of model forms should help reduce costs in this area in the future. Likewise, the new regulatory structure should reduce the legal expenses of constant re-evaluation of disclosures, to the extent the act is successful in reducing frequency of changes and interpretations.

Another source of legal costs is litigation expenses. Truth in Lending has produced a substantial number of court cases, each of which requires legal attention. Unreported are the number of cases where some accommodation or settlement is reached without the formality of filing and litigating a suit. Expenses can be sizeable in either case, especially if plaintiffs' legal expenses are awarded as well. The simplified Truth-in-Lending Act and Regulation Z should reduce legal expenses of these kinds. Because compliance with the act has been made easier, legal expenses for both analysis and litigation should eventually be reduced, possibly after a spurt associated with implementing the new requirements.

A second TIL cost is the cost of forms and printing. After design, complying forms typically are printed by a commercial printer. As a result, any change in requirements necessitates not only new legal analysis, but new printing expenditures as well. Furthermore, often overlooked, a change in forms requires that all obsolete forms be retrieved or otherwise destroyed. For a large creditor with multiple branches and possibly hundreds or thousands of employees, this requirement can involve substantial effort. Again, the new regulatory structure should reduce costs in this area. Besides minimizing the need and likelihood of rapid changes in disclosure requirements, the new rules specify that forms changes will be required no more than once per year. In 1977 the Commission on Federal Paperwork estimated this provision alone would reduce costs by $600 million annually.[8]

A third cost is the cost of employee training. If legal requirements change frequently and employees must be trained and retrained to use new forms correctly, substantial costs may result.

[7] To a great extent the following discussion in this section concerns changes in Federal Truth in Lending only and is contingent upon validity of the assumption that implementation of the new Truth-in-Lending Act, including its new standards for preemption of state disclosure laws, will not have the effect of requiring creditors to make additional disclosures and incur additional liability under existing state statutes. Since this assumption is dependent upon certain Board actions, as well as upon possible actions by state legislatures and by state and Federal courts, the analysis and conclusions offered in this section may be subject to revisions, which could be substantial. This issue is discussed more fully in Appendix A.

[8] Commission on Federal Paperwork, *Consumer Credit Protection* (Washington: Government Printing Office, 1977).

Partially in response to this problem, but also for other reasons of management control, some creditors have instituted automated computer-processed TIL disclosure forms in recent years. Rather than relying on employees to fill in changing disclosure forms correctly, some creditors have programmed their computers to supply disclosures through terminals in branches or stores. However, computers must be purchased or leased and programmed, so computer-related expenses constitute a fourth group of TIL costs. Actually, this category of costs should probably be expanded to encompass all kinds of calculating-disclosing aids including charts, tables, and calculators as well as computers. Since, to some extent, there is a tradeoff between sophistication of employees and extensiveness of calculation aids, training expenses and calculating-computing expenses might be added together in evaluating TIL. Nevertheless, regardless of how they are apportioned, costs associated with training and calculating should be reduced by the new regulatory structure, after an initial start-up phase.

Other TIL-related costs include the actual costs of disclosing required information and the costs of record retention. Actual costs of disclosing rates and other information are probably not very great on closed-end credit, given that terms must be negotiated or specified and contractual documents are prepared and signed anyway. Costs of disclosing on standard types of contracts consist of calculating the necessary information, placing it on the disclosure forms and handing the forms to consumers. Once the necessary legal judgments are made, forms prepared, employees trained and computers programmed (or charts and tables purchased) disclosures are not especially difficult or time consuming, as long as no changes are made in the procedures. On open-end credit finance charges must be disclosed on periodic statements (usually monthly); but, typically, the calculations would be made anyway since the disclosure statement also constitutes the periodic billing statement. The new act and regulation do not make substantive changes in the methods of actually making disclosures and so substantial cost savings are not expected from this source. Likewise, the new regulatory structure retains the earlier requirements on record retention (for compliance purposes), although retaining files can be costly. In 1977 the Commission on Federal Paperwork estimated that storage, filing, and clerical expense of maintaining files could amount to 16 cents per file. However, since creditors would be expected to keep files for a time anyway, not all of this expenditure can be attributed to TIL or other regulations. Nevertheless, Regulation Z requires that copies of disclosure statements be retained for 24 months which is beyond the closing date of many accounts. This requirement is not changed by the new regulation.

Reductions in all of these cost areas should ease burdens of complying with the Federal act for all creditors. However, some provisions of the new law may be especially important to smaller creditors. In particular, the provision of model forms should lessen legal costs associated with designing disclosure forms. In addition, less frequent changes in the regulation and less frequent interpretations should reduce burden for institutions with limited staff. While not specifically designed to benefit small creditors, the new Regulation Z is consistent with the purposes of the Regulatory Flexibility Act.

In sum, the new TIL regulatory structure should lead to lower compliance costs, thereby improving operational efficiency of credit markets. To the extent these gains can be achieved without sacrificing consumer protections, the new regulatory environment should produce a net gain for society as a whole through a more efficient market. However, before this conclusion is reached it is necessary, first, to examine TIL as an information protection. This topic forms the subject matter of Part IV.

IV. Truth in Lending as an Information Protection

1. *Potential Evaluative Criteria.* In evaluating the new Truth in Lending regulatory structure as an information protection, possibly the foremost concern is the need for an appropriate criterion or standard. The goal stated by Congress in Section 102 of the Act, avoidance of the "uninformed use of credit," is undoubtedly the Act's central purpose and a goal consistent with market efficiency, but measurement is subject to severe definitional and methodological difficulties. As a result, proxies are needed. Examination of the behavioral science literature as well as Congressional hearings and statements and the literature on Truth in Lending itself reveals that a large number of consumer-protection goals have been suggested as standards for TIL. Thirty-nine possible goals for Truth in Lending in nine separate categories are listed in Table III. There are probably also other goals that might be added to the list. However, the length of this table reveals the same difficulties in evaluating TIL as a consumer protection and the reason why simple tests are probably inadequate. Nevertheless, a few general principles might be stated.

Table III—Goals of Truth in Lending

I. *General Philosophical or Educational Goals*
1. Satisfy Consumers' Right to Know
2. Enhance Consumer Education
3. Enhance Consumers' General Understanding of the Credit Process
4. Promote Long-Term Rise in Consumer Sophistication
5. Promote the Informed Use of Credit
6. Promote Wiser Credit Use

II. *Goals Associated with Improving Consumer Decisionmaking*
7. Reduce Credit Search Costs
8. Simplify Information Processing
9. Improve Consumers' Ability to Make Conparisons [1]
10. Enable Consumers to Match Products and Needs
11. Enable Consumers to Decide Between Using Credit and Using Liquid Assets [2]
12. Enable Consumers to Decide Between Using Credit and Delaying Consumption [2]
13. Show Consumers Where Search Can Be Beneficial

III. *Cognitive Goals: Awareness and Understanding*
14. Improve Awareness of Credit Costs
15. Improve Awareness of Non-Cost Credit Terms
16. Improve Awareness of Differences Among Classes of Institutions
17. Improve Consumers Understanding of the Relationships Among Credit Cost Terms

IV. *Behavioral Goals*
18. Encourage Credit Shopping

V. *Attitudinal Goals*
19. Improve Consumer Satisfaction
20. Improve Consumer Confidence

VI. *Credit Market Goals*
21. Enhance Competition in Consumer Credit Markets
22. Drive Out High-Cost Producers
23. Encourage Industry to Reform
24. Improve Credit Market Products
25. Discourage Risk Shifting by Institutions
26. Discourage *In Terrorem* Boilerplate Clauses in Contracts
27. Provide Vehicle for Legal Reforms.
28. Protect Legitimate Businesses from Unethical Competition

[1] Referred to as the "Shopping Function" by the National Commission on Consumer Finance.

[2] Referred to as the "Descriptive Function" by the National Commission on Consumer Finance.

VII. *Institutional Control Goals*
29. Promote Control of Institutions Through Compliance Requirements
30. Improve Consumers' Bargaining Position Relative to Institutions
31. Provide Defenses for Consumers
32. Provide Leverage for Hard-Pressed Debtors
VIII. *Macroeconomic Goals*
33. Enhance Economic Stabilization
IX. *"Behavioral" or "Market Protection" Goals*
34. Require Procedures for Credit Card Billing Error Resolution
35. Provide Protections for Consumer Leasing
36. Provide "Cooling Off" Period for Credit Secured By Residence
37. Provide "Cooling Off" Period for Credit Negotiated in Consumer's Home
38. Provide for Limited Liability on Lost or Stolen Credit Cards
39. Eliminate Unsolicited Credit Cards

First, TIL as a consumer protection cannot be evaluated fully by examining only a single behavioral measure like credit shopping. Behavioral goals are only one of nine categories in Table III, and encouraging shopping is only one of 39 goals listed. Consequently, evaluating TIL on shopping alone, or for that matter on any single criterion, is likely to produce an incomplete analysis of the impact of this information protection. As a corollary, if it is not appropriate to evaluate TIL on only one criterion, then it seems inappropriate to recommend wholesale changes in the protection based on a single criterion. At a minimum any proposed changes should be evaluated in terms of the likely effects on a variety of goals. Again, the shopping criterion provides a useful example; it simply may not be reasonable to make wholesale changes in the regulatory structure to encourage shopping unless either the changes simultaneously encourage other goals as well or the changes can be made at small cost. If costs are large or impacts on other goals are small, then there exists the possibility of achieving small gains in allocational efficiency at the expense of large losses of operational efficiency. This could produce a net loss for society as a whole.

Second, some goals do not suggest any measurable evaluative criteria and must be evaluated indirectly. Probably the general philosophical and educational goals in Category I of the table offer the best examples. The six goals listed there are almost universally recognized as important aspects of TIL, but they appear too general for direct analysis and invite only indirect conclusions. However, it might be noted that if two disclosure programs each appear to satisfy these general goals but one also appears to satisfy other goals as well, or to satisfy the general goals at lower cost, then this method is preferable, other things equal.

Third, while some goals do offer evaluative criteria, the criteria may differ among individuals making it difficult to draw general conclusions. Many of the goals in Category II of the table illustrate this phenomenon. For example, goal number 10, improved ability to match products and needs, might be examined by studying choices made in the marketplace. The problem is that consumers' needs differ and, consequently, so will the choices made even under conditions of perfect information. Likewise, consumers faced with deciding between using credit and paying cash (goal number 11) will not all reach the same conclusion. In a world of perfect information some people will choose cash and others credit, depending on their individual circumstances. As result, a simple criterion related to likelihood of taking one behavioral path or the other cannot be expected to produce useful analytical results.

Fourth, some goals may be more costly than others, especially if special attempts are made to achieve them without regard to costs. Encouragement of credit shopping (number 18) has already been mentioned as a possible example, but there are others as well. One is number 17, improving consumers' understanding of the relationships among credit cost terms. Much of the complexity, litigation, and costliness of the original TIL Act and Regulation Z arose, in a sense, out of attempts to satisfy this goal with extensive, detailed TIL disclosure statements. Possibly a better approach might have been to consider whether the details were necessary to achieve the other 38 goals or whether a simpler, less costly approach might thave been sufficient.

2. *Evidence on the Effects of Truth in Lending.* Unfortunately, there is relatively little direct evidence available about the impact of TIL on most of the goals listed in Table III. Furthermore, since evidence must typically be gathered by surveys at discrete points in time, the evidence is always subject to potential methodological problems, particularly that alternative explanations of the results are available.[9] Nevertheless, it is still possible to suggest some general conclusions concerning TIL as an information protection.

While little can be said definitively about the impact of TIL on the general philosophical and educational goals listed in Group I of Table III, as a concept it seems likely that TIL disclosures have fostered the general goals of satisfying the consumer's right to know and enhancing general educational aims. Similarly, it seems that consumers' general understanding of the credit process has probably been enhanced by TIL, and the law has probably contributed to increasing consumers' general sophistication over the long term. TIL has probably also supplied the tools for informed use of credit and wiser use of credit by consumers. Although these latter goals might seem quite similar at first glance, they are actually quite different since the second involves a value judgment concerning what is wise. To use an analogy from public health, it seems likely that required disclosures of warnings by the surgeon general about smoking have contributed to informed use of tobacco, although possibly not to wiser use among those still smoking. In the tobacco case the value judgment is fairly obvious but in the credit case it may be less so. Nevertheless, it seems likely that TIL has contributed to both more informed and wiser credit use, if only because it has provided necessary tools in the form of standardized disclosures and terminology.

In terms of this first group of TIL goals, the new regulatory structure provided by the Simplification Act and revised Regulation Z should, on balance, prove beneficial. The new structure should be as effective as the old in enhancing these general TIL goals, but it seems likely it will be able to do so at lower operational cost. As a result, the net effect appears positive, since the beneficial aspects of general consumer protection have not been sacrificed, but they will be achieved at lower cost to supplier, after an initial costly phase-in.

The second group of goals involve individual consumers' decision processes. Studying the impact on these goals is especially difficult since decisionmaking criteria vary among consumers. However, as with the first group of goals, it seems likely that the new regulatory environment is an improvement on balance over the old because consumer protections in this area have not been sacrificed, even though costs may be lowered in the

[9] For discussion of methodological issues see Lynn W. Phillips and Bobby J. Calder, "Evaluating Consumer Protection Programs: Part I, Weak But Commonly Used Research Designs," *Journal of Consumer Affairs*, Winter 1979, and Lynn W. Phillips and Bobby J. Calder, "Evaluating Consumer Protection Laws II: Promising Methods," *Journal of Consumer Affairs*, Summer 1980.

future. Probably of primary importance is TIL's requirement that rates be calculated in identical fashion regardless of credit source or type, a requirement that is retained in the new structure. This should be important, for example, in satisfying goal number 10, enabling consumers to match products and needs. Likewise, decisions about using cash or delaying consumption rather than using credit should be facilitated with standardized credit cost calculations available. Although survey evidence indicates that relatively few credit users are influenced by disclosures in their decision to take on debt,[10] some unanswered questions may be as important. These include the extent to which cash buyers are dissuaded from using debt by its cost and the extent to which consumers' attention to and sensitivity to finance rates has changed over time. Regardless of answers to these questions, it seems that TIL has provided consumers with the necessary tools, for whatever purpose they want to use them.

Most research on the effects of TIL has been concentrated on the third group of goals in Table I (the Cognitive Goals) and especially on awareness of credit costs (goal number 14). Research attention has probably been focused in this area for two reasons. The first is that these goals, especially awareness of credit costs, offers a convenient operational evaluative criterion for testing. As a result, it is possible to draw conclusions without some of the kinds of complications associated with evaluating other goals. The second reason is the reasonable contention that cognition logically precedes use of information for decision making, and so evidence of awareness is an important preliminary evaluation. The argument is that since cognition precedes use, there must be awareness before use of information can be expected. Although evidence of awareness does not, by itself, demonstrate that information will be used, lack of awareness probably indicates that information cannot be used. Consequently, evidence of lack of impact of TIL on awareness could be taken as an indication the law had little impact in other areas either.

Surveys of consumers have indicated increasing levels of awareness of percentage rates of charge on credit transactions since implementation of Truth in Lending in 1969. Using an operational definition of awareness established by staff of the National Commission on Consumer Finance, surveys have revealed a sharp increase, in awareness in the first 15 months of Truth in Lending and continuing gains afterward.[11] By 1977 levels of rate awareness reached 54 percent for closed-end credit and 65 percent and 71 percent for retail revolving credit and bank credit-card credit, up from 14 percent, 35 percent, and 27 percent, respectively, in 1969. Although many factors undoubtedly affect credit knowledge, including gradually higher educational levels over time, it appears reasonable to conclude that TIL has focused attention on percentage rates and contributed to the sharp increases in awareness.

In contrast, despite changes in awareness of percentage rates since 1969, available consumer surveys indicate that credit shopping by consumers is not especially common. For example, a nationwide survey in 1977 found that only about one quarter of those with outstanding closed-end credit accounts had tried to obtain information about other creditors or credit terms before obtaining the credit.[12] Furthermore, a majority of those with outstanding closed-end credit indicated that familiarity with the creditor or prior good experience was the primary reason for obtaining credit from the particular creditor they chose. However, lack of shopping does not necessarily indicate unreasonable or irrational behavior. On the contrary, failure to shop may indicate an awareness of costs on the part of the consumer and may reflect the view that further shopping is unwarranted. Consumers may be wrong in their judgments, of course, but it does not seem that, by itself, failure to shop indicates a failure of TIL. Probably more important for TIL evaluation are the questions whether the regulatory structure increases cost awareness and whether it permits effective shopping, if desired. The first of these questions has already been answered affirmatively, and the second answer seems positive as well. By establishing a consistent unit price and standards of terminology, TIL permits consumers to shop for credit to whatever extent they feel is appropriate.

The fifth group of TIL goals concerns improving consumers' confidence in and satisfaction with the credit process. It seems likely that consumers, knowing that creditors must disclose certain costs and terms accurately under the watchful eye of regulatory authorities, might increase their confidence in the integrity of an otherwise complex transaction. This confidence could produce consumer benefits beyond any immediate specific uses consumers make of the disclosed information. However, since obtaining these benefits does not require any specific uses of the information disclosed, this group of goals argues for a simple disclosure scheme. Rather than a highly technical regulation with strict requirements, this group of goals could be addressed with simple methods. Thus, on balance, the new regulatory structure should provide net benefits in this area. Since benefits in the form of improvements in confidence and satisfaction with the credit process should not be reduced under the new regulatory structure, but costs should be reduced in the long run, net benefits should result.

Limited longitudinal survey evidence indicates that consumers' attitudes toward credit have improved since passage of the original Truth in Lending Act. Furthermore, attitudes have improved more rapidly during the years 1967–77 than 1959–67.[13] Clearly, however, changes in attitudes over time cannot be attributed solely to any piece of legislation. Income growth and employment stability over time for many members of the public may partly explain improved attitudes toward credit use. Inflation, which tends to reward early purchases of goods and to penalize accumulations of savings in the form of liquid assets, may also affect attitudes toward credit. Nevertheless, there remains the possibility that consumer protection regulations have contributed to overall increases in consumers' satisfaction with the credit process. Since any gains in this area might be achieved just as well by simple rules, though, this group of goals offers arguments for regulatory simplification.

The sixth group of goals is the credit market goals. Taken together, these goals refer to improvements in credit markets that might result from a generally more competitive environment. These include, all other things equal, such things as lower market prices, discouragement of unfavorable contract devices that might need to be disclosed, and protection of legitimate businesses from unethical competitors that might employ deceptive pricing in the absence of TIL. These, of course, were important originals goal of Truth in Lending and were extensively

[10] See George S. Day and William K. Brandt, *A Study of Consumer Credit Decisions: Implications for Present and Prospective Legislation* (Washington, Technical Studies of the National Commission on Consumer Finance, Vol. I, Government Printing Office, 1973).

[11] See Thomas A. Durkin and Gregory E. Elliehausen, *The 1977 Survey of Consumer Credit* (Washington: Board of Governors of the Federal Reserve System, 1978).

[12] *Ibid.*, chapter 5.

[13] *Ibid.*, chapter 10.

discussed in Congressional hearings before passage of the Act.

As with the other groups of goals, evaluating the credit market goals is difficult because of competing explanations for any market changes and lack of specific data. Other things equal, a requirement that businesses provide pricing information calculated in a uniform manner should make markets more competitive. However, the magnitude of any effect depends on answers to a number of questions. One question concerns the importance consumers attach to the information disclosed. In the area of credit terms, available evidence suggests that consumers regard cost terms as most important.[14] As a result, requiring disclosure of cost-related terms would be consistent with improving market competitiveness. Obviously, this does not imply that disclosures need be complex or difficult to prepare. A second question concerns current competitive conditions in consumer credit markets. If markets are already fairly competitive, then the gains from implementing or changing Truth in Lending to improve competitiveness are likely to be small. Evidence on consumer credit competition before Truth in Lending is scarce, although markets were assumed to be less than perfectly competitive.[15] In contrast, limited more recent evidence suggests that consumer credit markets are fairly competitive.[16] Although the precise impact of Truth in Lending in promoting competition cannot be determined, this finding may indicate that further changes in TIL are unlikely to produce substantial additional benefits from a more competitive market. Any benefits already provided by TIL, though, are unlikely to be lost under the new regulatory structure.

The seventh group of goals in Table I, the Institutional Control Goals, is probably the group most directly affected by the new regulatory structure. As outlined previously, the Senate Banking Committee's stated purposes in drafting the Truth in Lending Simplification and Reform Act included making compliance easier for creditors and strengthening administrative restitution enforcement authority. The latter purpose encourages goal number 29, but the former may discourage the others, especially numbers 31 and 32. It appears that the goals of providing defenses for consumers and leverage for hard-pressed debtors were not part of the original plans of Congress in 1969. Instead, they arose from the complexity of the regulatory structure that made it difficult for creditors always to be in complete technical compliance. Creditors instituting collection actions were resisted occasionally by debtors alleging Truth in Lending violations. Such actions could result in settlements or judgments for the debtor that might reduce or eliminate the debt. Under the new regulatory structure such situations should develop less often. Apparently believing that private enforcement of Truth in Lending had contributed to its growing complexity, Congress de-emphasized private enforcement in the Simplification Act and increased the importance of administrative enforcement actions. This change should reduce the importance of TIL as a defense or a device to obtain leverage over creditors and re-emphasize the original goals of Truth in Lending as an information protection.

The eighth category of goals, the Macroeconomic Goals, was discussed extensively in Congressional hearings before passage of the original act, but has received little attention since. The argument made in the Congressional hearings was that disclosure of finance charges and annual percentage rates would discourage consumers from using credit during an economic boom and encourage credit use in a depression, other things equal. Taken together these effects would encourage economic stabilization by helping dampen business cycles.

The argument that availability of credit cost information over the course of the business cycle might improve economic stabilization is consistent with economic theory. The question is the magnitude of the effect which depends on the degree of fluctuation in consumer credit rates, consumers' knowledge of and sensitivity to credit cost fluctuations, and the importance of other factors such as income changes or changes in expectations. If fluctuations in rates are small, if sensitivity to costs is low, or if the impact of other factors is quantitatively larger, then disclosure of rates would not have much impact on stabilization. Answers to these difficult questions are not essential for reviewing the new Truth in Lending regulatory structure because TIL has many goals of which macroeconomic stabilization is only one and clearly not the most important. Nevertheless, it is possible that regulatory rigidity in the past has limited creditors' willingness to change credit terms along with economic conditions. The new regulation should help minimize this problem by making compliance easier.

The final group of goals, the "Behavioral" or "Market Protection" Goals, do not generally concern Truth in Lending as an information protection; consequently, little will be said about them here. Furthermore, the new regulatory structure makes few changes in the market protection functions of TIL, and so potential impacts are not as great as they are in other areas.

V. Conclusion

In sum, it appears that the new regulatory structure resulting from passage of the Truth in Lending Simplification and Reform Act should result in net public benefits. Review of an extensive list of goals of TIL reveals that none of the original goals of the act will be affected adversely. However, consumer protections provided by the act ultimately should be available at less operational cost under the new structure, following start-up adjustment. An improvement in operational efficiency with no loss of allocational efficiency should lead to an improvement in the quality of the market, the goal of any information protection.

Appendix A: Preemption of State Disclosure Laws Patterned After Federal Truth in Lending

As indicated in section I of this regulatory analysis, the Senate Committee on Banking, Housing, and Urban Affairs, which drafted the Truth-in-Lending Simplification and Reform Act, included among its motives "making compliance easier for creditors (and) limiting creditor civil liability for statutory penalties to only significant violations."[17] To meet these goals the Committee bill recommended a substantial number of significant changes to Truth-in-Lendiing, many of which were enacted into law.[18] However, because Congress rejected outright preemption of state laws in the area of consumer credit disclosures, state laws which were modeled after Federal Truth in Lending—and which, consequently, were operationally redundant with only occasional impact on creditors' operations—may no longer

[14] *Ibid.*, chapter 4.

[15] See National Commission on Consumer Finance, *Consumer Credit in the United States: The Report of the National Commission on Consumer Finance* (Washington, Government Printing Office, 1972).

[16] See Gregory E. Boczar, "The Evidence on Competition Between Commercial Banks and Finance Companies, *Journal of Bank Research*, Summer 1975 and Gregory E. Boczar, "Competition Between Banks and Finance Companies: A Cross Section Study of Personal Loan Debtors," *Journal of Finance*, March 1978.

[17] United States Senate Committee, *Report to Accompany S. 108, op. cit.*, page 3.

[18] See Table I in this regulatory analysis, pages 9-10.

be parallel nor redundant. In those cases—in the absence of preemption by the Board under its authority contained in paragraph 111 of the Act or action by state legislatures—implementation of the new Federal Act may not decrease the number of required disclosures and the degree of regulatory burden.

Discussion

In the years following enactment of the original Federal Truth in Lending Act in 1968, comparable and often parallel disclosure laws were enacted in a number of states. In some cases these state laws mandated disclosures beyond those required by the Federal law, but in other cases requirements were similar or even identical.[19] In the latter examples existence of parallel state and Federal laws did not necessitate multiple disclosures or impose any regulatory burdens beyond those imposed by the State or Federal requirements taken alone. However, if changes are made in either the state or Federal law without corresponding changes in the other statute, this conclusion would no longer follow. For example, reduction in required disclosures and changes in civil liability provisions in the Federal law would not eliminate the necessity of continued compliance with the same requirements under a previously redundant state law. As a result, the change to new Federal requirements would have the effect of increasing the number of required disclosures and adding to the length of forms. Moreover, to the extent that statutory minimum penalties apply for even technical violations under state laws, requests for interpretations and costly litigation could continue, simply transferred from Federal to state agencies and courts.

Congress presented a potential solution to this problem when it gave the Board authority to determine which state laws were "inconsistent" with provisions of Truth in Lending. According to paragraph 111 of the Act (as revised), "the laws of any state relating to the disclosure of information in connection with credit transactions" would be preempted "to the extent of the inconsistency." There are three problems for the Board in using this clause to solve the problem of potential increased regulatory burden from state laws. First is the meaning of "inconsistent." Second, the Board apparently does not have the authority to decide whether any state disclosure laws are inconsistent with Federal TIL without a line-by-line review of the state laws in question and this would be very time consuming. Third, paragraph 111 also states that "If the Board determines that a state-required disclosure is inconsistent, creditors located in that state may not make disclosures using that inconsistent term or form * * *." Thus, if the Board determines that any disclosures are inconsistent with Federal law, the practical effect would be to make it very difficult to use a combined contract and Federal Truth-in-Lending disclosure.

[19] Staff of the Division of Consumer and Community Affairs are attempting to determine which states fall into these categories.

By order of the Board of Governors, March 26, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-10347 Filed 4-6-81; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 213

[Reg. M; Docket No. R-0354]

Consumer Leasing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form Regulation M, which implements the consumer leasing provisions of the Truth in Lending Act, as amended by Congress in March 1980. The Board published a proposed revision for comment on May 5, 1980, and a second on December 5, 1980, both as part of the general revision of Regulation Z Truth in Lending. The consumer leasing portion is now being issued as a separate regulation to make it easier for lessors to use. Substantively, this regulation is almost identical to the leasing provisions currently found in Regulation Z; therefore, it will not require lessors to amend their existing leasing form or alter their current methods of operation.

EFFECTIVE DATE: April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Barbara Ranagan, Staff Attorney (202-452-3667), or Steven Zeisel, Staff Attorney (202-452-3867), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Introduction

In March 1980, Congress adopted the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act, Pub. L. 96-221), which contained sweeping revisions to Truth in Lending. The consumer leasing provisions contained in chapter 5 of the act were not addressed, although revisions to other chapters of the act affected consumer leasing in minor ways. While the act does not become fully effective until April 1, 1982, the Board is required to adopt final rules implementing the act by April 1, 1981. Lessors may begin complying with the new regulations at that time.

The Board published proposed revisions of Regulation Z on May 5, 1980 (45 FR 29702), and December 5, 1980 (45 FR 80648). Both proposals contained amendments to the leasing provisions that went somewhat beyond the limited revisions required under the act.

The final version of revised Regulation Z (which is also being adopted at this time) implements only the credit provisions of the act. This regulation implements the consumer leasing portion. It contains leasing definitions, disclosures, and advertising requirements, as well as the general regulatory provisions in current Regulation Z applicable to leasing. Though it has been given a new name and an identity of its own, this regulation is almost identical to the leasing provisions originally in Regulation Z.

The Board has separated Regulation M from Regulation Z as part of its commitment to ease the regulatory burden and facilitate compliance. The Truth in Lending and Consumer Leasing Acts govern two different types of consumer transactions. A lessor may have no interest in extending credit, and a creditor may never lease personal property to consumers. Each regulation will be easier to use if it does not contain provisions that regulate the other.

A second consideration prompted the Board to remove the leasing provisions from Regulation Z. The Board is recommending to Congress that it consider simplifying the Consumer Leasing Act in the near future, to continue the process begun with the Truth in Lending Simplification and Reform Act. If the leasing provisions were to remain part of Regulation Z, an amendment to the Consumer Leasing Act would require an amendment to Regulation Z shortly after its publication in final form. As restructured, Regulation Z will be unaffected by any future amendment to the Consumer Leasing Act.

Aside from its new package (and one revision mandated by the act, dealing with multiple lessors and multiple lessees), Regulation M mirrors the substance of the current leasing provisions of Regulation Z. None of the leasing modifications suggested in the

two earlier proposals to revise Regulation Z has been adopted. Though it is committed to simplify and clarify the leasing rules, the Board believes that any regulatory amendments at this time would be counter-productive. Lessors would be required to study and master new rules twice within a short time if Congress should later amend the act to require further regulatory change. The Board believes that such statutory change is desirable and is encouraging Congress to pursue it. Meanwhile, the Board will not burden lessors with the need to alter their forms or procedures more than necessary. To avoid doing so inadvertently, the Board has adopted almost verbatim the familiar language of Regulation Z.

The Board appreciates the numerous comments it received in response to both published proposals. The suggestions of ways to simplify, clarify and otherwise improve the regulation will be extremely valuable as the Board considers specific legislative recommendations.

Only one amendment to the Truth in Lending Act mandated a corresponding amendment to the current leasing rules. The regulation, in § 213.4(c), provides that only one lessor need make the required disclosures, and that the disclosures may be made to any lessee who is primarily liable. The lessors may decide among themselves which one will make the disclosures. In all other respects, this regulation requires no change in leasing procedures.

The model lease disclosures found in the current Board interpretations now appear in Appendix C. Current staff interpretations may be incorporated, as necessary, in a commentary to be published later. To the extent that Regulation M is the same as the leasing provisions in current Regulation Z, lessors may continue to rely on the existing staff letters until they are rescinded or incorporated into a commentary.

Regulatory Provisions

A section-by-section analysis of the regulatory provisions follows. "Regulation Z" refers to that regulation prior to the amendments effective April 1, 1981.

Section 213.1—General Provisions

This section contains the general provisions located in § 226.1 of Regulation Z. The provision on issuance of staff interpretations is new. As it is more general than the Regulation Z provision, lessors should encounter no difficulty complying with the new provision.

Section 213.2—Definitions and Rules of Construction

All the definitions in § 213.2(a) are drawn from § 226.2 of Regulation Z. The definition of "agricultural purpose" has been altered to conform to the amended act, and it now encompasses the acquisition of personal property and services used primarily in farming.

Section 213.2(b) corresponds to the rules of construction in § 226.2(jj), (kk), and (ll) of Regulation Z.

Section 213.3—Exempted Transactions

This section is substantively unchanged from § 226.3(f) of Regulation Z.

Section 213.4—Disclosures

The general requirements of paragraph (a) have been consolidated from §§ 226.6(a) and 226.15(a) of Regulation Z. Paragraph (b), regarding the disclosure of additional information, is taken from § 226.6(c) of Regulation Z.

Paragraph (c) is a new provision mandated by an amendment to § 121 of the act. It provides that only one of the lessors, in a lease transaction involving more than one lessor, need make the required disclosures. The lessor who will disclose may be decided by the lessors themselves. When a lease involves more than one lessee, the disclosures may be made to any lessee who is primarily liable on the lease. This new provision does not alter the requirement in § 213.4(a)(2) that the disclosure statement identify "the lessor and the lessee." The Board continues to interpret this provision to require that *all* the lessors and lessees be indentified by name, even though only one lessor gives the disclosures and only one lessee receives them.

Paragraph (d), which permits the lessor to make estimates in certain circumstances, is unchanged from § 226.6(f) of Regulation Z. Paragraph (e), regarding subsequent occurrences, is substantively unchanged from § 226.6(g) of Regulation Z. Paragraph (f), regarding leap year, is substantively unchanged from § 226.6(j) of Regulation Z. Paragraph (g), which contains the specific disclosure requirements, and paragraph (h), regarding renegotiations and extensions, are substantively unchanged from the corresponding provisions in § 226.15 (b) and (c) of Regulation Z.

Section 213.5—Advertising

Paragraphs (a), (b), (c), and (d) are identical to the leasing provisions set forth in § 226.10 (a), (b), (g), and (h) of Regulation Z, respectively.

Section 213.6—Preservation and Inspection of Evidence of Compliance

This section contains the relevant portions of § 226.6(i) of Regulation Z. The enforcement guidelines portion has not been incorporated in this section, as it is inapplicable to leasing.

Section 213.7—Inconsistent State Requirements

This section is unchanged from Regulation Z, § 226.6(b)(3). The addition of captions to paragraphs (a) and (b) imports no substantive change.

Section 213.8—Exemption of Certain State Regulated Transactions

This section incorporates the leasing provisions of § 226.12 of Regulation Z with no substantive change.

Appendices A–D

Appendix A contains the procedures and criteria for state exemptions from the act. It has been adopted, with no substantive alterations, from 12 CFR 226.80, Section I.

Appendix B, procedures and criteria for Board determinations regarding preemption, contains no substantive alterations from 12 CFR 226.80, Section II.

Appendix C contains model forms and instructions. The forms are unchanged from Regulation Z, though they have been enlarged to improve their clarity. The instructions that accompany the forms have only been amended by deletion of citations to the regulation.

As provided in amended § 105(b) of the act, use of the model forms is not required, but lessors using them properly will be deemed to be in compliance with the regulation. Lessors may rearrange the forms without losing the protection provided by the act; however, the rearrangement may not be so extensive as to affect the substance, clarity, or meaningful sequence of the disclosures. Any revisions with that effect would deprive lessors of the protection from civil liability afforded by the act.

In addition to changing the format, lessors may delete from the model forms disclosures that are inapplicable to a particular lease transaction. Examples of ways to delete inapplicable information include crossing out, whiting out, filling in "N/A" (not applicable), checking a box for applicable disclosures, or circling applicable disclosures.

Appendix D contains a list of federal agencies responsible for enforcing Regulation M.

Text of Amendments

Pursuant to the authority granted in § 105 of the Truth in Lending Act as amended by Sec. 605, Pub. L. 96-221, 94 Stat. 170 (15 U.S.C. 1604), the Board adopts Regulation M (12 CFR Part 213) to read as follows:

PART 213—CONSUMER LEASING

Sec.

213.1 General provisions.
213.2 Definitions and rules of construction.
213.3 Exempted transactions.
213.4 Disclosures.
213.5 Advertising.
213.6 Preservation and inspection of evidence of compliance.
213.7 Inconsistent state requirements.
213.8 Exemption of certain state regulated transactions.
Appendix A Procedures and criteria for state exemptions from the Consumer Leasing Act.
Appendix B Procedures and criteria for Board determination regarding preemption.
Appendix C Model forms.
Appendix D Federal enforcement agencies.

Authority: Sec. 105 of the Truth In Lending Act as amended by Sec. 605, Pub. L. 92-221, 94 Stat. 170 (15 U.S.C. 1604).

§ 213.1 General provisions.

(a) *Authority.* This regulation, known as Regulation M, is issued by the Board of Governors of the Federal Reserve System to implement the consumer leasing portions of the Truth in Lending Act, which is Title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*).

(b) *Purpose.* The purpose of this regulation is to assure that lessees of personal property are given meaningful disclosures of lease terms, to delimit the ultimate liability of lessees in leasing personal property and to require meaningful and accurate disclosures of lease terms in advertising.

(c) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 130, 131, and 185 of the act contain the liability provisions for failing to comply with the requirements of the act and this regulation.

(d) *Issuance of staff interpretations.* (1) Officials in the Board's Division of Consumer and Community Affairs are authorized to issue official staff interpretations of this regulation. Official staff interpretations provide the formal protection afforded under § 130(f) of the act.

(2) 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.

(3) No staff interpretations will be issued approving lessor's forms, statements, calculation tools, or methods. This restriction does not apply to forms, statements, tools, or methods whose use is required or sanctioned by a government agency.

§ 213.2 Definitions and rules of construction.

(a) *Definitions.* For the purposes of this regulation, unless the context indicates otherwise, the following definitions apply:

(1) *"Act"* means the Truth in Lending Act (15 U.S.C. 1601 *et seq.*).

(2) *"Advertisement"* means any commercial message in any newspaper, magazine, leaflet, flyer or catalog, on radio, television or public address system, in direct mail literature or other printed material on any interior or exterior sign or display, in any window display, in any point-of-transaction literature or price tag which is delivered or made available to a lessee or prospective lessee in any manner whatsoever.

(3) *"Agricultural purpose"* means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, of nurtures those agricultural products, including but not limited to the acquisition of personal property and services used primarily in farming. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(4) *"Arrange for lease of personal property"* means to provide or offer to provide a lease which is or will be extended by another person under a business or other relationship pursuant to which the person arranging such lease:

(i) Receives or will receive a fee, compensation, or other consideration for such service; or

(ii) Has knowledge of the lease terms and participates in the preparation of the contract documents required in connection with the lease.

(5) *"Board"* refers to the Board of Governors of the Federal Reserve System.

(6) *"Consumer lease"* means a contract in the form of a bailment or lease for the use of personal property by a natural person primarily for personal, family or household purposes, for a period of time exceeding four months, for a total contractual obligation not exceeding $25,000, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease. It does not include a lease which meets the definition of a credit sale in Regulation Z, 12 CFR Part 226.2(a) nor does it include a lease for agricultural, business or commercial purposes or one made to an organization.

(7) *"Lessee"* means a natural person who leases under, or who is offered a consumer lease.

(8) *"Lessor"* means a person who, in the ordinary course of business regularly leases, offers to lease, or arranges for the leasing of personal property under a consumer lease.

(9) *"Organization"* means a corporation, trust, estate, partnership, cooperative, association, government, or governmental subdivision, agency, or instrumentality.

(10) *"Period"* means a day, week, month, or other subdivision of a year.

(11) *"Person"* means a natural person or an organization.

(12) *"Personal property"* means any property which is not real property under the law of the state where it is located at the time it is offered or made available for lease.

(13) *"Real property"* means property which is real property under the law of the state in which it is located.

(14) *"Realized value"* means (i) the price received by the lessor for the leased property at disposition, (ii) the highest offer for disposition, or (iii) the fair market value at the end of the lease term.

(15) *"Security interest"* and *"security"* mean any interest in property which secures payment or performance of an obligation. The terms include, but are not limited to, security interests under the Uniform Commercial Code, real property mortgages, deeds of trust, and other consensual or confessed liens whether or not recorded, mechanic's, materialman's, artisan's, and other similar liens, vendor's liens in both real and personal property, any lien on property arising by operation of law, and any interest in a lease when used to secure payment or performance of an obligation.

(16) *"State"* means any state, the District of Columbia, the Commonwealth of Puerto Rico, and any

territory or possession of the United States.

(17) *"Total lease obligation"* equals the total of (i) the scheduled periodic payments under the lease, (ii) any unrefundable cash payment required of the lessee or agreed upon by the lessor and lessee or any trade-in allowance made at consummation, and (iii) the estimated value of the leased property at the end of the lease term.

(18) *"Value at consummation"* equals the cost to the lessor of the leased property including, if applicable, any increase or markup by the lessor prior to consummation.

(b) *Rules of construction.* For purposes of this regulation, the following rules of construction apply:

(1) Unless the context indicates otherwise, "lease" shall be construed to mean "consumer lease."

(2) A transaction shall be considered consummated at the time a contractual relationship is created between the lessor and lessee, irrespective of the time of the performance of either party.

(3) Captions and catchlines are intended solely as aids to convenient reference, and no inference as to the intent of any provisions may be drawn from them.

§ 213.3 Exempted transactions.

This regulation does not apply to lease transactions of personal property which are incident to the lease of real property and which provide that (a) the lessee has no liability for the value of the property at the end of the lease term except for abnormal wear and tear, and (b) the lessee has no option to purchase the leased property.

§ 213.4 Disclosures.

(a) *General requirements.* (1) Any lessor shall, in accordance with this regulation and to the extent applicable, make the disclosures required by paragraph (g) of this section with respect to any consumer lease. Such disclosures shall be made clearly, conspicuously, in meaningful sequence, and in accordance with the further requirements of this section. All numerical amounts and percentages shall be stated in figures and shall be printed in not less than the equivalent of 10-point type, .075 inch computer type, or elite size typewritten numerals, or shall be legibly handwritten.

(2) Disclosures shall be made prior to the consummation of the lease on a dated written statement which identifies the lessor and the lessee, and a copy of the statement shall be given to the lessee at the time. All of the disclosures shall be made together on either (i) the contract or other instrument evidencing the lease on the same page and above the place for the lessee's signature; or (ii) a separate statement which identifies the lease transaction.

(3) In any lease of multiple items, the description required by paragraph (g)(1) of this section may be provided on a separate statement or statements which are incorporated by reference in the disclosure statement required by paragraph (a) of this section.

(4) All disclosures required to be given by this regulation shall be made in the English language except in the Commonwealth of Puerto Rico, where disclosures may be made in the Spanish language with English language disclosures provided upon the customer's request, either in substitution for the Spanish disclosures or as additional information in accordance with paragraph (b) of this section.

(b) *Additional information.* At the lessor's option, additional information or explanations may be supplied with any disclosure required by this regulation, but none shall be stated, utilized, or placed so as to mislead or confuse the lessee or contradict, obscure, or detract attention from the information required to be disclosed. Any lessor who elects to make disclosures specified in any provision of state law which, under § 213.7 of this regulation, is inconsistent with the requirements of the act and this regulation may—

(1) Make such inconsistent disclosures on a separate paper apart from the disclosures made pursuant to this regulation; or

(2) Make such inconsistent disclosures on the same statement on which disclosures required by this regulation are made, provided:

(i) All disclosures required by this regulation appear separately and above any other disclosures,

(ii) Disclosures required by this regulation are identified by a clear and conspicuous heading indicating that they are made in compliance with federal law, and

(iii) All inconsistent disclosures appear separately and below a conspicuous demarcation line, and are identified by a clear and conspicuous heading indicating that the statements made thereafter are inconsistent with the disclosure requirements of the federal Consumer Leasing Act.

(c) *Multiple lessors; multiple lessees.* When a transaction involves more than one lessor, only one lessor need make the disclosures required by this regulation, and the one that discloses shall be the one chosen by the lessors. When a lease involves more than one lessee, the disclosures may be made to any lessee who is primarily liable on the lease.

(d) *Unknown information estimate.* If, at the time disclosures must be made, an amount or other item of information required to be disclosed, or needed to determine a required disclosure, is unknown or not available to the lessor and the lessor has made a reasonable effort to ascertain it, the lessor may use an estimated amount or an approximation of the information, provided the estimate or approximation is clearly identified as such, is reasonable, is based on the best information available to the lessor, and is not used for the purpose of circumventing or evading the disclosure requirements of this regulation. Notwithstanding the requirement of this paragraph that the estimate be based on the best information available, a lessor is not precluded in a purchase option lease from understating the estimated value of the leased property at the end of the term in computing the total lease obligation as required in paragraph (g)(15)(i) of this section.

(e) *Effect of subsequent occurrence.* If information required to be disclosed in accordance with this regulation is subsequently rendered inaccurate as a result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this regulation.[1]

(f) *Leap year.* Any variance in any term required under this regulation to be disclosed, or stated in any advertisement, which occurs by reason of the addition of February 29 in each leap year, may be disregarded, and such term may be disclosed or stated without regard to such variance.

(g) *Specific disclosure requirements.* In any lease subject to this section, the following items, as applicable, shall be disclosed:

(1) A brief description of the leased property, sufficient to identify the property to the lessee and lessor.

(2) The total amount of any payment, such as a refundable security deposit paid by cash, check or similar means, advance payment, capitalized cost reduction or any trade-in allowance,

[1] Such acts, occurrences, or agreements include the failure of the lessee to perform his obligations under the contract and such actions by the lessor as may be proper to protect his interests in such circumstances. Such failure may result in the liability of the lessee to pay delinquency charges, collection costs, or expenses of the lessor for perfection or acquisition of any security interest or amounts advanced by the lessor on behalf of the lessee in connection with insurance, repairs to, or preservation of leased property.

appropriately identified, to be paid by the lessee at consummation of the lease.

(3) The number, amount, and due dates or periods of payments scheduled under the lease and the total amount of such periodic payments.

(4) The total amount paid or payable by the lessee during the lease term for official fees, registration, certificate of title, license fees, or taxes.

(5) The total amount of all other charges, individually itemized, payable by the lessee to the lessor, which are not included in the periodic payments. This total includes the amount of any liabilities the lease imposes upon the lessee at the end of the term, but excludes the potential difference between the estimated and realized values, required to be disclosed under paragraph (g)(13) of this section.

(6) A brief identification of insurance in connection with the lease including (i) if provided or paid for by the lessor, the types and amounts of coverages and cost to the lessee, or (ii) if not provided or paid for by the lessor, the types and amounts of coverages required of the lessee.

(7) A statement identifying any express warranties or guarantees available to the lessee made by the lessor or manufacturer with respect to the leased property.

(8) An identification of the party responsible for maintaining or servicing the leased property together with a brief description of the responsibility, and a statement of reasonable standards for wear and use, if the lessor sets such standards.

(9) A description of any security interest, other than a security deposit disclosed under paragraph (g)(2) of this section, held or to be retained by the lessor in connection with the lease and a clear identification of the property to which the security interest relates.

(10) The amount or method of determining the amount of any penalty or other charge for delinquency, default, or late payments.

(11) A statement of whether or not the lessee has the option to purchase the leased property and, if at the end of the lease term, at what price, and, if prior to the end of the lease term, at what time, and the price or method of determining the price.

(12) A statement of the conditions under which the lessee or 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.

(13) A statement that the lessee shall be liable for the difference between the estimated value of the property and its realized value at early termination or the end of the lease term, if such liability exists.

(14) Where the lessee's liability at early termination or at the end of the lease term is based on the estimated value of the leased property, a statement that the lessee may obtain at the end of the lease term or at early termination, at the lessee's expense, a professional appraisal of the value which could be realized at sale of the leased property by an independent third party agreed to by the lessee and the lessor, which appraisal shall be final and binding on the parties.

(15) Where the lessee's liability at the end of the lease term is based upon the estimated value of the leased property:

(i) the value of the property at consummation of the lease, the itemized total lease obligation at the end of the lease term, and the difference between them.

(ii) That there is a rebuttable presumption that the estimated value of the leased property at the end of the lease term is unreasonable and not in good faith to the extent that it exceeds the realized value by more than three times the average payment allocable to a monthly period, and that the lessor cannot collect the amount of such excess liability unless the lessor brings a successful action in court in which the lessor pays the lessee's attorney's fees, and that this provision regarding the presumption and attorney's fees does not apply to the extent the excess of estimated value over realized value is due to unreasonable wear or use, or excessive use.

(iii) A statement that the requirements of paragraph (g)(15)(ii) of this section do not preclude the right of a willing lessee to make any mutually agreeable final adjustment regarding such excess liability.

(h) *Renegotiations or extensions.* If any existing lease is renegotiated or extended, such renegotiation or extension shall be considered a new lease subject to the disclosure requirements of this regulation, except that the requirements of this paragraph shall not apply to (1) a lease of multiple items where a new item(s) is provided or a previously leased item(s) is returned, and the average payment allocable to a monthly period is not changed by more than 25 per cent, or (2) a lease which is extended for not more than 6 months on a month-to-month basis or otherwise.

§ 213.5 Advertising.

(a) *General rule.* No advertisement to aid, promote, or assist directly or indirectly any consumer lease may state that a specific lease of any property at specific amounts or terms is available unless the lessor usually and customarily leases or will lease such property at those amounts or terms.

(b) *Catalogs and multi-page advertisements.* If a catalog or other multiple-page advertisement sets forth or gives information in sufficient detail to permit determination of the disclosures required by this section in a table or schedule or lease terms, such catalog or multiple-page advertisement shall be considered a single advertisement provided

(1) The table or schedule and the disclosures made therein are set forth clearly and conspicuously; and

(2) Any statement of lease terms appearing in any place other than in that table or schedule of lease terms clearly and conspicuously refers to the page or pages on which that table or schedule appears, unless that statement discloses all of the lease terms required to be stated under this section.

(c) *Terms that require additional information.* No advertisement to aid, promote, or assist directly or indirectly any consumer lease shall state the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease unless the advertisement also states clearly and conspicuously each of the following items of information as applicable.

(1) That the transaction advertised is a lease.

(2) The total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required.

(3) The number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease.

(4) A statement of whether or not the lessee has the option to purchase the leased property and at what price and time. The method of determining the price may be substituted for disclosure of the price.

(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased property and its realized value at the end of the lease term, if the lessee has such liability.

(d) *Multiple item leases; merchandise tags.* If a merchandise tag for an item normally included in a multiple item lease sets forth information which

would require additional disclosures under paragraph (c) of this section, such merchandise tag need not contain such additional disclosures, provided it clearly and conspicuously refers to a sign or display which is prominently posted in the lessor's showroom. Such sign or display shall contain a table or schedule of those items of information to be disclosed under paragraph (c) of this section.

§ 213.6 Preservation and inspection of evidence of compliance.

(a) Evidence of compliance with the requirements imposed under this regulation, other than advertising requirements under § 213.5, shall be preserved by the lessor for a period of not less than 2 years after the date such disclosure is required to be made.

(b) Each lessor shall, when directed by the appropriate administrative enforcement authority designated in § 108 of the act, permit that authority or its duly authorized representative to inspect its relevant records and evidence of compliance with this regulation.

§ 213.7 Inconsistent state requirements.

(a) *Preemption.* A state law which is similar in nature, purpose, scope, intent, effect, or requisites to a section of chapter 5 of the act is not inconsistent with the act or this regulation within the meaning of section 186(a) of the act if the lessor can comply with the state law without violating this regulation. If a lessor cannot comply with a state law without violating a provision of this regulation which implements a section of chapter 5 of the act, such state law is inconsistent with the requirements of the act and this regulation within the meaning of section 186(a) of the act and is preempted.

(b) *Procedures.* A state, through its governor, attorney general, or other appropriate official having primary enforcement or interpretative responsibilities for its consumer leasing law, may apply to the Board for a determination that the state law offers greater protection and benefit to lessees than a comparable provision(s) of chapter 5 of the act and its implementing provision(s) in this regulation, or is otherwise not inconsistent with chapter 5 of the act and this regulation, or for a determination with respect to any issues not clearly covered by paragraph (a) of this section as to the consistency or inconsistency of a state law with chapter 5 of the act or its implementing provisions in this regulation.

§ 213.8 Exemption of certain state regulated transactions.

(a) *Exemption for state regulated transactions.* In accordance with the provisions of Appendix A to Regulation M, Part 213, any state may make application to the board for exemption of any class of transactions within the state from the requirements of chapter 5 of the act and the corresponding provisions of this regulation, provided that

(1) The Board determines that under the law of that state, that class of transactions is subject to requirements substantially similar to those imposed under chapter 5 of the act and the corresponding provisions of this regulation; or the lessee is afforded greater protection and benefit than is afforded under chapter 5 of the act, and

(2) There is adequate provision for enforcement.

(b) *Procedures and criteria.* The procedures and criteria under which a state may apply for the determination provided for in paragraph (a) of this section are set forth in Appendix A to Regulation M.

(c) *Civil liability.* In order to assure that the concurrent jurisdiction of federal and state courts created in sections 130(e) and 185(c) of the act shall continue to have substantive provisions to which such jurisdiction shall apply, and generally to aid in implementing the act with respect to any class of transactions exempted pursuant to paragraph (a) of this section and Appendix A, the Board pursuant to sections 105 and 186(b) of the act hereby prescribes that

(1) No such exemptions shall be deemed to extend to the civil liability provisions of sections 130, 131, and 185 of the act; and

(2) After an exemption has been granted, the disclosure requirements of the applicable state law shall constitute the disclosure requirements of the act, except to the extent that such state law imposes disclosure requirements not imposed by the act. Information required under such state law with the exception of those provisions which impose disclosure requirements not imposed by the act shall, accordingly, constitute a "requirement imposed" under chapter 5 of the act for the purpose of section 130(a).

Appendix A—Procedures and Criteria for State Exemptions From the Consumer Leasing Act

(a) *Application.* Any state may make application to the Board, pursuant to the terms of this appendix and the Board's Rules of Procedure (12 CFR Part 262), for a determination that under the laws of the state,[1] "consumer lease" transactions as provided in section 181(1) of the act and § 213.2 of this regulation, within that state are subject to requirements which are substantially similar to those imposed under chapter 5 of the act [2] or which provide greater protection and benefit to lessees than those provided under chapter 5, and that there is adequate provision for enforcement of such requirements. Such application shall be made by letter addressed to the Board signed by the governor, the attorney general, or any official of the state having responsibilities under the state laws which are applicable to the relevant class of transactions.

(b) *Supporting documents.* The application shall be accompanied by:

(1) A copy of the full text of the laws of the state which are claimed by the applicant to impose requirements substantially similar to those imposed under chapter 5 or to provide greater protection and benefit to lessees than does chapter 5 with respect to "consumer lease" transactions as defined in § 213.2 of this regulation.

(2) A comparison of each requirement of state law with the corresponding requirement of chapter 5, together with reasons to support the claim that the requirements of state law are substantially similar to or provide greater protection and benefit to lessees than requirements of chapter 5 with respect to the class of consumer lease transactions. It shall also demonstrate that any differences are not inconsistent with and do not result in a diminution in the protection and benefit afforded lessees under chapter 5 and state that there are no other state laws which, due to their relations to the state law under consideration, should be considered by the Board in making its determination.

(3) A copy of the full text of the laws of the state which provide for enforcement of the state laws referred to in paragraph (b)(1) of this appendix.

(4) A comparison of the provisions of state law with the provisions of sections 108, 112, 130, 131, 183(a), 183(b), and 185 of the act, together with reasons to support the claim that such state laws provide for

(i) Administrative enforcement of the state laws referred to in paragraph (b)(1) of this appendix which is equivalent to the enforcement provided under section 108 of the act;

(ii) Criminal liability for willful and knowing violation of the state law with penalties substantially similar to those prescribed under section 112 of the act, except that more severe penalties may be provided;

(iii) Civil liability for failure to comply with the requirements of the state law, including class action liability, which is substantially similar to that provided under sections 130,

[1] Any reference to state law in this appendix includes a reference to any regulations which implement state law and formal interpretations thereof by a court of competent jurisdiction or a duly authorized agency of that state.

[2] Any reference in this appendix to chapter 5 of the act or any section thereof includes a reference to the implementing provisions of this regulation and the Board's formal interpretations thereof.

131, 185(b) of the act, except that more severe penalties may be provided;

(iv) In leases where the lessee's liability at the end of the lease term is based on the estimated value of the leased property, a limitation on the lessee's liability at the end of the lease term substantially similar to that provided by section 183(a) of the act, except that a stricter limitation may be provided;

(v) A provision prescribing that all penalties and other charges for delinquency, default or early termination specified in the lease must be reasonable substantially similar to that provided in section 183(b) of the act, except that a stricter provision may be provided; and

(vi) A statute of limitations that prescribes a period in which to institute civil actions of substantially similar duration as that provided under section 185(c) of the act, except that a longer period may be provided.

(5) A statement identifying the office designated or to be designated to administer the state laws referred to in paragraph (b)(1) of this appendix, together with complete information regarding the fiscal arrangements for administrative enforcement (including the amount of funds available or to be provided), the number and qualifications of personnel engaged therein, and a description of the procedures under which such state laws are to be administratively enforced, including administrative enforcement with respect to federally-chartered lessors.[4] The foregoing statement should include reasons to support the claim that there is adequate provision for enforcement of such state laws.

(c) *Criteria for determination.* The Board will consider the following criteria along with any other relevant information in making a determination whether the laws of a state impose requirements substantially similar to or provide greater protection and benefit to lessees than under chapter 5, and whether there is adequate provision for enforcement of such laws:

(1) In order for provisions of state law to be substantially similar to or provide greater protection and benefit to lessees than the provision of chapter 5, the provisions of state law[5] shall require that

(i) Definitions and rules of construction import the same meaning and have the same application as those prescribed under § 213.2 of this regulation;

(ii) Lessors make all of the applicable disclosures required by this regulation and within the same (or more stringent) time periods as are prescribed by this regulation;

(iii) Lessors abide by obligations substantially similar to those prescribed by chapter 5, under conditions substantially similar to (or more stringent than) those prescribed in chapter 5;

(iv) Lessors abide by the same (or more stringent) prohibitions as are provided in chapter 5;

(v) Lessees need comply with no obligations or responsibilities which are more costly or burdensome as a condition of exercising any of the rights or gaining the benefits and protections in the state law which correspond to those afforded by chapter 5, than those obligations or responsibilities imposed upon lessees in chapter 5; and

(vi) Substantially similar or more favorable rights and protections are provided to lessees under conditions substantially similar to or more favorable (to lessees) than those afforded by chapter 5.

(2) In determining whether the provisions for enforcement of the state law referred to in paragraph (b)(1) of this appendix are adequate, consideration will be given to the extent to which, under the laws of the state, provision is made for

(i) Administrative enforcement, including necessary facilities, personnel and funding;

(ii) Criminal liability for willful and knowing violation with penalties substantially similar to those prescribed under section 112 of the act, except that more severe criminal penalties may be prescribed;

(iii) Civil liability for failure to comply with the provisions of the state law substantially similar to that provided under sections 130, 131 and 185(b) of the act, except that more severe civil liability penalties may be prescribed;

(iv) In leases where the lessee's liability at the end of the lease term is based on the estimated value of the leased property, a limitation on the lessee's liability at the end of the lease term substantially similar to that provided in section 183(a) of the act, and a provison requiring that penalties be reasonable substantially similar to that provided in section 183(b) of the act, except that stricter standards on end-term liability and penalty provisions may be prescribed; and

(v) A statute of limitations with respect to civil liability of substantially similar duration to that provided under section 185(c) of the act, except that a longer duration may be provided.

(d) *Public notice of filing and proposed rulemaking.* Following initial review of an application filed in accordance with the requirements of paragraphs (a) and (b) of this appendix, notice of such filing and proposed rulemaking will be published by the Board in the **Federal Register**, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which any part of the state of the applicant is situated. A reasonable period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to that application.

(e) *Exemption from requirements of chapter 5.* If the Board determines that under the law of a state consumer lease transactions are subject to requirements which are substantially similar to or which provide greater protection and benefit to lessees than those imposed under chapter 5 and that there is adequate provision for enforcement, the Board will exempt such class of transactions in that state from the requirements of chapter 5 in the following manner and subject to the following conditions:

(1) Notice of the exemption will be published in the **Federal Register**, and the Board will furnish a copy of such notice to the official who made application for such exemption and to each federal authority responsible for administrative enforcement of the requirements of chapter 5.

(2) The appropriate official of any state which receives an exemption shall inform the Board within 30 days of the occurrence of any change in its related law (including regulations). The report of any such change shall contain the full text of that change together with statements setting forth the information and opinions with respect to that change as specified in paragraphs (b) (2) and (4) of this appendix. The official who has received an exemption shall file with the Board from time to time such reports as the Board may require.

(3) The Board will inform the official of any subsequent amendments to chapter 5 (including the implementing provisions of this regulation and the Board's formal interpretations) which might call for amendment of state law, regulations or formal interpretations thereof.

(f) *Adverse determination.* (1) If the Board denies the application for exemption, it will notify the appropriate state official of the facts upon which its decision is based and shall afford that state a reasonable opportunity to demonstrate or achieve compliance.

(2) If, after giving the state an opportunity to demonstrate or achieve compliance, the Board finds that it still cannot grant the exemption, the Board will publish in the **Federal Register** a notice of its decision and will furnish a copy of such notice to the official who made application for such exemption.

(g) *Revocation of exemption.* (1) The Board reserves the right to revoke any exemption if at anytime it determines that the state law does not, in fact, impose requirements which are substantially similar to or provide greater protection and benefit to lessees than those imposed under chapter 5, or that there is not, in fact, adequate provision for enforcement.

(2) Before revoking any state exemption, the Board will notify the appropriate state official of the facts or conduct which in the opinion of the Board warrants such revocation and shall afford that state such opportunity as the Board deems appropriate to demonstrate or achieve compliance.

(3) If, after having been afforded the opportunity to demonstrate or achieve compliance, the Board determines that the state has not done so, notice of the Board's intention to revoke such exemption shall be published as a notice of proposed rulemaking in the **Federal Register**. A period of time will

[4] Transactions within a state in which a federally-chartered institution is a lessor shall not be subject to the exemption, and such federally-chartered lessors shall remain subject to the requirements of the act and administative enforcement by the appropriate federal authority under § 108 of the act, unless it is established to the satisfaction of the Board that appropriate arrangements have been made with such federal authorities to assure effective enforcement of the requirements of state laws with respect to such lessors.

[5] This paragraph is not to be construed as indicating that the Board will consider adversely any additional requirements of state law which are not inconsistent with the purpose of the act or the requirements imposed under chapter 5.

be allowed from the date of such publication for the Board to receive written comments from interested persons.

(4) In the event of revocation of such exemption, notice of such revocation shall be published by the Board in the **Federal Register**, and a copy of such notice shall also be furnished to the appropriate state official and to the federal authorities responsible for enforcement of requirements of chapter 5, and the class of transactions affected within that state shall then be subject to the requirements of chapter 5, to administrative enforcement as provided under section 108, to criminal liability as provided under section 112, and to civil liability as provided under sections 130, 131, and 185(b) of the act.

Appendix B—Procedures and Criteria for Board Determination Regarding Preemption

Procedures and criteria under which any state may apply for a determination that a state law [6] is not inconsistent with and not preempted by a provision of chapter 5 of the act [7] pursuant to § 213.7 of this regulation.

(a) *Application.* Any state may make application to the Board pursuant to the terms of this appendix and the Board's Rules of Procedure (12 CFR Part 262), for a determination that a law of such state is consistent [8] with a provision of chapter 5 of the act, because such state law provides greater protection and benefit to lessees than does the provision of chapter 5, that such law is consistent with a provision of chapter 5 for any other reason, or for a determination of any issues not clearly covered by § 213.7 of this regulation with regard to the relationship of the federal law to the state law. Such application shall be made by letter addressed to the Board signed by the governor, attorney general or any official of the state having responsibilities under the state law.

(b) *Supporting documents.* The application shall be accompanied by:

(1) A copy of the full text of the laws of the state which are claimed by the applicant to be consistent with a provision of chapter 5 or whose relationship (with regard to consistency or inconsistency) to a provision of chapter 5 is claimed by the applicant to be not clearly covered by the standards and criteria for comparison set forth in § 213.7 of this regulation.

(2) A comparison of each requirement of the state law with the corresponding requirement of chapter 5, with reasons to support the claim that the state law is consistent with a provision of chapter 5 or that the relationship (with regard to consistency or inconsistency) between the state law and chapter 5 is not clearly covered by the standards and criteria set forth in § 213.7 of this regulation.

(3) A copy of the full text of any provisions of state law corresponding to sections 112, 130, 131, 183(a), 183(b), 185(b), and 185(c) of the act (if applicable), together with reasons for the applicant's claim that such state provisions are not inconsistent (because they provide greater protection and benefit to lessees or for other (reasons) with the act.

(4) A statement that there are not state laws (including administrative or judicial interpretations) other than those submitted to the Board which have any bearing on whether or not the state law is consistent with a provision of chapter 5.

(5) A statement identifying the office designated or to be designated to administer the state laws referred to in paragraph (b)(1) of this appendix. If no such administrative office exists, then a statement identifying the office to which the Board can address any correspondence regarding the request for such determination shall accompany the application.

(c) *Criteria for determination.* The Board will consider the following criteria along with any other relevant information, in addition to the criteria set forth in § 213.7 of this regulation, in making a determination of whether or not state law is inconsistent with a provision of chapter 5. In order for provisions of state law to be determined to be consistent with a provision of chapter 5, the provisions of state law [9] shall, to the extent relevant to the determination, require that

(1) Definitions and rules of construction import the same meaning and have the same application as those prescribed by this regulation;

(2) Lessors make all of the applicable disclosures required by the corresponding provision of chapter 5 and this regulation, and within the same (or more stringent) time periods as those prescribed by this regulation;

(3) Lessors abide by obligations substantially similar to those prescribed by a provision of chapter 5 under conditions substantially similar (or more stringent) to those in chapter 5;

(4) Lessors abide by the same (or more stringent) prohibitions as are provided by chapter 5;

(5) Lessees need comply with no obligations or responsibilities which are more costly or burdensome as a condition of exercising any of the rights or gaining the benefits and protections provided in the state law, which correspond to those afforded by chapter 5, than those obligations or responsibilities imposed on lessees in chapter 5; and

(6) Lessees are to have rights and protections substantially similar to or more favorable than those provided by the corresponding provisions of chapter 5 under conditions and within time periods which are substantially similar to or more favorable (to lessess) than those prescribed by chapter 5.[10]

(d) *Public notice of filing and proposed rulemaking.* In connection with any application which has been filed in accordance with the requirements of paragraphs (a) and (b) of this appendix, notice of such filing and proposed rulemaking will be be published by the Board in the **Federal Register**, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which any part of the state of the applicant is situated. A period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to the application.

(e) *Determination that a state law is consistent with chapter 5.* If the Board determines on the basis of the information before it that the law of a state is consistent with a provision of chapter 5, notice of such determination shall be published in the following manner and shall be subject to the following conditions:

(1) Notice of the determination will be published in the **Federal Register**, and the Board will furnish a copy of such notice to the official who made application for such exemption and to each federal authority responsible for administrative enforcement of the requirements of chapter 5.

(2) The appropriate official of any state which receives such a determination shall inform the Board within 30 days of the occurrence of any change in its related law (or regulations). The report of any such change shall contain copies of the full text of the law, as changed, together with statements setting forth the information and opinions with respect to that change as specified in paragraphs (b) (2) and (4) of this appendix. The appropriate official of any state which has received such a determination shall file with the Board from time to time such reports as the Board may require.

(3) The Board will inform the appropriate official of any state which receives such a determination of any subsequent amendments to chapter 5 (including the implementing provisions of this regulation and the Board's formal interpretations) which might call for amendment of state law, regulations, or formal interpretations.

(f) *Adverse determination.* (1) If, after publication of notice in the **Federal Register** as provided under paragraph (d) of this appendix, the Board finds that such state law is inconsistent with a provision of chapter 5, it will notify the appropriate state official of the facts upon which such finding is based and shall afford that state official a reasonable opportunity to demonstrate

[6] Any reference to state law in this appendix includes a reference to any regulations which implement state law and formal interpretations thereof by a court of competent jurisdiction or a duly authorized agency of that state.

[7] Any reference in this appendix to chapter 5 of the act or any section thereof includes a reference to the implementing provisions of this regulation and the Board's formal interpretations thereof.

[8] For purposes of this appendix, the terms "consistent" and "not inconsistent" shall convey the same meaning and shall involve the same evidentiary showing.

[9] This paragraph is not to be construed as indicating that the Board would consider adversely any additional requirements of state law which are not inconsistent with the purposes of the act or the requirements imposed under chapter 5.

[10] A state may make a showing that in certain limited readily identifiable circumstances a law which may otherwise be inconsistent with a provision of chapter 5 is not inconsistent under the criteria set forth in paragraph (c) of this Appendix. The Board may determine such state law to be consistent only under those circumstances but will make no such determination if doing so would mislead or confuse lessees.

further that such state law is not inconsistent with the corresponding provisions of chapter 5, if such state official desires to do so.

(2) If, after having afforded the state official such further opportunity to demonstrate that the state law is consistent with a provision of chapter 5, the Board finds that the state law is inconsistent, it will publish in the **Federal Register** a notice of its decision with respect to such application and will furnish a copy of such notice to the official who made application for the determination.

(g) *Reversal of determination.* (1) The Board reserves the right to reverse any determination made under this appendix to the effect that a state law is consistent with a provision of chapter 5 because of subsequently discovered facts, a change in the state or federal law (by amendment or administrative or judicial interpretation or otherwise) or for any other reason bearing on the coverage or impact of the state or federal law.

(2) Before reversing any such determination, the Board will notify the appropriate state official of the facts or conduct which, in the opinion of the Board, warrants such reversal and shall afford that state such opportunity as the Board deems appropriate under the circumstances to demonstrate that the determination should not be reversed.

(3) If, after having been afforded the opportunity to demonstrate that its law is consistent with a provision of chapter 5, the Board determines that the state has not done so, notice of the Board's intention to reverse such determination shall be published as a notice of proposed rulemaking in the **Federal Register.** A reasonable period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons.

(4) In the event of reversal of such determination, notice shall be published by the Board in the **Federal Register,** and a copy of such notice shall also be furnished to the appropriate state official and to the federal authorities responsible for enforcement of the requirements of chapter 5, and the state law affected shall then be considered inconsistent with and preempted by chapter 5 within the meaning of section 186(a) of the act.

BILLING CODE 6210-01-M

Appendix C

APPENDIX C—MODEL FORMS

C-1—Model Open-End or Finance Vehicle Lease Disclosures

C-2—Model Closed-End or Net Vehicle Lease Disclosures

C-3—Model Furniture Lease Disclosures

C-1—Model Open-End or Finance Vehicle Lease Disclosures

Date _____

These disclosures are provided pursuant to the Federal Consumer Leasing Act.

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property

Year	Make	Model	Body Style	Vehicle ID #

3. (a) Initial Charges, consisting of
☐ Capitalized Cost Reduction ☐ Trade-in Allowance ☐ _____ $ _____

(b) Other Charges Payable at Inception, consisting of
☐ Advance Monthly Payment of _____
☐ Refundable Security Deposit ☐ Delivery Charge
☐ Registration Fees ☐ _____ $ _____

Total Payment Due at Inception: $ _____

4. (a) Basic Monthly Payment: $ _____

(b) Other Charges Payable Monthly:
☐ Maintenance ☐ Registration Fees
☐ Insurance ☐ _____ $ _____

Total Monthly Payment: $ _____

5. Term of this lease: _____
The first monthly payment of $ _____ is due on _____; _____ subsequent payments of $ _____ on the _____ of each month thereafter.

6. Total of Basic Monthly Payments: $ _____

7. Total of Other Charges Payable to Lessor:
☐ Disposition $ _____ ☐ Maintenance $ _____
☐ _____ $ _____ $ _____

8. Fees and Taxes
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $ _____

9. Insurance
The following types and amounts of insurance will be acquired in connection with this lease: _____
☐ We (lessor) will provide the insurance coverage quoted above for a total premium cost of $ _____
☐ You (lessee) agree to provide insurance coverage in the amounts and types indicated above. $ _____

10. Estimated _____ value of the vehicle at the end of the lease term:
(Your liability for this sum may be limited. See Item 14.) $ _____

11. Total Lease Obligation:
(Items 3(a), 6 and 10.) $ _____

12. Initial Value of Vehicle: $ _____

13. Difference:
(Item 11 less Item 12.) $ _____

14. End of Term Liability

(a) The estimated value of the vehicle stated in Item 10 is based on a reasonable, good faith estimate of the value of the vehicle at the end of the lease term. If the actual value of the vehicle at that time is *greater* than the estimated value, you will have no further liability under this lease, except for other charges already incurred [and are entitled to a credit or refund of any surplus].

If the actual value of the vehicle is *less* than the estimated value, you will be liable for any difference up to $ _____ (3 times Item 4(a)). For any difference in excess of that amount, you will be liable only if

1. Excessive use or damage [as described in Item 15] [representing more than normal wear and tear] resulted in an unusually low value at the end of the term.
2. You voluntarily agree with us after the end of the lease term to make a higher payment.
3. The matter is not otherwise resolved and we win a lawsuit against you seeking a higher payment.

Should we bring a lawsuit against you, we must prove that our original estimate of the value of the leased property at the end of the lease term was reasonable and was made in good faith. For example, we might prove that the actual value was less than the original estimated value, although the original estimate was reasonable, because of an unanticipated decline in value for that type of vehicle.

Unless we prove that the excess amount owed was the result of excessive use or unreasonable wear and tear, we will pay your reasonable attorney's fees.

(b) If you disagree with the value we assign to the vehicle, you may obtain, at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

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15. Standards for Wear and Use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: _____

16. Maintenance
[You are responsible for the following maintenance and servicing of the leased vehicle: _____.]
[We are responsible for the following maintenance and servicing of the leased vehicle: _____.]

17. Warranties
The leased vehicle is subject to the following express warranties: _____.

18. Early Termination and Default
(a) You may terminate this lease before the end of the lease term under the following conditions: _____.
The charge for such early termination is _____.
(b) We may terminate this lease before the end of the lease term under the following conditions: _____.
Upon such termination we shall be entitled to the following charge(s) for _____.
(c) To the extent these charges take into account the value of the vehicle at the end of the lease term, you have the same right to a professional appraisal as that stated in Item 14(b).

19. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____.

20. Late Payments
The charge for late payments is _____.

21. Option to Purchase
[You have an option to purchase the leased vehicle at the following times: _____.
If at the end of the term, the price will be $_____.
If prior to the end of the term, the price will be $ _____.]
[You have no option to purchase the leased vehicle.]

Appendix C

Instructions for Completion of Model Open-End or Finance Vehicle Lease Disclosures

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation M, 12 CFR Part 213.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable.

Any inapplicable disclosures should be deleted. This form is based on a monthly periodic payment. Any lessor whose lease contemplates a different payment period should change the form where it refers to "monthly" amounts to read "weekly" or other time period, as appropriate.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten. Paragraph numbers need not be printed in ten point type or its equivalent.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name. If, for example, one person arranges the lease and another person enters into the lease, both must be identified as lessors. An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased property. Lessors may include a more detailed description including, for example, special accessories. There is no requirement that a vehicle identification number for the vehicle be disclosed.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is entered into. The components of the initial payment *must* be identified and *may*, at the lessor's option, be itemized with respect to dollar amount.

This item is divided into two distinct parts. The items identified in 3(a) are those which are included in the calculation of the "Total Lease Obligation." Those which appear in 3(b) are not included in the "Total Lease Obligation." For convenient reference and to provide the customer with the total amount due at the inception of the lease, subtotals for 3(a) and 3(b) are provided as well as a combined total of 3(a) and 3(b) (shown as "Total Payment Due at Inception").

The term "Capitalized Cost Reduction" is used to indicate payment in the nature of a downpayment which reduces the value of the leased vehicle to be amortized over the term of the lease.

The "Advance Monthly Payment" is the total of all amounts collected at the inception of the lease which are to be attributed to a monthly payment(s). For example, if the first month's rental payment is collected at the inception, the form might read "Advance Monthly Payment of the first month's rent" or a similar phrase. If the last month's payment, or any other payment in the nature of rental for a portion of the term, is collected at the inception, appropriate language should be provided to describe the components of the "Advance Monthly Payment."

Checklists are provided for both 3(a) and 3(b) to aid in identifying their components. Blank spaces and check boxes are provided to identify any other elements which are to be included in these items.

Item 4. This item discloses the payment the lessee must make each payment period. This item is divided into two parts. The terms in 4(a) are those portions of each payment which are included in the computation of the "Total Lease Obligation." This item includes sales/use taxes paid on the periodic (monthly) payment. The terms in 4(b) are not included in the "Total Lease Obligation." For convenient reference and to provide the customer with the total amount of each payment, subtotals are provided for 4(a) and 4(b) as well as the combined total of 4(a) and 4(b) (shown as the "Total Monthly Payment"). The components of 4(a) and 4(b) may be itemized as to dollar amount.

Item 5. This item discloses the term of the lease, the date of the first periodic payment and the dates or periods of all subsequent periodic payments. The blank spaces should be filled in with the appropriate terms. For example, after the phrase "Term of this lease:" the lessor may place the words "24 months" or "April 2, 1977, through April 2, 1979," as appropriate. In the blank spaces provided after the phrase "The first monthly payment of:" should be the appropriate amount and date. The first monthly payment may be part or all of the "Advance Monthly Payment" disclosed under 3(b). The phrase "subsequent payments of" should be preceded by the appropriate number of payments and followed with the appropriate terms, such as "$100.00 on the 2d of each month thereafter."

Item 6. This item discloses the total of the basic monthly payments payable over the term of the lease. This figure is computed by multiplying the basic monthly payment from Item 4(a) by the number of subsequent payments in Item 5 and adding to the product the basic portion of the first monthly payment. This figure will be used in computing the "Total Lease Obligation."

Item 7. This item discloses the total of other charges payable to the lessor. This excludes charges for official fees, taxes, insurance and charges disclosed as totals under other items. The individual components must be identified and itemized as to amount. A blank check box is provided in order to add to the list, as necessary.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees.

Item 9. This item requires disclosure of the types and amounts

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of insurance coverage, with their total premium cost, if the insurance is provided by the lessor. In the alternative, only the types and amounts of coverage required of the lessee must be disclosed if the lessee provides the insurance coverage. The disclosure is to be completed by identifying the types and amounts of insurance coverage following the colon at the end of the first sentence. If the lessor is to provide the coverage the top check box should be filled in and the total premium cost indicated in the blank space provided. Otherwise the bottom check box should be filled in.

Item 10. This item provides for disclosure of the estimated value of the leased vehicle at the end of the term, an element of the "Total Lease Obligation." A blank space is provided in which to indicate whether the value shown is, for example, "retail" or "wholesale" value.

Items 11, 12 and 13. These items provide for disclosure of the difference between the "Total Lease Obligation" and the vehicle's value at the inception of the lease. The definition of "Total Lease Obligation" is the sum of any initial charges (Item 3(a)), the total of basic monthly payments (Item 6) and the estimated value of the property at the end of the term (Item 10). The "Total Lease Obligation" does not include items such as refundable security deposits and insurance premiums.

Item 14. This item provides disclosures with respect to the lessee's liability at the end of the lease term. The bracketed phrase in the second sentence is appropriate only where the lessee will be given any surplus resulting from the disposition. The lessor may, in Item 14(a) 1, reference the standards set forth in Item 15, if the lessor set such standards. If the lessor does not set standards for wear and use, the second bracketed phrase should be used. Item 14(b) discloses the lessee's right to an independent appraisal. The blank space in Item 14(b) is provided to indicate whether the value of the appraisal should be, for example, "wholesale" or "retail." This item should be consistent with the type of value used in Item 10.

Item 15. This item discloses reasonable standards for wear and use established by the lessor. The lessor is permitted but not required to set such standards. Therefore, the disclosure may be omitted by lessors who do not set standards for wear and use

Item 16. This item provides for disclosure of the maintenance and servicing responsibilities of the parties. These responsibilities may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 17. This item discloses all express warranties on the leased property made by the manufacturer or lessor and available to the lessee. A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty, for example, would suffice.

Item 18. This item discloses the conditions under which the lessee may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination. This item should disclose the conditions under which the lessor may terminate the lease prior to the end of the term, such as default. This item should also be used to disclose the amount or method of determining the amount of any default charges. The charges or method of determining the charges for early termination by the lessor other than for lessee's default should be separately specified in this item.

Item 19. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interests and an identification of the property covered by each.

Item 20. This disclosure indicates the amount or method of determining the amount of any charges for late payment.

Item 21. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosures applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentance of the item should be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied.

Appendix C

C-2—Model Closed-End or Net Vehicle Lease Disclosures

Date _____

These disclosures are provided pursuant to the Federal Consumer Leasing Act.

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property

Year	Make	Model	Body Style	Vehicle ID #

3. Total Payment Due at Inception: $_____
   - ☐ Capitalized Cost Reduction
   - ☐ Trade-in Allowance
   - ☐ Advance Monthly Payment of _____
   - ☐ Refundable Security Deposit
   - ☐ Delivery Charge
   - ☐ Registration Fees
   - ☐ _____
4. Term of this lease:
   The first monthly payment of $_____ is due on _____; _____ subsequent payments of $_____ on the _____ of each month thereafter.
5. Total Monthly Payment: $_____
6. Total of Monthly Payments: $_____
7. Total of Other Charges Payable to Lessor: $_____
   - ☐ Disposition $_____
   - ☐ Maintenance $_____
   - ☐ _____ $_____
8. Fees and Taxes
   Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $_____
9. Insurance
   The following types and amounts of insurance will be acquired in connection with this lease:
   - ☐ We (lessor) will provide the insurance coverage quoted above for a total premium cost of $_____.
   - ☐ You (lessee) agree to provide insurance coverage in the amounts and types indicated above. $_____
10. Standards for Wear and Use
    The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: _____
11. Maintenance
    [You are responsible for the following maintenance and servicing of the leased vehicle: _____.]
    [We are responsible for the following maintenance and servicing of the leased vehicle: _____.]

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12. Warranties
The leased vehicle is subject to the following express warranties: _____

13. Early Termination and Default
(a) You may terminate this lease before the end of the lease term under the following conditions: _____

The charge for such early termination is _____

(b) We may terminate this lease before the end of the lease term under the following conditions: _____

Upon such termination we shall be entitled to the following charge(s) for _____

(c) To the extent that these charges take into account the value of the vehicle at the end of the lease term, if you disagree with the value we assign to the vehicle, you may obtain at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

14. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____

15. Late Payments
The charge for late payments is _____

16. Lessee's Option to Purchase
[You have an option to purchase the leased vehicle at the following times: _____

If at the end of the term, the price will be $_____.
If prior to the end of the term, the price will be $ _____.]

[You have no option to purchase the leased vehicle.]

Appendix C

Instructions for Completion of Model Closed-End or Net Vehicle Lease Disclosures

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation M, 12 CFR Part 213.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable.

Any inapplicable disclosures should be deleted. This form is based on a monthly periodic payment. Any lessor whose lease contemplates a different payment period should change the form where it refers to "monthly" amounts to read "weekly" or other time period, as appropriate. All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten. Paragraph numbers need not be printed in ten point type or its equivalent.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name. If, for example, one person arranges the lease and another person enters into the lease, both must be identified as lessors. An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased property. Lessors may include a more detailed description including, for example, special accessories. There is no requirement that a vehicle identification number for the vehicle be disclosed.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is entered into. The components of the initial payment *must* be identified and *may*, at the lessor's option, be itemized with respect to dollar amount.

The term "Capitalized Cost Reduction" is used to indicate a payment in the nature of a downpayment which reduces the value of the leased vehicle to be amortized over the term of the lease.

The "Advance Monthly Payment" is the total of all amounts collected at the inception of the lease which are to be attributed to a monthly payment(s). For example, if the first month's rental payment is collected at the inception, the form might read "Advance Monthly Payment of the first month's rent" or a similar phrase. If the last month's payment, or any other payment in the nature of rental for a portion of the term, is collected at the inception, appropriate language should be provided to describe the components of the "Advance Monthly Payment."

Checklists are provided to aid in identifying the components. Blank spaces and check boxes are provided to identify any other elements which are to be included in this item.

Item 4. This item discloses the term of the lease, the date of the first periodic payment and the dates or periods of all subsequent periodic payments. The blank spaces should be filled in with the appropriate terms. For example, after the phrase "Term of this lease:" the lessor may place the words "24 months" or "April 2, 1977, through April 2, 1979," as appropriate. In the blank spaces provided after the phrase "The first monthly payment of:" should be the appropriate amount and date. The first monthly payment may be part or all of the "Advance Monthly Payment" disclosed under Item 3. The phrase "subsequent payments of" should be preceded by the appropriate number of payments and followed with the appropriate terms, such as "$100.00 on the 2d of each month thereafter."

Item 5. This item discloses the payment the lessee must make each payment period. The component parts of the "Total Monthly Payment" may but need not be identified and itemized as to amount.

Item 6. This item discloses the total of the monthly payments payable over the term of the lease. This figure is computed by multiplying the monthly payment from Item 5 by the number of subsequent payments in Item 4 and adding the first monthly payment to the product.

Item 7. This item discloses the total of other charges payable to the lessor. This excludes charges for official fees, taxes, insurance and charges disclosed as totals under other items. The individual components must be identified and itemized as to amount. A blank check box is provided in order to add to the list, as necessary.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees.

Item 9. This item requires disclosure of the types and amounts of insurance coverage, with their total premium cost, if the insurance is provided by the lessor. In the alternative, only the types and amounts of coverage required of the lessee must be disclosed if the lessee provides the insurance coverage. The disclosure is to be completed by identifying the types and amounts of insurance coverage following the colon at the end of the first sentence. If the lessor is to provide the coverage the top check box should be filled in and the total premium cost indicated in the blank space provided. Otherwise the bottom check box should be filled in.

Item 10. This item discloses reasonable standards for wear and use established by the lessor. The lessor is permitted but not required to set such standards. Therefore, the disclosure may be omitted by lessors who do not set standards for wear and use.

Item 11. This item provides for disclosure of the maintenance and servicing responsibilities of the parties. These responsibilities

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may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 12. This item discloses all express warranties on the leased property made by the manufacturer or lessor and available to the lessee. A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty, for example, would suffice.

Item 13. This item discloses the conditions under which the lessee may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination. This item should disclose the conditions under which the lessor may terminate the lease prior to the end of the term, such as default. This item should also be used to disclose the amount or method of determining the amount of any default charges. The charges or method of determing the charges for early termination by the lessor other than for lessee's default should be separately specified in this item. The blank space in 13(c) is provided to indicate whether the appraisal should be, for example, "retail" or "wholesale."

Item 14. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interests and an identification of the property covered by each.

Item 15. This disclosure indicates the amount or method of determining the amount of any charges for late payment.

Item 16. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosures applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentence of the item should be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied.

Appendix C

C-3—Model Furniture Lease Disclosures

Date _____

These disclosures are provided pursuant to the Federal Consumer Leasing Act.

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property [is attached].

Item	Color	Stock #	Mfg.	Qty.					

3. Total Payment Due at Inception:
   - ☐ Refundable Security Deposit
   - ☐ Advance Monthly Payment of _____
   - ☐ Delivery Charge
   - ☐ _____

   $ _____

4. Term of this lease: _____
   The first monthly payment of $ _____ is due on _____; _____ subsequent payments of $ _____ on the _____ of each month thereafter.

5. Total Monthly Payment: $ _____

6. Total of Monthly Payments: $ _____

7. Total of Other Charges Payable to Lessor:
   - ☐ Pick-up Charge $ _____
   - ☐ _____ $ _____

   $ _____

8. Fees and Taxes
   Total amount you will pay during the term for official fees and taxes. $ _____

9. Insurance
   - ☐ You (lessee) agree to provide insurance coverage of the following types in the following amounts: _____
   - ☐ We (lessor) will provide the following types and amounts of insurance coverage: _____

   Total premium cost: $ _____
   - ☐ You agree to pay a waiver fee of $ _____ per month in lieu of insurance.

   Total Waiver Fee: $ _____

10. Maintenance
    [You are responsible for the following maintenance of the leased property: _____.]
    [We are responsible for the following maintenance of the leased property: _____.]

11. Warranties
    The leased property is subject to the following express warranties: _____

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12. Standards for Wear and Use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased property: _____

13. Early Termination and Default
(a) You may terminate this lease before the end of the lease term under the following conditions: _____

The charge for such early termination is _____

(b) We may terminate this lease before the end of the lease term under the following conditions: _____

Upon such termination we shall be entitled to the following charge(s): _____

14. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____

15. Late Payments
The charge for late payments is _____

16. Option to Purchase
[You have an option to purchase any or all items of the leased property at the following times: _____

If at the end of the term, the price will be $ _____

If prior to the end of the term, the price will be $ _____.]

[You have no option to purchase the leased property.]

Appendix C

Instructions for Completion of Model Furniture Lease Disclosures

GENERAL INSTRUCTIONS

Completion of this form may be facilitated by reference to the following instructions. Any question as to the permissibility or accuracy of a specific disclosure may be answered by reference to Regulation M, 12 CFR Part 213.

Information which is required to be disclosed may be estimated if the information is unknown or unavailable, provided that the information is clearly identified as an estimate and the estimate is based on the best information available and is reasonable.

Any inapplicable disclosures should be deleted. This form is based on a monthly periodic payment. Any lessor whose lease contemplates a different payment period should change the form where it refers to "monthly" amounts to read "weekly" or other time period, as appropriate.

All numerical amounts must be stated in figures and shall be printed in not less than the equivalent of ten point type or elite typewritten numerals or legibly handwritten. Paragraph numbers need not be printed in ten point type or its equivalent.

SPECIFIC INSTRUCTIONS

Item 1. The disclosures must be made on a written dated statement. All lessors and lessees must be identified by name. If, for example, one person arranges the lease and another person enters into the lease, both must be identified as lessors. An address may augment the identification but need not be supplied as part of the disclosure form.

Item 2. This disclosure provides a brief description of the leased items. In the left column the name of the item should appear. The relevant entry should be made in the appropriate box in the columns to the right of the names of the items as indicated by the column headings. All of the descriptive elements in the column headings, except the one labeled "Item," are examples only. Those which are inapplicable to a lease plan may be deleted. Other descriptive column headings may be added (as indicated by the blank columns) if the lessor desires.

Item 3. This disclosure shows the total amount of any initial payment the customer must make when the lease is consummated. The components of the initial payment *must* be identified and *may*, at the lessor's option, be itemized with respect to dollar amount. Additional components may be added to the list, as necessary, by use of the blank check box.

The "Advance Monthly Payment" is the total of all amounts collected at the inception of the lease which are to be attributed to a monthly payment(s). For example, if the first month's rental payment is collected at the inception, the form might read "Advance Monthly Payment of the first month's rent" or a similar phrase. If the last month's payment, or any other payment in the nature of rental for a portion of the term, is collected at the inception, appropriate language should be provided to describe the components of the "Advance Monthly Payment."

Item 4. This item discloses the term of the lease, the date of the first periodic payment and the dates or periods of all subsequent periodic payments. The blank spaces should be filled in with the appropriate terms. For example, after the phrase "Term of this lease:" the lessor may place the words "24 months" or "April 2, 1977, through April 2, 1979," as appropriate. In the blank spaces provided after the phrase "The first monthly payment of:" should be the appropriate amount and date. The first monthly payment may be part or all of the "Advance Monthly Payment" disclosed under Item 3. The phrase "subsequent payments of" should be preceded by the appropriate number of payments and followed with the appropriate terms, such as "$100.00 on the 2d of each month thereafter."

Item 5. This item discloses the payment the lessee must make each month. The component parts of the monthly payment may but need not be itemized as to amount.

Item 6. This item discloses the total of the monthly payments payable over the term of the lease. This figure is computed by multiplying the amount of the monthly payment in Item 5 by the number of subsequent payments in Item 4 and adding to that product the amount of the first monthly payment.

Item 7. This item discloses the total of other charges payable to the lessor. This excludes charges for official fees, taxes, insurance and charges disclosed as totals under other items. The individual components must be identified and itemized as to amount. A blank check box is provided in order to add to the list, as necessary.

Item 8. This item discloses the total amount to be paid by the lessee during the lease term for taxes and other official fees.

Item 9. This item provides alternative methods of disclosing insurance coverage. It provides a disclosure for situations in which the lessee provides the coverage, in which case the types and amounts of coverage must be specified. It provides a disclosure for situations in which the lessee procures coverage through the lessor, in which case the types, amounts and costs of coverage must be specified. It also provides for disclosure of a fee in lieu of insurance.

Item 10. This item provides for disclosure of the maintenance and servicing responsibilities of the parties. These responsibilities may be allocated either to the lessor or to the lessee, or may be divided between them.

Item 11. This item discloses all express warranties applicable to the leased property made by the manufacturer or lessor and available to the lessee. A brief identification of the warranty must be supplied. A reference to the standard manufacturer's warranty would suffice.

Item 12. This item discloses standards for wear and use established by the lessor. The lessor is permitted, but not required, to set such standards.

Appendix C

Item 13. This item discloses the conditions under which the lessee may terminate the lease prior to the end of the lease term. It also discloses the amount or method of determining the amount of the charge which the lessee must pay for early termination. This item should disclose the conditions under which the lessor may terminate the lease prior to the end of the term, such as default. This item should also be used to disclose the amount or method of determining the amount of any default charges. The cahrges or method of determining the charges for early termination by the lessor other than for lessee's default should be separately specified in this item.

Item 14. This disclosure of the security taken must include, in the space provided, a brief identification of the types of security interests and an identification of the property covered by each such interest.

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Item 15. This disclosure indicates the amount or method of determing the amount of any charges for late payment.

Item 16. This item provides alternative disclosures covering the several options a lessor may offer to a lessee to purchase the leased property. A lessor should use the disclosures applicable to the lease plan used. For example, if no option to purchase is offered, only the last sentence of the item should be used. If the lessor offers an option to purchase, the times at which it may be exercised must be supplied. The price must be disclosed for an option exercised at the end of the term and the price or method of computing the price for an option exercised during the lease term must be supplied.

Appendix D—Federal Enforcement Agencies

The following list indicates which federal agency enforces Regulation M for particular classes of business. Any questions concerning compliance by a particular business should be directed to the appropriate enforcement agency.

National Banks: Consumer Community and Fair Lending Examination Division, Comptroller of the Currency, Washington, D.C. 20219.

State Member Banks: Federal Reserve Bank serving the district in which the state member bank is located.

Nonmember Insured Banks: Federal Deposit Insurance Corporation Regional Director for the region in which the nonmember insured bank is located.

Savings Institutions Insured by the FSLIC and Members of the FHLB System (Except for Savings Banks Insured by FDIC): The Federal Home Loan Bank Board Supervisory Agent in the district in which the institution is located.

Federal Credit Unions: Regional office of the National Credit Union Administration serving the area in which the Federal credit union is located.

Those Subject to Civil Aeronautics Board: Director, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Those Subject to Packers and Stockyards Act: Nearest Packers and Stockyards Administration area supervisor.

Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations: Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578.

All Other Lessors (Lessors operating on a local or regional basis should use the address of the FTC Regional Office in which they operate): Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

By order of the Board of Governors, March 26, 1981.

James McAfee,

Assistant Secretary of the Board.

[FR Doc. 81-10351 Filed 4-6-81; 8:45 am]

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federal register

Tuesday
April 7, 1981

Part III

Department of Agriculture

Science and Education Administration

Energy and Alcohol Fuels Research Grants Programs for Agriculture for Fiscal Year 1981; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Science and Education Administration

Energy and Alcohol Fuels Research Grants Programs for Agriculture for Fiscal Year 1981; Solicitation of Applications

Notice is hereby given that the Science and Education Administration (SEA) of the U.S. Department of Agriculture (USDA), will award project grants for research on the production and utilization of renewable energy sources. The total amount expected to be available for these programs is $5,803,000, of which $2,328,000 is available from USDA and the remaining funds are from the Department of Energy (DOE). Both SEA and DOE funds are limited to specific areas of research. However, some of the areas overlap and may be funded from either source. Where this occurs, proposals will be evaluated in competition with proposals from other applicants for technical ranking without regard to the potential funding source. The determination of which funding source will be utilized to support a project will be made administratively to best meet legal and eligibility requirements and the program interests of the two departments.

All grants will be awarded on the basis of all financial support from any source that is shown in the proposal budget. While cost sharing is encouraged, it will not be a factor in the selection process except for awards to support biomass projects utilizing DOE funds.

The programs involving SEA-appropriated funds are intended to stimulate and support energy-related research. Such research is national in scope, is not designed to meet the needs or address the problems of a particular State, area or locality, does not include demostration or pilot research projects which might have an important impact on local communities or areas, and does not involve capital construction. According to the requirements for Federal assistance program announcements under Pub. L. 95–220, The Federal Program Information Act, the following information is provided with respect to the areas of research described in this announcement for which project grants will be awarded:

1. As outlined by OMB Circular No. A–89, the official program number and title for SEA-supported energy grants are: 10.876, Grants for Agricultural Research, Special Research Grants.

2. A program number and title will be established at a later date for research involving alcohols and industrial hydrocarbons.

3. No program number or title will be established for pass-through funds from DOE.

4. OMB Circular A–95, regarding State and local clearinghouse review of federal and federally assisted programs, does not apply.

Note.—A Grant Application Kit has been developed which provides the forms, instructions, and other relevant information to apply for research grants under the programs described herein. Prior to submission, call or write to the below-listed office to obtain a copy(ies) of this kit: Grants Administrative Management Office, Attn: Proposal Services Unit, Science and Education Administration, USDA, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209, Telephone: (703) 235–2638.

I. Authorization and Areas of Research

A. USDA, SEA, Funds Appropriated for Energy Research

1. *Alcohol and Industrial Hydrocarbons Research Program:* Under the authority contained in section 1419 of the Food and Agriculture Act of 1977, Pub. L. 95–113, as amended by Pub. L. 96–294 (7 U.S.C. 3154) and the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224 (41 U.S.C. 501 *et seq.*), SEA, USDA, will award project grants for research in the area of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals and other products from coal derivatives. This program is described further in Appendix I.

2. *Energy (Special Research Grants Program):* Under the authority contained in section 2(c) 1 of the Act of August 4, 1965, Pub. L. 89–106, as amended by section 1414 of Pub. L. 95–113 (7 U.S.C. 450i), and the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224 (41 U.S.C 501 *et seq.*), SEA, USDA, will award project grants covering energy-related research which is described in Appendix I.

B. DOE-Appropriated Funds for Energy Research

Energy System for Agriculture Program: Funding is expected to be provided by the Biomass Energy Systems Division and the Solar Thermal Energy System Division of DOE under the provisions of section 9 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5507), Pub. L. 93–409; Solar Energy Research, Development and Demonstration Act (42 U.S.C. 5551), Pub. L. 93–473; subsection 4(c) of the Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93–577, as amended (42 U.S.C. 5903(c)); and subsection 104(i) of the Energy Reorganization Act of 1974, Pub. L. 93–438, as amended (42 U.S.C. 5814(i)). Pursuant to these authorities, the Research and Marketing Act of 1946, as amended (7 U.S.C. 427, 427i, 1621–29) and the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224 (41 U.S.C. 501 *et seq.*), SEA, USDA, will award project grants for research covering methane generation and utilization; combustion, pyrolysis, and gasification; solar energy; biomass screening, production and storage; and vegetable oils as diesel substitute. These program areas are described further in Appendix I.

II. Funding Sources and Anticipated Amounts

Areas of Inquiry	SEA	DOE	Total
Alcohol and Industrial Hydrocarbons Research Program:			
1.0 Production and marketing of ethanol	$485,000	.....	$485,000
Energy (Special Research Grants Program):			
2.0 Energy (other than ethanol)	1,843,000	.....	1,843,000
Energy Systems for Agriculture Programs:			
3.0 Methane generation and utilization	.....	$147,000	147,000
4.0 Combustion, pyrolysis, and gasification	.....	525,000	525,000
5.0 Solar energy	.....	1,540,000	1,540,000
6.0 Biomass screening, production, and storage	.....	852,000	852,000
7.0 Vegetable oil as diesel substitute	.....	411,000	411,000
Totals	2,328,000	3,475,000	5,803,000

III. Application Procedures

A. Who May Submit Proposals

1. *Alcohol and Industrial Hydrocarbons Research Program:* Grants under section 1419 of Pub. L. 95–113, as amended, may be made to any college, university, or Government corporation. Research Foundations are not eligible to receive research grants under Section 1419 of Pub. L. 95–113 unless they independently meet the definitions of eligible institutions as set out in section 1404 of Pub. L. 95–113.

2. Energy *(Special Research Grants Program):* Grants under section 2(c)1 of Pub. L. 89–106, as amended, may be made to Land-Grant Colleges and Universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural

research. Research Foundations are not eligible to receive special research grants under section 2(c)1 of Pub. L. 89–106 unless they independently meet the definitions of eligible institutions as set out in section 1404 of Pub. L. 95–113.

3. *Energy Systems for Agriculture Program:* Proposals for support using DOE-appropriated funds may be submitted by qualified scientists associated with the State agricultural experiments stations, all colleges and universities, other research institutions and organizations, Federal and State agencies, and private organizations or corporations.

B. Proposal Submission Instructions

1. Proposal Purpose. The purpose of a proposal is to persuade the reviewing peer scientists, DOE personnel, and SEA program staffs that the proposed project is feasible and sufficiently meritorious to warrant support under the criteria outlined below in the "Proposal Review and Evaluation" section. It should be clear, concise, technically correct, and relevant to these programs. The qualifications of the investigator(s), the institution's facilities, and the level of funding to be devoted to the proposed project should be clearly delineated.

2. Where to Submit Research Proposals: Grants Administrative Management Office, Attn.: Energy and Alcohol Fuels Research Grants Programs, Science and Education Administration, USDA, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209.

3. When to Submit Proposals: To be considered for funding during Fiscal Year 1981, all proposals must be postmarked by May 22, 1981. Proposals postmarked after this deadline will not be considered for funding during Fiscal Year 1981.

4. What to Submit: a. All research proposals should be prepared on standard-sized paper (no larger than 8½" x 11"), with pages numbered at the bottom, and printed only on one side of each sheet.

b. Complete proposals, arranged in a standard sequence as outlined in the Application Requirements checklist contained in the Grant Application Kit, are required to expedite review and evaluation. Prior to mailing, an administrative check should be made to ensure that proposals are complete and properly sequenced.

c. All submissions must include an original and 19 copies of the proposal and Form SEA–661, Grant Application, which is included in the Grant Application Kit. Form SEA–661 submitted with the original proposal should contain original signatures of the principal investigator(s) and the authorized organizational representative. A principal investigator whose signature does not appear on the Grant Application will *not* be listed as a principal investigator in the event of an award. Proposals should not exceed 10 single-spaced pages excluding the literature review, vitae appendices, and required forms from the Grant Application Kit.

5. How to Submit Proposals:

All copies of the proposal should be mailed in one package, if possible. Due to the volume of proposals received, those submitted in several packages are very difficult to identify. If copies *are* mailed in more than one package, however, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgment of receipt of the proposal will contain a proposal number, title, program, and program area. Later inquiries, addenda, etc., should include this information. However, every effort should be made to *assure* that the *proposal contains* all *pertinent information when initially submitted.*

C. Research Involving Special Considerations

A number of situations are frequently encountered in the conduct of research which require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for SEA support have high probability of involving recombinant deoxyribonucleic acid (DNA), human subjects, or other activities, special instructions follow:

1. Recombinant DNA. Principal investigators and endorsing performing organizational officials must comply with the guidelines of the National Institutes of Health (see NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions). Form SEA–662 contained in the Grant Application Kit should be used to indicate whether or not the proposal involves recombinant DNA. In addition, a Memorandum of Understanding and Agreement and approval by the local Biohazards Safety Committee *must* be provided before a grant can be awarded.

2. Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported through SEA granting activities is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46). If the project involves human subjects at risk, the grantee must furnish SEA with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health and Human Services (DHHS)—formerly, Department of Health, Education, and Welfare (DHEW)—policies, as amended, regarding the use of human subjects. Form SEA–662 contained in the Grant Application Kit should be used for this purpose.

3. Research which has an actual and/or potential impact on the environment.

4. Research at a registered historic or cultural property. The Grant Application Kit includes forms, instructions, and other information to be used in applying for research grants. Additional information and instructions relating to format and content of the research proposal are contained in Appendix II.

IV. Proposal Review and Evaluation

Proposals received by SEA will be acknowledged. A preliminary review for conformance to program and administrative guidelines outlined above and to USDA policies will be made prior to technical review. All conforming proposals will be evaluated by an expert in the particular field represented by the proposal. Comments will also be obtained from peer review panels before recommendation for funding.

Prior to recommending whether or not SEA or DOE should support a particular project, the program manager may engage in discussions with the principal investigator(s). Should such discussions result in changes which exceed 10 percent of the proposed amount, or $10,000, whichever is less, a revised proposal budget (Form SEA–55) signed by both the proposing principal investigator(s) and by the authorized organizational representative, must be submitted in an original and two copies to the cognizant SEA program for incorporation into the proposal file.

Should such discussions result in changes in the basic objectives or scope of the project as originally proposed, and appropriate proposal modification, signed and endorsed as above, must be submitted to the SEA program manager.

A. Technical Evaluation Criteria

1. Objective and approach. a. Scientific soundness or information value and conceptual adequacy.

b. Novelty, uniqueness, and originality.

c. Adequacy of the description of the undertaking.

2. Human and physical resources. a. Professional competence of project leadership.

b. Time allocated for systematic attainment of objectives.

c. Institutional experience and competence in subject area.

d. Adequacy of facilities and equipment.

e. Likely efficiency of resource utilization.

3. Impact of anticipated results. a. Relevance of research or informational summary to practical needs.

b. Scientific contribution of research.

4. Probability for success of project.

5. Projected economic feasibility for near-term application. Proposals which are not selected for funding will be destroyed.

A copy of the summary evaluation made by the peer review panel may be requested by unsuccessful applicants.

B. SEA Awards.

Proposals judged most meritorious, using the evaluation criteria set forth above, and approved by SEA/DOE, will be awarded grants within the limitations of available funds. The "General Provisions for Grants and Cooperative Agreements" (Form SEA–638, May 1979), a copy of which is included in the Grant Application Kit, will apply to these grants with the exception of Article 20, "Inventions and Patents." The DOE patent policy will apply to all projects funded by DOE.

V. Grant Administration and Allowable Costs

The grants awarded will be administrated in accordance with applicable OMB Circulars and Form SEA–638.

The determination of allowable costs shall be made in accordance with the applicable Federal Cost Principles in effect on the effective date of the Agreements.

A. Educational Institutions and Hospitals—OMB Circular A–21

B. Nonprofit Organizations—OMB Circular A–122

C. Commercial Firms—FPR 1–15.2

D. State and Local Governments—FMC 74–4 (formerly, OMB Circular A–87).

VI. Budget and Reporting Requirements

The following items apply only to those proposals which are selected for funding:

A. Annual financial reports (Standard Form 269) will be required.

B. A brief quarterly progress report for insertion into a computerized research management system is required for grants supported with DOE-appropriated funds.

C. Comprehensive (performance and financial) final reports must be submitted to SEA within 90 days after the expiration date of the grant.

It has been determined that, because of the need to implement this program so that research relating to the production and utilization of renewable energy sources can be initiated in the Spring of 1981, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest and, in accordance with E.O. 12044, that it is not possible to publish this Notice in proposed form and allow 60 days for public comment.

Done at Washington, D.C., this 1st day of April 1981.

Anson R. Bertrand,

Director, Science and Education.

Appendix I—Subject-Matter Guidelines for Fiscal Year 1981

Programs To Be Supported With USDA, SEA-Appropriated Funds

1.0 *Ethyl Alcohol Research (Alcohol and Industrial Hydrocarbons Research Program).* The total amount available for this program during Fiscal Year 1981 is $485,000. Grant awards will be limited to a maximum of $100,000 per grant of 2 or 3 years' duration for research in ethyl alcohol conversion. This program will cover research on the evaluation, production, handling, treatment, and conversion of biomass resources for manufacture of ethyl alcohol. (Research on other alcohols will be supported under Energy Grants, 2.1 Fermentation, as outlined below).

2.0 Energy. *(Special Research Grants Program).* The total amount available for this program during Fiscal Year 1981 is $1,843,000. The overall objective of this research program is to obtain the scientific knowledge and technical information to substitute energy from agricultural sources for petroleum-based energy and to seek net energy self-sufficiency in agricultural and forestry production and other rural activities. Grant awards will be made in four specific areas of inquiry with maximum grant amounts as indicated below:

2.1 Fermentation. Grant awards will be limited to a maximum of $80,000 per grant of 2 or 3 years' duration. This area will cover research on hydrolysis, fermentation, anaerobic digestion, product separation and purification, and blending, marketing, and end use of the products. The research will emphasize new fermentation organisms, new fuels for gas and diesel engines, and petrochemical substitutes and will include the testing of biomass-based additives for methanol fuels, using suitable engine systems for evaluation of the new products.

2.2 Combustion, Pyrolysis, and Gasification. Grant awards will be limited to a maximum of $125,000 per grant of 2 or 3 years' duration. This area will cover research on direct burning, extraction of petrochemical substitutes, thermal gasification, pyrolysis, transformation to liquid fuels for gas and diesel engines, and catalytic synthesis of methanol derived from abundant domestic carbonaceous sources. The research will emphasize improved systems for conversion of solid biomass carbonaceous residues to assure availability of gaseous and liquid fuels in rural America.

2.3 Solar and Wind Energy. Grant awards will be limited to a maximum of $80,000 per grant of 2 or 3 years' duration. This area will cover research on the development of technology to permit economic substitution of energy from solar and wind sources for crop drying, heating livestock shelters and greenhouses, irrigation pumping, agricultural processing and other rural home and agricultural applications. This area of inquiry will also develop and exploit promising leads from previous solar and wind research programs.

2.4 Biomass Varietal Screening, Collection and Storage. Grant awards will be limited to a maximum of $80,000 per grant of 2 or 3 years' duration. This area will cover research on the comparison of choice of species and varieties for energy value including production, assembly, and storage of promising selections of biomass species for energy use.

In addition, research involving systems for storage of biomass resources to enable year-round energy output from production facilities need research attention.

Program to be supported with DOE-appropriated funds (Energy Systems for Agriculture Program). The overall objective of this research program is to obtain the scientific knowledge and technical information required to reduce the petrochemical energy used in agricultural and forestry production and

other rural activities. Grant awards will be made in five specific areas of inquiry with maximum grant amounts as indicated below.

3.0 Methane Generation and Utilization. It is anticipated that $147,000 will be available during Fiscal Year 1981. The objectives of this research area include design and development of farm-size methane generators, development of associated materials handling systems, fuel and byproduct use, and process improvements. The use of crop residues in addition to livestock wastes, use of the methane for heat or for engine fuel, cleaning of the methane for specific uses, safety, and demonstration and analysis of potentially commercial systems are included as areas needing research.

4.0 Combustion, Pyrolysis, and Gasification. It is anticipated that $525,000 will be available during Fiscal Year 1981. The objectives of this research are to evaluate equipment and systems for direct combustion and gasification of crop residues and other biomass energy sources on the farm. Harvesting or collecting, handling, storage, and utilization of the materials may require equipment design before a functional system can be developed.

5.0 Solar Energy. It is anticipated that a total of $1,540,000 will be available during Fiscal Year 1981. Grants will be made in two specific areas of inquiry with maximum grant amounts as indicated below.

5.1 Solar Systems Used for Single Purposes or Processes. Grant awards will be limited to a maximum of $150,000 per grant of 2 or 3 years' duration. This research area will emphasize the design, development, and economic analysis of components for active, passive, and hybrid solar systems used for single purposes or processes such as crop drying, food processing, heating of livestock shelters, and heating of greenhouses. A minimum of $100,000 will be made available for projects with major emphasis on passive and passive-hybrid solar systems.

5.2 Multiple-use and/or Multiple Source Solar Systems. Grant awards will be limited to a maximum of $150,000 per grant of 2 or 3 years' duration. This research will emphasize the development, system analysis, and integration of multiple-use solar systems utilizing direct solar heating separately or in combination with wind and biomass as backup systems. Approximately $100,000 will be made available for passive and passive-hybird solar systems.

6.0 Biomass Production. It is anticipated that a total of $852,000 will be available during Fiscal Year 1981. The objectives of the biomass production research are to identify and develop herbaceous crops as energy sources. Included are varietal screening, detailed analysis of physical properties, and chemical composition. Development of new genotypes to develop cultivars with the best overall properties is of prime importance. Systems analysis may be used to study frequency of harvest, fertilizer level, and other factors affecting net energy production for particular locations. Other factors for consideration include harvesting, handling, storage, and utilization, since the use of the biomass may be spread over a considerable period of time.

7.0 Vegetable Oil as Diesel Substitute. It is anticipated that a total of $411,000 will be available during Fiscal Year 1981. The objectives of the vegetable oil research area are to determine the potential and develop a system for expanded production and utilization of vegetable oils as alternative and emergency liquid fuels for agriculture. Research may be required on screening of germplasm to improve existing oilseed crops, or developing new genotypes with improved yield and oil quality. Development of improved production practices and new harvesting, handling, and storage techniques may be required to optimize the net energy output. The chemical and physical properties of the oils must be determined in relation to extraction methods, degumming requirements, and refining. Studies with innovative fuels, and/or engine modifications may include such tests as thermal efficiency, fuel consumption, startability, carbonization, and fuel injector nozzle effects.

Selection of Program and Program Area

The applicable program should be indicated in Block 7 and the applicable specific area of inquiry (program area) should be indicated in Block 8 of Form SEA–661 provided in the Grant Application Kit. *Select one program and one program area only.* The final determination of the program and program area will be made by the program staff and/or the appropriate panel. The *number* assigned to the area within the program must also be cited, if applicable (e.g., 2.1, 2.2), in Block 8 of Form SEA–661.

Points of Contact

For information concerning program guidelines for specific areas of inquiry for research to be supported with SEA-appropriated funds, please contact Dr. John D. Sullivan, Deputy Administrator—Natural Resources, Cooperative Research, SEA, USDA, Room 418–W, Administration Building, 14th & Independence Avenue, S.W., Washington, D.C. 20250, telephone (202) 447–3555. For information concerning program guidelines in connection with research to be supported with DOE-appropriated funds, please contact Mr. Ralph Nave, Assistant Program Manager—Energy, SEA, USDA, Room 224, Building 005, BARC–West, Beltsville, Maryland 20705, telephone (301) 344–2740.

Appendix II—Additional Information and Instructions

1. Grant Application (Form SEA–661). A Grant Application with all relevant *original* signatures must be included with the proposal. All other copies of the proposal should also contain a Grant Application, but facsimile or photocopied signatures will be accepted.

2. Title of proposal. The title (80-character maximum) will be used for the USDA's Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should *not* contain highly technical words. Phrases such as "investigation of" or "research on" should not be used.

3. Project Abstract and Summary. a. Provide a project abstract of approximately 150 words.

b. Provide a project summary of 1–2 pages in length. Focus on overall objectives and project goals, relevance and significance of the project, and methods and approaches. Because the project summary is not intended for the general reader, it should be couched in language which will be meaningful to others in the field of science.

4. Project Description. (10-page maximum). a. Introduction. State overall objective(s) and long-term goal(s) of the proposed research. Review the most significant previous work, including your own, and describe the current status of research in this field. Document with references.

b. Rationale and significance. Present concisely the rationale behind the proposed research and list specific objectives for the total period of requested support. Show how these objectives relate to potential long-range improvements in the research program to which you are applying. What is the potential importance of the proposed research? Discuss any novel ideas or contributions which the project offers.

c. Experimental plan. State clearly your hypothesis or the questions you will ask and give details of the research plan. Include a description of the experiments or other work proposed; the methods and techniques to be employed

and their feasibility; the kinds of results expected; and the means by which the data will be analyzed or interpreted. Include, if appropriate, a discussion of pitfalls which might be encountered, as well as limitations of the procedures proposed. Insofar as possible, describe the principal experiments or observations in the sequence in which it is planned to carry them out, and indicate, if possible, a tentative schedule of the main steps of the investigation within the project period requested.

d. Facilities and equipment. Describe the facilities available for this project, including laboratories. Point out any procedures, situations, or materials which may be hazardous to personnel and the precautions to be exercised. List major items of instrumentation and those major items of nonexpendable equipment needed to complete the work.

e. Collaborative/consortia/cooperative arrangements. If the proposed project requires arrangements with other research organizations, describe the effort and provide evidence to assure the reviewers that the organizations involved agree. If separate written assurances are to be included, they should be placed after the "References to project description." Indicate specifically whether or not such arrangements might have the potential for any conflict of interest. Projects should indicate which organization is to receive the award, since only one submitting organization can be the recipient. Subcontracting arrangements for research work should be indicated in the budget.

5. References to project description. These references should follow an accepted format.

6. Vitae and publication list(s) of principal investigator(s). Vitae of the principal investigator(s) senior associates, and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, regardless of whether Federal funds are sought for their support. Provide for each person a chronological list of the most recent representative publications during the preceding 5 years, including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as they usually appear in journals.

7. Additions to project description (if any). Each project description is expected by the members of review committees and the program staffs to be complete in itself. Distribution of additional materials, other than for the records, will be limited to the principal reviewers. In those instances in which the submission of additional material is necessary (e.g., photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 6 copies or sets, identified by title of the research project and name of the principal investigator(s), should accompany the proposal.

[FR Doc. 81-10294 Filed 4-6-81; 8:45 am]

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Vol. 46, No. 66

Tuesday, April 7, 1981

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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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

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

[Last Listing April 2, 1981; last cumulative listing for the 96th Congress (1980) January 7, 1981.]

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

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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.

WHEN: April 10 and 24; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

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