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Federal Register

Thursday
October 21, 1982

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Postal Service

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Presidential Documents

Title 3—

The President

Proclamation 4988 of October 19, 1982

National Housing Week, 1982

By the President of the United States of America

A Proclamation

Historically, America's housing industry has been a major contributor to the growth of our Nation's economy and the well-being of our citizens. It has encouraged the social and economic values of homeownership, created jobs, and stimulated both individual and institutional investment.

Yet, in the last decade, no segment of our economy has suffered more from the twin afflictions of inflation and high interest rates. Young couples, low income families, lending institutions, builders, construction workers, realtors, and materials suppliers have all shared in the frustrations and failures brought on by the misdirected programs of the past and the changing economic environment. Our Administration's economic policies have produced dramatic declines in the rate of inflation and in interest rates. These achievements will serve as a catalyst for solid and widespread housing industry growth benefiting all Americans.

Recognizing the need for new options and directions for our national housing policy, the President's Commission on Housing was established on June 16, 1981. Given the urgency of the situation, this distinguished group of housing experts completed their massive study in a remarkably short time frame. An impressive report, containing a detailed series of recommendations, was issued on April 30, 1982.

The Commission's findings reflect a fundamental confidence in the free market system, a recognition that a genuine housing recovery, essential for us all, can only be accomplished through principal reliance on the strength and initiative of the private sector. The Commission stressed the need for free, unhampered housing markets and urged the removal of unnecessary, burdensome regulatory restraints. It recommended a comprehensive strategy of housing initiatives directed at people, rather than at structures. At the same time, the Commission reaffirmed our national commitment to equal housing choice and recognized a continuing role for government in providing housing for the poor.

Guided by this framework, this Administration has already undertaken a number of actions aimed at bringing about the resurgence of the housing industry. These include: the Joint Venture in Affordable Housing; the acceptance of new, flexible mortgage instruments; the proposal for a new rental housing certificate program; the encouragement of private pension fund investments in mortgages; and the elimination of a number of counterproductive Federal regulations.

Unquestionably, a housing recovery remains an essential national priority and all Americans deserve the opportunity to live in decent, affordable housing. Through Senate Joint Resolution 261, the Congress has recognized the past contributions of the housing industry to America, reaffirmed our national commitment to a housing recovery, and requested the President to designate the week of October 24 through October 31, 1982, as National Housing Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 24, 1982, as National Housing Week and call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of October, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-29173
Filed 10-20-82; 11:45 am]
Billing code 3195-01-M

Editorial Note: The President's remarks of Oct. 19, 1982, on signing Proclamation 4988 are printed in the *Weekly Compilation of Presidential Documents* (vol. 18, no. 42).

Rules and Regulations

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FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220 and 221

[Regs. G, T, and U]

Securities Credit Transactions

Correction

In FR Doc. 82-27526 beginning on page 44241 in the issue for Thursday, October 7, 1982, on page 44242, first column, thirty-sixth line from the top, remove "Rogers Cablesystems Inc.—Class B, no par common".

BILLING CODE 1505-01-M

12 CFR Part 265

[Docket No. R-0426]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has expanded the delegated authority of the General Counsel to include authority to revoke acceptance of and return a notice filed pursuant to the Change in Bank Control Act, or to extend the time during which action must be taken on such a notice where the General Counsel has determined, with the concurrence of the Board's Director of Banking Supervision and Regulation, that the notice is materially incomplete or contains material information that is substantially inaccurate.

EFFECTIVE DATE: October 15, 1982.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Associate General Counsel, Legal Division (202/452-3430), or Scott G. Alvarez, Attorney, Legal Division (202/452-3583), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, banking.

PART 265—[AMENDED]

Effective October 15, 1982, Part 265 is amended by adding to § 265.2, a new paragraph (*b*)(10) as set forth below:

§ 265.2 Specific functions delegated to board employees and to Federal Reserve banks.

* * * * *

(b) The General Counsel of the Board (or, in the General Counsel's absence, the Acting General Counsel) is authorized:

* * * * *

(10) To revoke acceptance of and return as incomplete a notice filed pursuant to the Change in Bank Control Act (12 U.S.C. 1817(j)) or to extend the time during which action must be taken on a notice, where the general counsel determines, with the concurrence of the Board's Director of Banking Supervision and Regulation, that the notice is materially incomplete under the Change in Bank Control Act or the Board's regulation promulgated thereunder or contains material information that is substantially inaccurate.

By order of the Board of Governors of the Federal Reserve System, October 15, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-28888 Filed 10-20-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NW-24-AD; Amdt. 39-4477]

Airworthiness Directives; Boeing Model 727 Series Airplanes Equipped with Decoto Leading Edge Actuators, P/N 10-61792-1, -2, -4, -5, -6, -7, or -8

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain Boeing Model 727 airplanes which requires repetitive inspection, rework, or replacement of certain Decoto Leading Edge Actuators. Fatigue cracks developing in the piston of these actuators may progress to failure of the piston, which would result in inadvertent extension of the associated leading edge slat. This AD requires an inspection of the leadiing edge actuators with options for (1) a procedure to facilitate the detection of a cracked piston, (2) continued repetitive inspections, (3) rework of the piston to increase fatigue life, or (4) replacement of affected pistons with new pistons, according to procedures and conditions described below.

DATES: Effective date November 22, 1982.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from The Boeing Company, P.O. Box 3707, Seattle, Washington 98124. This information may also be examined at the Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Lium, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2500. Mailing address: FAA Northwest Mountain Region: 17900 Pacific Highway South, C68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt an Airworthiness Directive which requires repetitive inspection of certain Decoto leading edge actuators was published in the Federal Register on July 13, 1981 (46 FR 35933).

One confirmed instance of an in-service fatigue crack in a Decoto leading edge actuator has been reported. The crack appeared between the flanges of the actuator piston, and was caused by an inadequate fillet radius and sharp fillet corners. The original specification called for a qualification test to 100,000 cycles (50,000 landings).

Boeing fatigue tested three new actuators in the laboratory, with the following results:

1. All three actuators had developed cracks (magnaflux inspection) by

100,000 cycles (50,000 landings). The point at which the cracks first appeared was not determined.

2. The three actuators exhibited degraded performance (high internal leakage) at 127,000 cycles (63,500 landings), 171,000 cycles (85,500 landings), and 191,000 cycles (93,500 landings), respectively.

3. The first actuator was then tested to failure (total separation), which occurred at a total of 142,000 cycles (71,000 landings).

The hazard associated with this failure is that the crack could progress and cause total separation of the piston rod, resulting in the differential hydraulic pressure across the piston end of the broken rod inadvertently extending the leading edge device.

The actuator will be changed in production by increasing the fillet radius, removing sharp fillet corners, and shot peening the surfaces. For actuators manufactured prior to the modification, this potentially unsafe condition can be corrected by (1) replacing the actuator prior to the onset of cracks, (2) by a repetitive inspection described in detail below, which must continue until replacement, or (3) by remachining the piston to create different fillet radii and thus extend the fatigue life of the piston.

The comment period for the NPRM was extended from September 1, 1981, to November 30, 1981, to allow interested persons time to review a delayed Boeing Service Bulletin (46 FR 54383, November 2, 1981). The comment period was further extended two more times (47 FR 1142, January 11, 1982, and 47 FR 18342, April 29, 1982) ending on May 31, 1982, to allow for completion of Boeing laboratory testing intended to validate an alternate method of compliance.

Interested persons have been afforded an opportunity to participate in the making of this amendment. A total of seventeen commenters responded to the NPRM, including operators of 727 aircraft, two industry groups representing various users, and the manufacturer. Most commenters presented data concerning the number of airplanes affected by this action, the cost and manhours that would be involved in calendar year 1982 if the AD was written as proposed, their service experience indicating MTBR (Mean Time Between Removals) for their Decoto actuators, and estimated time for complete removal of all affected actuators from their fleets without causing disruption of service.

The NPRM originally proposed a threshhold of 20,000 landings for the initial inspection, or the next 1,500 landings, whichever occurs later, and a repetitive inspection interval of 5,000 landings thereafter until the actuator is replaced. As was stated in the second extension of the comment period (47 FR 1142, January 11, 1982), Boeing submitted data which show that the likelihood of a piston developing fatigue cracks of any consequence prior to the accumulation of 30,000 landings is small, and that no 727 airplanes using Decoto actuators will accumulate 30,000 landings prior to November 1982. For this reason the FAA has concluded that the 20,000 landing threshold proposed in the NPRM is inappropriate, and will be changed to 30,000 landings in the final rule. In addition, laboratory testing conducted by The Boeing Company revealed that the fatigue life characteristics of the piston are such that subsequent teardown inspections may be performed at 15,000 landing intervals, rather than the 5,000 landings specified in the NPRM, and the final rule, as adopted, reflects this 15,000 landing interval. These larger inspection intervals (30,000 and 15,000 landings) were recommended in Boeing Service Bulletin 727–27–209, which was referenced in the NPRM. Several commenters stated that these larger intervals would pose a much less severe penalty on their operation than the originally proposed 20,000 and 5,000 landings.

One commenter requested that the AD be expanded to include leading edge actuators manufactured by Ronson, as well as Decoto. The commenter presented as justification for this action the following arguments:

1. The airplane which suffered a severe loss of control in April 1979 due to inadvertent extension of the leading edge devices was equipped with Ronson actuators.

2. Following the incident, the operator instituted extraordinary check and inspection procedures on all of its 727 aircraft equipped with Ronson actuators; a large increase in Service Difficulty Reports involving 727 leading edge devices was the result.

3. The Ronson and Decoto actuators are somewhat similar in design.

4. A similar fracture in the Ronson actuator would cause inadvertent extension of a leading edge slat.

The commenter did not specify the nature of discrepancies found by the operator. The FAA has received no reports of fatigue cracks or other structural defects in the Ronson actuator as a result of recent fleet inspections. In addition, it has been shown that failure modes of the Ronson and Decoto actuators are not the same, despite similarities in the design and performance of the two units. Finally, the Ronson actuator has not been shown to contain a manufacturing defect, whereas the Decoto actuator contains an inadequate fillet radius, or "stress raiser," which promotes the formation of cracks. Thus, there is no justification for the inclusion of the Ronson actuator in this action.

As noted above, The Boeing Company instituted laboratory test procedures following publication of the NPRM, the purpose of which was to define and validate an alternate method of compliance with the proposed AD. This testing consisted of a comprehensive fatigue/leakage evaluation to establish leakage increases associated with crack propagation, and the development of a design and rework technique to extend the fatigue life of existing piston rods. It was determined that the internal leakage increase in a Decoto slat actuator, due to a cracked piston, would be detected within safe limit loads if the existing internal hydraulic system leakage check was performed at an interval not to exceed 2,400 landings. This inspection interval is based on the number of cycles accumulated on the test piston rods between the point of 1,000 cc/min leakage to the point at which the actuator retract capability was reduced to 800 pounds. The 1,000 cc/min leakage represents the existing leading edge system allowable leakage defined in the maintenance manual chapter 29–00 internal leakage check, while the 800 pound force requirement is considered representative of the maximum retracted slat load.

An airplane ground test, witnessed by the FAA, verified that 1,000 cc/min internal leakage within the leading edge system is readily detectable on an airplane by use of the maintenance manual internal leakage check. It was further demonstrated to the FAA that a specific defective actuator could be located by various established methods, including acoustic detection (stethoscope), and by measuring temperature rise across the actuator.

Additionally, laboratory testing was conducted to evaluate a rework procedure for Decoto piston rods presently in service. The rework procedure consisted of remachining and shot peening the fillet radii in the extend lock ring groove. Fatigue testing of the modified pistons combined with periodic magnaflux inspections disclosed that the life of an in-service uncracked piston will be extended by 40,000 landings after rework.

The Boeing Company concluded from this evaluation that both portions of the test program resulted in reasonable alternate solutions. Specifically, Boeing

recommended the following actions based on their laboratory and airplane ground testing:

1. An operator should perform a magnetic particle inspection of Decoto P/N 7–100433–1 pistons prior to accumulation of 30,000 landings. If the piston is not cracked, it may remain in service and be reinspected at 15,000 landing intervals thereafter. If the part is cracked it should be discarded. Boeing Service Bulletin 727–27–209 dated September 18, 1981, presently reflects this option.

2. An operator may replace an existing P/N 7–100433–1 piston with a redesigned piston P/N 7–100433–3. No repetitive inspections are required. Boeing Service Bulletin 727–27–209 dated September 19, 1981, and Decoto Service Bulletin 27–109 dated July 23, 1981, presently provide for this option.

3. An operator may perform the leading edge hydraulic system internal leakage check per maintenance manual chapter 29–00 every C-check, not to exceed 2,400 landings. That is, an actuator which has accumulated 30,000 landings may remain in service on the airplane providing it is subjected to repeat internal leakage checks at an interval not to exceed 2,400 landings. Boeing Service Bulletin 727–27–209, Revision 1, dated August 27, 1982, reflects this option.

4. An operator may rework an existing uncracked P/N 7–100433–1 piston per the Boeing approved procedure. No repetitive inspections are required after rework for an additional service life of 40,000 landings. After accumulation of an additional 40,000 landings on the reworked piston, option two or three must be incorporated. Decoto Service Bulletin 27–109 will be revised to provide rework instructions for uncracked P/N 7–100433–1 pistons. Additionally, the Boeing Service Bulletin noted in 3. above reflects the optional usage of reworked pistons.

The testing performed by Boeing and the recommended procedures derived therefrom provide for relief from the later provisions of the NPRM, i.e., replacement of the actuator piston at a threshold of 30,000 landings, or repetitive teardown inspections required until replacement. The FAA has determined that these proposed procedures constitute an acceptable alternative to the proposed procedures, and they will be included in the final rule as noted below.

After a careful review of all available data, including the comments above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes previously noted.

It is estimated that 1000 airplanes will be affected by this AD, and that the average labor costs associated with the inspection will be $30 per manhour. No estimate of the total cost of compliance with this AD can be made, since three of the four options given below include repetitive inspections, which could continue indefinitely; however, as an extreme example, if each airplane was inspected in accordance with option C, below, a total of ten times, followed by replacement of all leading edge actuator pistons with new, redesigned pistons, the total fleet cost is estimated to be $3 million. For these reasons, this final rule is not considered to be major under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Boeing: Applies to all Boeing Model 727 airplanes equipped with Decoto Leading Edge Acuators, P/N 10–61792–1, –2, –4, –5, –7, or –8. Compliance is required as specified in the body of this AD. To eliminate the possibility of inadvertent leading edge slat extension caused by fatigue failure of the Decoto leading edge actuator, accomplish at least one of the following four procedures prior to the accumulation of 30,000 landings on the actuator, or within the next 1500 landings, whichever comes later, unless already accomplished:

A. Perform a magnetic particle inspection of Decoto P/N 7–100433–1 actuator pistons in accordance with Boeing Service Bulletin 727–27–209 dated September 18, 1981. If a piston is not cracked it may remain in service provided it is reinspected at 15,000 landing intervals thereafter. If the part is cracked it must be discarded.

B. Replace the P/N 7–100433–1 piston with a redesigned piston P/N 7–100433–3. No repetitive inspections of replaced pistons are necessary—see **Note** after paragraph D, below.

C. Perform the leading edge hydraulic system internal leakage check per the 727 Maintenance Manual Chapter 29–00 procedures, as described in Boeing Service Bulletin 727–27–209, Rev. 1, dated August 27, 1982. This leakage check must be repeated at intervals not to exceed 2400 landings. If the total leading edge system internal leakage exceeds 1000 cc/min, the additional acoustic or thermal procedures explained in the referenced service bulletin may be used to locate a specific defective actuator. If the total leading edge system internal leakage does not exceed 1000 cc/min, no further action is necessary until the next scheduled leakage check.

D. Rework existing uncracked P/N 7–100433–1 pistons per the Boeing approved procedure, which is described in Decoto Service Bulletin 27–109 dated July 23, 1981, and the referenced Boeing Service Bulletin. No repetitive inspections are required after rework for an additional service life of 40,000 landings. After accumulation of an additional 40,000 landings on the reworked piston, option B or C above must be incorporated.

Note.—Replacement of the P/N 7–100433–1 piston with a redesigned piston P/N 7–100433–3, as described in option B above, constitutes terminating action for that particular actuator; no further inspections of that actuator are required. Replacement of all P/N 7–100433–1 pistons with P/N 7–100433–3 pistons on a given aircraft constitutes complete terminating action for this AD on that aircraft.

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

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

This Amendment becomes effective November 22, 1982.

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

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington, on October 7, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82–28576 Filed 10–20–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 82-NM-77-AD, Amdt. 39-4476]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With Pratt and Whitney JT9D Engines, Except JT9D-70

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing Airworthiness Directive (AD) 80-03-09, applicable to Boeing Model 747 series airplanes. The existing directive requires repetitive inspections of the nacelle strut forward engine mount bulkhead for loose fasteners and cracks, and provides for termination of the repetitive inspections if a specified repair is accomplished. Subsequent service experience has shown that parts provided for this repair had improper heat treat. Accordingly, this amendment is being issued requiring continuation of the repetitive inspection or, alternatively, accomplishment of a new permanent repair. This action is necessary to prevent failure of the forward engine mount bulkhead and possible separation of an engine from the airplane.

DATES: Effective date: October 27, 1982. Compliance as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The Boeing Service bulletin specified in this AD may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, telephone (206) 767-2516. Mailing Address: Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 80-03-09, Amendment 39-3687 (45 FR 8285, February 7, 1980), required inspection of the fasteners attaching the nacelle strut forward engine mount bulkhead to the horizontal firewall of the strut for loose or missing fasteners and inspection of the bulkhead chords and webs for cracks. The AD was amended by Amendment 39-3832 (45 FR 46343, July 7, 1980), to provide terminating action through the incorporation of a steel doubler specified in Boeing Service Bulletin No. 747-54A2069, Revision 3, dated May 23, 1980. Subsequent to the incorporation of the Service Bulletin, one operator reported a total of 21 cracks in 9 doublers. Inspection of one doubler disclosed that the heat treat was found to be higher than required and the cause of the cracking. The manufacturer has developed a new doubler design which is more resistant to the cracking. The installation of the new doubler in accordance with Boeing Service Bulletin 747-54A2069, Revision 6, is now considered terminating action for this problem. This action is necessary to prevent possible separation of the engine.

Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection of the nacelle strut forward engine mount bulkhead, repair, if necessary, and replacement of the doubler as termination.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Boeing: Applies to all Model 747 series airplanes, powered by Pratt and Whitney JT9D engines, except the JT9D-70 as listed in Boeing Service Bulletin 747-54A2069, Revision 6, certificated in all categories. To prevent failure of the nacelle strut forward engine mount bulkhead, accomplish the following:

A. For airplanes which have accomplished the terminating action of AD 80-03-09; conduct the inspections of C., below, within 300 hours time-in-service after the effective date of this AD, unless already accomplished. Thereafter, repeat inspections per E., until modified per F.

B. For airplanes which were accomplishing the repetitive inspections of AD 80-03-09; continue inspections in accordance with E., below, of this AD until the struts are modified per F.

C. Inspection procedure:

1. Inspect the fasteners attaching the nacelle strut forward engine mount bulkhead to the horizontal fire wall for loose or missing fasteners in accordance with Boeing Service Bulletin 747-54A2069, Rev. 2, or later FAA approved revisions. If any loose or missing fasteners are found, replace all fasteners in both rows of fasteners in accordance with Service Bulletin 747-54A2069.

Note.—Operators that replaced only loose fasteners found during compliance with the original telegraphic AD T79-NW-21 must replace all fasteners in both rows of fasteners within 600 hours time-in-service after the effective date of this AD.

2. Remove the protective coating by hand using 400 grit or equivalent abrasive and penetrant inspect the bulkhead chords for cracks in accordance with Boeing Service Bulletin 747-54A2069, Rev. 2, or later FAA approved revisions. If a crack is found on the chord outside radius, penetrant inspect the inside radius for cracks. If cracks are found, replace or rework the cracked parts in accordance with Service Bulletin 747-54A2069, Rev. 2., or later FAA approved revision before further flight.

3. Inspect the fasteners attaching the forward engine mount fittings to the strut bulkhead for evidence of looseness and replace any loose fasteners before further flight.

D. Bulkhead chords stop drilled in accordance with C.2. above, must be penetrant reinspected in accordance with Service Bulletin 747-54A2069, Rev. 2, or later FAA approved revisions at intervals not to exceed 600 flight hours until the damaged chord is either replaced or permanently repaired.

E. Repeat the inspections required in C., above, at intervals not to exceed 4,000 flight hours.

F. Accomplishment of the structural modifications specified in Boeing Service Bulletin No. 747-54A2069, Revision 6, dated October 22, 1982, or later FAA approved revision is terminating action for the repetitive inspections required by this AD.

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

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

This amendment supersedes Airworthiness Directive (AD) 80-03-09, Amendment 39-3687 (45 FR 8285), as amended by Amendment 39-3832 (45 FR 46343).

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 27, 1982.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to

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

Issued in Seattle, Washington, on October 7, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-28577 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-81-AD; Amdt. 39-4471]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes, Fuselage Numbers 924 Through 1011, 1013 Through 1022, 1025 Through 1035, 1043 Through 1055, and 1061

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection and replacement, if necessary, of the engine throttle push-pull control cable on certain McDonnell Douglas Model DC-9-80 Series Airplanes. This AD requires a pull check of the control cable to determine if the cable "blade element" was damaged during handling, installation or an engine change. This action is necessary because damaged cables may fail without warning causing a loss of power control to the affected engine.

DATES: Effective date is October 21, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION: Seven failures of the throttle push-pull control cable have been reported resulting in loss of control to the affected engine. An investigation disclosed that damage to the cable's blade element occurred during the original installation or an engine change, by bending the cable in excess of the minimum acceptable bend radius. This exessive bending "kinks" the blade element which may fatigue fail sometime later without warning. A pull check in accordance with McDonnell Douglas DC-9 Super 80 Alert Service Bulletin A76-38 dated July 22, 1982 or Revision 1 dated July 27, 1982, will reveal whether the throttle control cables are in an acceptable condition or require replacement.

Since this condition is likely to exist on other airplanes of the same type design, an airworthiness directive is being issued which requires a one-time pull check of the throttle control cable assembly and replacement of faulty cables.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-80 series airplanes, Fuselage Number 924 through 1011, 1013 through 1022, 1025 through 1035, 1043 through 1055, and 1061, certificated in all categories.

Compliance required as indicated unless previously accomplished. To prevent failure of the throttle push-pull control cable, accomplish the following:

A. Within 300 hours after the effective date of this AD, perform a one-time pull check of the throttle push-pull control cable on both engines in accordance with McDonnell Douglas DC-9 Super 80 Alert Service Bulletin A76-38 dated July 22, 1982, Revision 1 dated July 27, 1982, or later revisions approved by the Manager, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. If the force is above the service bulletin limits and/or the push-pull control does not move smoothly, determine cause for roughness or binding and repair accordingly. If cause is isolated to cable blade element replace the throttle control cable assembly with a serviceable item.

Caution: Use extreme care when working with engine push-pull cables. Do not bend cable in radius smaller than 7-inches (18CM) minimum or damage to cable will result.

Note.—Cable has a flat internal sliding ribbon and will bend in one direction only.

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

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

Note.—One alternate means of compliance is specified in Pacific Southwest Airlines (PSA) Engineering Specification DC-9-76-1 dated May 14, 1982 or Revision A dated May 25, 1982.

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168, or Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

This Amendment becomes effective October 21, 1982.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final

regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Seattle, Washington on September 24, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-28585 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-18]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Federal Airway, Massena, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment realigns Federal Airway V-104 between Messena, NY, and Ottawa, Canada. The Canadian Government requested the realignment in order to improve traffic flow between Ottawa and Massena. Except for a 10-mile segment, the route realignment is totally within Canadian airspace.

DATES: Effective date—December 23, 1982. Comments must be received on or before November 22, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Northeast Region, Attention: Manager, Air Traffic Division, Docket No. 82-AWA-18, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule which involves realignment of a Federal Airway, the impact of this action on the airspace in the United States is insignificant. This amendment aids critical airspace changes which are mostly within Canada, and thus, was not preceded by notice and public procedure. Comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments which provide a factual basis for supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to realign V-104 between Massena, NY, and Ottawa, Canada, via the Ottawa VORTAC 127°T(141°M) until intersecting the Massena VORTAC 300°T(314°M) radial to Massena. This action improves air traffic flow between those terminals. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to realign this segment of V-104 which lies almost entirely within Canada, and expedites the reulemaking process in order to cooperate with Canada to make this amendment effective on the next charting cycle. Therefore, I find that notice of public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective on the next charter date.

List of Subjects in 14 CFR Part 71

VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 23, 1982, as follows:

V-104 [Amended]

By removing the words "From Ottawa, ON, Canada, INT Ottawa 095° and Massena, NY, 330° radials; Massena;" and substitute the words "From Ottawa, ON, Canada, INT Ottawa 127° and Massena, NY, 300° radials; Massena;"

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

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

Issued in Washington, D.C. on October 14, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-28889 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 386

[Docket No. 21005-204]

Procedure for Shipments Exempt From Shipper's Export Declarations

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The export clearance provision of the *Export Administration regulations* are revised to:

(1) Emphasize the requirements of section 30.50 of the *Foreign Trade Statistics Regulations* (FTSR) for the documentation of exemptions from the Shipper's Export Declaration (SED) filing requirements, and

(2) Require parties who are exempt from SED filing requirements to include general license symbols or validated license numbers and expiration dates on bills of lading or other loading documents.

These changes are expected to facilitate export clearance and to

promote compliance with both the *Foreign Trade Statistics Regulations* and the *Export Administration Regulations*.

Also, a minor correction is made to § 386.6(g)(2)(ii) changing "(direct carrier:" to "(indirect carrier)."

EFFECTIVE DATE: October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–5247 or 377–4811.)

SUPPLEMENTARY INFORMATION:

Substance of Regulations. To reduce export paperwork requirements, the monthly Shipper's Export Declaration procedure was first announced by the Bureau of the Census on August 3, 1968 (33 FR 11076). This procedure permits exporters to obtain authorization to file a monthly report of exports in lieu of individual Shipper's Export Declarations. It has become evident to the Office of Export Administration (OEA) that the monthly reporting procedure and other exceptions provided for in the Census Regulations, although beneficial to the exporting community, have had an adverse effect on OEA's ability to ensure compliance with the *Export Administration Regulations*. Therefore, the Export Administration general license symbol or validated license number and expiration date are now required on the bill of lading, air waybill, or other loading document so that ITA and Customs officials can ensure that the exporter has a current and applicable general or validated license. The requirement for describing the basis for exemption or exception to the filing requirement in the *Foreign Trade Statistics Regulations* is not a new reporting requirement; it is added to § 386.1 to conform the *Export Administration Regulations* with the existing *Foreign Trade Statistics Regulations* of the Bureau of the Census. Consistent with the intent of existing FTSR 30.50, with other parts of the FTSR, and with the *Export Administration Regulations*, the *Export Administration Regulations* are being further amended to require exporters to declare to ITA and Customs their license authorization as well as the basis for the exemption to the declaration filing requirement.

Rulemaking Requirements. Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Therefore, these regulations are issued in final form. Although there is no formal comment period, public comments on these regulations are welcome on a continuing basis. It has been determined that this rule:

(1) Is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981); and

(2) Is exempt from the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. app. 601 *et seq.*).

(3) Will result in a slight reduction in the paperwork burden on the public.

List of Subjects in 15 CFR Part 386

Exports.

PART 386—[AMENDED]

Accordingly, the *Export Administration Regulations*, Part 386 (15 CFR Part 386 *et seq.*) are amended as follows:

1. Section 386.1(c)(2), the introductory paragraph, and (d)(2) are revised as follows:

§ 386.1 General export clearance requirements.

* * * * *

(c) * * *

(2) *Exceptions from Shipper's Export Declarations.* All parties exempt from filing a Shipper's Export Declaration are required by the Bureau of the Census *Foreign Trade Statistics Regulations*, section 30.50, to make a statement on the bill of lading, air waybill, or other loading document describing the basis for the exemption and referencing the specific section of the *Foreign Trade Statistics Regulations* where the exemption is provided. If the exemption is based on value and destination, no reference to the specific section containing the exemption need be made. All parties exempt from filing a Shipper's Export Declaration must also include on the bill of lading, air waybill, or other loading document, in those instances when a license is required, the Export Administration general license symbol or validated license number and expiration date. This requirement applies to any bill of lading or other loading document, including one issued by a consolidator (indirect carrier) for an export included in a consolidated shipment. However, this requirement does not appy to a "master" bill of lading or other loading document issued by a carrier to cover a consolidated shipment. The bill of lading or other loading document shall be available for inspection along with the goods or data prior to lading on the carrier. A Declaration is not required for:

* * * * *

(d) * * *

(2) *Shipments for which individual Declarations are* not *required.* When an export to a foreign country is made in transit through Canada, and the shipment is one for which an individual Shipper's Export Declaration is *not* required because (i) the exporter, forwarder, carrier or broker is authorized to report export information to Census by means other than an individual Shippers' Export Declaration, or (ii) the shipment qualifies for a specific exemption (listed in Subpart D of the Census Bureau *Foreign Trade Statistics Regulations)*, the exporter or agent must comply with § 386.1(c)(2). The properly annotated bill of lading or other loading document, along with the license authorization, shall be displayed to the Canadian Customs authorities at the Canadian port of entry and a copy provided, if requested by the Canadian authorities.

§ 386.6 [Amended]

2. Section 386.6(g)(2)(ii), the first sentence, the words "(direct carrier)" are revised to read "(indirect carrier)."

Authority: Sec. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980).

Dated: October 4, 1982.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 82–28884 Filed 10–20–82; 8:45 am]

BILLING CODE 3510–25–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1025

Rules of Practice for Adjudicative Proceedings

AGENCY: Consumer Product Safety Commission.

ACTION: Amendment of rule.

SUMMARY: The Commission is amending its rules of practice which govern adjudicative proceedings to make them applicable to hearings required by section 15 of the Federal Hazardous Substances Act. As originally issued, the rules of practice were specifically applicable only to proceedings under the

Consumer Product Safety Act and the Flammable Fabrics Act. The Commission is amending the rules of practice because recent amendments to section 15 of the Federal Hazardous Substances Act require the Commission to afford the opportunity for a hearing before it can issue an order for public notification or remedial action with regard to a product which is a "banned hazardous substance" under that Act.

DATE: The amendment will be effective October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: (301) 492–6980. Inquiries from the press and broadcast media should be directed to Stephen Lemberg, Assistant General Counsel, Telephone: (301) 492–6980.

SUPPLEMENTARY INFORMATION: On August 13, 1981, the Consumer Product Safety Amendments of 1981 (1981 amendments, Pub. L. 97–35) became effective. The 1981 amendments made several changes to the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 *et seq.*) and other statutes administered by the Commission.

Before the 1981 amendments were enacted, section 15 of the FHSA required retailers, distributors, manufacturers and importers of any product which is a "banned hazardous substances" under the FHSA to repurchase the item.

The 1981 amendments replaced the requirements of section 15 of the FHSA for repurchase of any product which is a banned hazardous substance, with provisions authorizing the Commission to order public notification of the hazard presented by any product which is a banned hazardous product, and to order corrective action with regard to such a product.

In its present form, section 15 of the FHSA requires that before the Commission can issue an order for public notification or for corrective action with regard to a product which is a banned hazardous substance, it must afford all interested parties and groups opportunity for a hearing.

The Commission has issued rules of adjudicative practice to govern the conduct of proceedings which are required to be determined on the record after opportunity for hearing. These rules of practice are published at 16 CFR Part 1025. However, the Commission issued these rules before enactment of the 1981 amendments, and for that reason, they were not made specifically applicable to the hearing now required by section 15 of the FHSA.

For this reason, the Commission is amending section 1025.1 of the rules of adjudicative practice to state that the rules will also apply to any hearing conducted in accordance with section 15 of the FHSA.

Because the amendment issued below involves rules of agency practice, notice of proposed rulemaking and opportunity for public comment is not required by the Administrative Procedure Act (APA, 5 U.S.C. 553(b)(3)(A)). Because the amendment does not affect any substantive rule, publication of the amendment at least 30 days before its effective date is not required by the APA at 5 U.S.C. 553(d). For this reason, the amendment issued below shall become effective immediately.

List of Subjects in 16 CFR Part 1025

Administrative practice and procedure, Consumer protection, Hazardous materials.

Conclusion

PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Therefore, pursuant to provisions of the Federal Hazardous Substances Act, as amended by the Consumer Product Safety Amendments of 1981 (15 U.S.C. 1269(a), 1274), the Consumer Product Safety Act (15 U.S.C. 2079(a)) and the Administrative Procedure Act (5 U.S.C. 553), Title 16, Chapter II, Subchapter A, Part 1025 is amended by revising the first sentence of § 1025.1 to read as follows:

Subpart A—Scope of Rules, Nature of Adjudicative Proceedings, Definitions

§ 1025.1 Scope of rules.

The rules in this part govern procedures in adjudicative proceedings relating to the provisions of section 15 (c), (d), and (f) and 17(b) of the Consumer Product Safety Act (15 U.S.C. 2064 (c), (d), (f); 2066(b)), Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274), and Sections 3 and 8(b) of the Flammable Fabrics Act (15 U.S.C. 1192, 1197(b)), which are required by statute to be determined on the record after opportunity for a public hearing.* * *

Effective date. This amendment shall be effective October 21, 1982.

(Sec. 10(a) Pub. L. 86–613, 74 Stat. 372, 15 U.S.C. 1269(a); Pub. L. 97–35, 15 U.S.C. 1274; sec. 30(a) Pub. L. 92–573, 86 Stat. 1207, 15 U.S.C. 2079(a); 5 U.S.C. 553)

Dated: October 13, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82–28941 Filed 10–20–82; 8:45 am]

BILLING CODE 6355–01–M

16 CFR Part 1500

Hazardous Substances and Articles; Administration and Enforcement Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Revocation of rule.

SUMMARY: The Commission is revoking regulations governing repurchase of products which are "banned hazardous substances" under the Federal Hazardous Substances Act, and allowing modification or replacement of such products as an alternative to repurchase. The Commission has revoked these regulations because they are no longer compatible with provisions of the Federal Hazardous Substances Act, as amended by the Consumer Product Safety Amendments of 1981.

DATE: The revocation will be effective October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: (301) 492–6980. Inquiries from the press and broadcast media should be addressed to Stephen Lemberg, Assistant General Counsel. Telephone: (301) 492–6980.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 4, 1974 (39 FR 4472), the Commission issued regulations to implement section 15 of the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1274), governing repurchase of products which were "banned hazardous substances" under provisions of the FHSA (15 U.S.C. 1261 *et seq.*).

At the time these regulations were issued, section 15 of the FHSA required the retailer of any product which is a banned hazardous substance under that Act to repurchase the product from any consumer who returned it. That section further required the distributor to repurchase the article from the retailer, and the manufacturer or importer to repurchase it from the distributor.

Section 15 of the FHSA provided at that time that the statutory requirements for repurchase of banned hazardous substances should be done "in accordance with regulations" to be

issued by the Commission. Thus, the regulations issued by the Commission were necessary to activate the statutory repurchase provisions.

The Commission's repurchase regulations are codified at 16 CFR 1500.202, and specify procedures to be followed by retailers to notify consumers that products are "banned hazardous substances" and are subject to repurchase under the FHSA. They also define the term "purchase price" and "reasonable and necessary transportation charges," as they were used in the FHSA at the time the regulations were issued, for purposes of calculating the amounts to be refunded to consumers, retailers, and distributors.

In the **Federal Register** of December 23, 1976 (41 FR 55871), the Commission issued additional provisions to set forth conditions under which replacement or modification of a product that is a banned hazardous substance would be permissible, with the consent of the owner, as an alternative to repurchase. This regulation is codified at 16 CFR 1500.203.

1981 Amendments

On August 13, 1981, the Consumer Product Safety Amendments of 1981 (1981 amendments, Pub. L. 97–35) became effective. This legislation amended several sections of the FHSA, including section 15.

The 1981 amendments replaced the requirements of section 15 for repurchase of any article which is a banned hazardous substance with provisions similar to those of section 15 of the Consumer Product Safety Act (15 U.S.C. 2064) concerning notification to the Public and corrective action with regard to products which present a substantial product hazard.

As modified by the 1981 amendments, section 15 of the FHSA authorizes the Commission to order notification and correction of the hazard presented by a banned hazardous substance after affording all interested persons and groups opportunity for a hearing. The amendments allow the Commission to require a manufacturer, distributor, or retailer to repair or modify the product so that it is no longer banned; or to replace it with another product which is not banned; or to refund the purchase price of the product.

The remedial provisions of Section 15 of the FHSA, as amended, now authorize the Commission to institute proceedings to order notification and corrective action. However, many firms voluntarily consent to undertake such notification and corrective action. In such instances, there is no necessity for the hearing and legal proceeding described in Section 15.

Regardless of whether an administrative action for notice and corrective action is brought, however, distribution or sale of a banned hazardous substance remains illegal and may be prevented by injuction and seizure. Distribution and sale of a banned hazardous substance is punishable by a fine and imprisonment.

Thus, the remedial provisions of section 15 of the FHSA, as amended, no longer automatically apply to every product which is a banned hazardous substance, but only to those for which the Commission has issued an order for public notification or for remedial action, after affording an opportunity for hearing. Once the Commission has provided opportunity for a hearing and issued an order for remedial action, the person or firm subject to that order is no longer absolutely required to repurchase the product, but may elect to repair or modify it, or to replace it, as an alternative to repurchase.

Incompatibility of Regulations and Statute

The regulations at 16 CFR 1500.202 and 1500.203 are no longer compatible with the provisions of amended section 15, because they make no provision for the public hearing now required for issuance of an order for public notification or corrective action with regard to a product which is a banned hazardous substance. Additionally, provisions of section 1500.203 contain language to the effect that consent of the owner of a product which is a banned hazardous substance is a condition to modification or replacement of the product as an alternative to repurchase, when this is no longer the case under provisions of section 15 of the FHSA, as amended.

Therefore, the Commission is revoking the regulations at 16 CFR 1500.202 and 1500.203. Elsewhere in this issue of the **Federal Register**, the Commission has amended its rules of practice, published at 16 CFR Part 1025, to make them applicable to hearings now required by section 15 of the FHSA. The adjudicative rules in Part 1025 previously were applicable to proceedings under the Consumer Product Safety Act and the Flammable Fabrics Act, and "such other adjudicative proceedings as the Commission, by order, shall designate."

Because of the 1981 amendments to section 15 of the FHSA, the regulations at 16 CFR 1500.202 and 1500.203 are no longer compatible with the statutory provisions they were intended to implement. For that reason, the Commission finds for good cause, in accordance with 5 U.S.C. 553(b)(3)(B), that notice of proposed rulemaking and opportunity for public comment are unnecessary in this proceeding for revocation. For the same reason, in accordance with 5 U.S.C. 553(d)(3)(B), the Commission finds for good cause that publication of notice of this revocation at least 30 days before its effective date is also unnecessary.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Imports, Infants and children, Law enforcement, Toys.

Conclusion

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (15 U.S.C. 1269(a)), the Consumer Product Safety Act (15 U.S.C. 2079(a), and the Administrative Procedure Act (5 U.S.C. 553), Title 16, Chapter II, Subchapter C of the Code of Federal Regulations is amended by revoking, removing, and reserving sections 1500.202 and 1500.203.

Effective date. The revocation shall be effective October 21, 1982.

(Sec. 10(a) Pub. L. 86–613, 74 Stat. 372, 15 U.S.C. 1269(a); Pub. L. 97–35, 15 U.S.C. 1274; sec. 30(a) Pub. L. 92–573, 86 stat. 1207 (15 U.S.C. 2079(a); 5 U.S.C. 553))

Dated: October 13, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82–28887 Filed 10–20–82; 8:45 am]

BILLING CODE 6355–01–M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1690

Post Employment Conflict of Interest

AGENCY: Selective Service System.

ACTION: Final rules.

SUMMARY: This part sets forth the Selective Service System's policy and procedures which implement the Ethics in Government Act of 1978 and the Selective Service System's regulations for determining violations of restrictions on post-employment activities and for exercising SSS' administrative enforcement authority. These regulations bar certain acts by former Government employees which may give the appearance of making unfair use of prior Government employment and affiliations.

EFFECTIVE DATE: October 25, 1982.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel,

Selective Service System, Washington, D.C. 20435, Phone: (202) 724–1167.

SUPPLEMENTARY INFORMATION: This part is not published for public comment because it relates to agency management and personnel matters.

List of Subjects in 32 CFR Part 1690

Administrative practice and procedure, Conflict of interests.

Dated: October 15, 1982.

Thomas K. Turnage,

Director.

Part 1690 is added to Chapter XVI of Title 32 CFR to read as follows:

PART 1690—POST EMPLOYMENT CONFLICT OF INTEREST

Sec.

1690.1 Purpose.
1690.2 Definitions.
1690.3 Post-employment restrictions.
1690.4 Exemptions.
1690.5 Advice of former Government employees.
1690.6 Administrative enforcement procedures (18 U.S.C. 207(j); 5 CFR 737.27).

Authority: Title V, Section 501(a), Pub. L. 95–521, as amended, 92 Stat. 1864; and Sections 1 and 2, Pub. L. 96–28, 93 Stat. 76 (18 U.S.C. 207); 5 CFR Part 737.

§ 1690.1 Purpose.

(a) This section sets forth the Selective Service System's (SSS) policy and procedures under the Ethics in Government Act of 1978, 18 U.S.C. 207, and the Office of Personnel Management's implementing regulations, 5 CFR Part 737, for determining violations of restrictions on post-employment activities and for exercising SSS's administrative enforcement authority.

(b) These regulations bar certain acts by former Government employees which may reasonably give the appearance of making unfair use of prior Government employment and affiliations. SSS acts on the premise that it has the primary responsibility for the enforcement of restrictions on post-employment activities and that criminal enforcement by the Department of Justice should be undertaken only in cases involving aggravated circumstances.

(c) These regulations do not incorporate possible additional restrictions contained in a professional code of conduct to which an employee may also be subject.

(d) Any person who holds a Government position after June 30, 1979, is subject to the restrictions under this section; except that the new provisions applicable to Senior employees designated by the Director of the Office of Government Ethics are effective February 28, 1980.

§ 1690.2 Definitions.

(a) "Government Employee" includes any officer or employee of the Executive Branch, those appointed or detailed under 5 U.S.C. 3374, and Special Government Employees. It does not include an individual performing services for the United States as an independent contractor under a personal service contract.

(b) "Former Government Employee" means one who was, and no longer is, a Government employee.

(c) "Special Government Employee" means an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties on a full-time or intermittent basis for not more than 130 days during any period of 365 consecutive days. This applies whether the Special Government Employee is compensated or not.

(d) "Senior Employee" means an employee or officer as designated in the statute or by the Director of the Office of Government Ethics. The Director of the Office of Government Ethics has designated civilians who have significant decision-making or supervisory responsibility and are paid at or equivalent to GS–17 or above as Senior Employees. Civilians paid at the Executive level are automatically designated by statute as Senior Employees. (A list of Senior Employee positions is found at 5 CFR 737.33.)

§ 1690.3 Post-employment restrictions.

(a) *General Restrictions Applicable to All Former Government Employees:* (1) Permanent Bar. A former Government employee is restricted from acting as a representative before an agency as to a particular matter involving a specific party if the employee participated personally and substantially in that matter as a Government employee. The Government employee is also restricted from making any oral or written communication to an agency with the intent to influence on behalf of another person as to a particular matter involving a specific party if the former Government employee participated personally and substantially in that matter as a Government employee.

(2) Two-Year Bar. (i) A former Government employee is restricted for two years from acting as a representative before an agency as to a particular matter involving a specific party if the employee had official responsibility for that matter. The former Government employee is also restricted for two years from making any oral or written communication to any agency with the intent to influence on behalf of another person as to a particular matter involving a specific party if the employee had official responsibility for that matter.

(ii) In order to be a matter for which the former Government employee had official responsibility, the matter must actually have been pending under the employee's responsibility within the period of one year prior to the termination of such responsibility.

(iii) The statutory two-year restriction period is measured from the date when the employee's responsibility for a particular matter ends, not from the termination of Government service.

(b) *Restrictions Applicable Only to Former Senior Employees:* (1) Two-Year Bar on Assisting in Representing. (i) A former Senior Employee is restricted for two years from assisting in representing another person by personal appearance before an agency as to a particular matter involving a specific party if the former Senior Employee participated personally and substantially in that matter as a Government employee.

(ii) The statutory two-year period is measured from the date of termination of employment in the position that was held by the Senior Employee when he participated personally and substantially in the matter involved.

(2) One-Year Bar on Attempts to Influence Former Agency. (i) A former Senior Employee is restricted for one year from any transactions with the former agency on a particular matter with the intent to influence the agency, regardless of the former Senior Employee's prior involvement in that matter.

(ii) This restriction is aimed at the possible use of personal influence based on past Government affiliations in order to facilitate transaction of business. Therefore, it includes matters which first arise after a Senior Employee leaves Government service.

(iii) The restriction applies whether the former Senior Employee is representing another or representing himself, either by appearance before an agency or through communication with that agency.

§ 1690.4 Exemptions.

(a) *General.* (1) Communications made solely to furnish scientific or technological information are exempt from these prohibitions.

(2) A former Government employee may be exempted from the restrictions on post-employment practices if the Deputy Director of SSS, in consultation with the Director of the Office of

Government Ethics, executes a certification that is published in the **Federal Register.** The certification shall state that the former Government employee has outstanding qualifications in a scientific, technological or other technical discipline; is acting with respect to a particular matter which requires such qualifications; and the national interest would be served by his participation.

(b) *Specific.* The one-year bar shall not apply to a former Senior Employee's representation on new matters if the former Senior Employee is:

(1) An elected State or local government official, who is acting on behalf of such government; or

(2) Regularly employed by or acting on behalf of an agency or instrumentality of a State or local government; an accredited, degree-granting institution of higher education; or a nonprofit hospital or medical research organization.

§ 1690.5 Advice to former Government employees.

The Office of General Counsel, SSS, has the responsibility for providing assistance promptly to former Government employees who seek advice on specific problems.

§ 1690.6 Administrative enforcement procedures (18 U.S.C. 207(j); 5 CFR 737.27).

(a) Whenever an allegation is made that a former Government employee has violated 18 U.S.C. 207 (a), (b) or (c) or any of the regulations promulgated thereunder by the Office of Government Ethics or by SSS, the allegation and any supporting evidence shall be transmitted through the Office of General Counsel to the Deputy Director, SSS.

(b) Allegations and evidence shall be safeguarded so as to protect the privacy of former employees prior to a determination of sufficient cause to initiate an administrative disciplinary proceeding.

(c) If review by the Office of General Counsel, SSS, shows that the information concerning a possible violation does not appear to be frivolous, the Deputy Director, SSS, shall expeditiously provide all relevant evidence, any appropriate comments, and copies of applicable agency regulations to the Director, Office of Government Ethics, and to the Criminal Division, Department of Justice. Unless the Department of Justice informs SSS that it does not intend to initiate criminal prosecution, SSS shall coordinate any investigation or administrative action with the Department of Justice in order to avoid prejudicing criminal proceedings.

(d) After appropriate review and recommendation by the Office of General Counsel, if the Deputy Director, SSS, determines that there is reasonable cause to believe that there has been a violation, the Deputy Director may direct the Office of General Counsel to intitiate an administrative disciplinary proceeding and may designate an individual to represent SSS in the proceeding.

(e) *Notice.* The Office of General Counsel shall provide the former Government employee with adequate notice of its intention to institute a proceeding and with an opportunity for a hearing. The notice must include a statement of allegations, and the basis thereof, in sufficient detail to enable the former Government employee to prepare an adequate defense; notification of the right to a hearing; and an explanation of the method by which a hearing may be requested.

(f) *Hearing.* A hearing may be obtained by submitting a written request to the Office of General Counsel.

(g) *Examiner.* The presiding official at the proceedings shall be the hearing examiner, who is delegated authority by the Director, SSS, to make an initial decision. The hearing examiner shall be an attorney in the Office of General Counsel designated by the General Counsel. The hearing examiner shall be impartial and shall not have participated in any manner in the decision to initiate the proceedings.

(h) *Time, Date and Place.* The hearing shall be conducted at a reasonable time, date, and place. The hearing examiner shall give due regard in setting the hearing date to the former Government employee's need for adequate time to properly prepare a defense and for an expeditious resolution of allegations that may be damaging to his reputation.

(i) *Hearing Rights.* The hearing shall include, as a minimum, the right to represent oneself or to be represented by counsel; the right to introduce and examine witnesses and to submit physical evidence; the right to confront and cross-examine adverse witnesses; the right to present oral argument; and, on request, the right to have a transcript or recording of the proceedings.

(j) *Burden of Proof.* SSS has the burden of proof and must establish substantial evidence of a violation.

(k) *Decision.* The hearing examiner shall make a decision based exclusively on matters of record in the proceedings. All findings of fact and conclusions of law relevant to the matters at issue shall be set forth in the decision.

(l) *Appeal within SSS.* Within 30 days of the date of the hearing examiner's decision, either party may appeal the decision to the Director. The Director shall make a decision on the appeal based solely on the record of the proceedings or on those portions of the record agreed to by the parties to limit the issues. If the Director modifies or reverses the hearing examiner's decision, he shall specify the findings of fact and conclusions of law that are different from those of the hearing examiner.

(m) *Administrative Sanctions.* Administrative sanctions may be taken if the former Government employee fails to request a hearing after receipt of adequate notice or if a final administrative determination of a violation of 18 U.S.C. 207 (a), (b) or (c) or regulations promulgated thereunder has been made. The Director may prohibit the former Government employee from appearance or communication with SSS on behalf of another for a period not to exceed five years (5 CFR 737.27(a)(9)(i)) or take other appropriate disciplinary action (5 CFR 737.27(a)(9)(ii)).

(n) *Judicial Review.* Any person found by a SSS administrative decision to have participated in a violation of 18 U.S.C. 207 (a), (b) or (c) or regulations promulgated thereunder may seek judicial review of the administrative decision.

[FR Doc. 82-28951 Filed 10-20-82; 8:45 am]
BILLING CODE 8015-01-M

DEPARTMENT OF ENERGY

41 CFR Part 109-40

Property Management Regulations, Transportation and Traffic Management

AGENCY: Energy Department.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the Property Management Regulations of the Department of Energy (DOE) is to reflect organizational changes, which became effective on September 20, 1981, and to make certain editorial corrections. This action is necessary to properly identify the office of primary responsibility and the individuals to contact for further information.

EFFECTIVE DATE: October 21, 1982.

FOR FURTHER INFORMATION CONTACT:

Roy F. Garrison, Manager, Transportation Operations and Traffic, Operations and Traffic Division, Department of Energy (301) 353-5363.

Susan Kuznick, Office of General Counsel, Department of Energy (202) 252-6975

SUPPLEMENTARY INFORMATION: The reorganization of September 20, 1981, transferred the Departmental responsibility for transportation operations and traffic management from the Assistant Secretary for Nuclear Energy to the Assistant Secretary for Defense Programs.

These amendments are technical, nonsubstantive amendments to a regulation relating to agency management about which there is no substantial issue of law or fact. Accordingly, prior notice and comment are not required, and the amendments can be made effective immediately. Because these amendments relate to agency management, neither E.O. 12291 nor the Regulatory Flexibility Act applies to them. DOE has determined that there are no environmental impacts associated with these amendments.

List of Subjects in 41 CFR Part 109-40

Freight, Government, Property management, Transportation.

Issued in Washington, D.C. October 1, 1982.

Herman E. Roser,

Assistant Secretary for Defense Programs.

PART 109-40—[AMENDED]

In consideration of the foregoing, 41 CFR Part 109-40 is amended as follows:

1. The authority citation for Part 109-40 is as follows:

Authority: Sec. 161, as amended, 68 Stat. 948 (42 U.S.C. 2201); sec. 205, as amended, 63 Stat. 390 (40 U.S.C. 486); sec. 644, 91 Stat. 585 (42 U.S.C. 7254).

§ 109-40.000-50 [Amended]

2. Section 109-40.000-50 is amended by inserting "and DOE Order 1540.1" between the word "regulations" and the word "and" in the eleventh line.

§ 109-40.103-2 [Amended]

3. Section 109-40.103-2 is amended to correct the spelling of the word "necessary" in the ninth line.

§ 109-40.109 [Amended]

4. Section 109-40.109 is amended by changing the title of the responsible party at the beginning of the second sentence to "The DOE-HQ Manager, Transportation Operations and Traffic."

§ 109-40.112 [Amended]

5. Section 109-40.112 is amended by changing the word "established" in the sixth line to "establishment."

§ 109-40.5001 [Amended]

6. Section 109-40.5001 is amended by changing the title in the last sentence to "the DOE-HQ Manager, Transportation Operations and Traffic."

§ 109-50.5101 [Amended]

7. Section 109-50.5101 is amended by changing its number to "§ 109-40.5101" and by changing the title in the last two lines to "the DOE-HQ Manager, Transportation Operations and Traffic."

[FR Doc. 82-28877 Filed 10-20-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173 and 178

[Docket No. HM-56; Amdt. Nos. 107-10, 171-66, 172-74, 173-158, 174-41, 175-23, 177-55, 178-72, 179-31]

Hazardous Materials Regulations; Miscellaneous Amendments

Correction

In FR Doc. 82-26872, beginning on page 43062, in the issue of Thursday, September 30, 1982, make the following corrections:

1. On page 43064, in § 172.101, the second column of the table, line 7, change "substances" to "substance" and in the same table, the fifth column under "Specific requirements", insert the word "to" after "173.61".

2. On page 43065, § 172.101, the fourth column, line 7, correct "oxidize" to read "oxidizer".

3. On page 43065, last column, in § 173.302 line 2 of the formulas, insert "(" before "D^2-d^2". As corrected, the line reads: "$S\text{-}P[(1.3D^2+0.4d^2)/(D^2\text{-}d^2)]$ and inserting,"

4. On page 43067, the first column, insert the following sections before the first entry of § 178.5-9(f):

§ 178.0-3(a)(2)
§ 178.1-4(a)
§ 178.1-8(a)(2)
§ 178.1-9(f)
§ 178.4-4(b)
§ 178.4-7(a)(2)
§ 178.4-8(f)
§ 178.5-7(a)(2)

5. On page 43067, the first column, line 26 from the bottom of the page, correct the entry now reading "§ 178.244-4(a)(2)" to read "§ 178.224-4(a)(2)" and in the second column, line 2, correct "§ 178.57-20(a)(2)" to read "§ 178.57-20(a)(3)".

BILLING CODE 1505-01-M

49 CFR Parts 192 and 195

[Amdts. 192-43 and 195-24; Docket No. PS-73]

Transportation of Natural and Other Gas and Hazardous Liquids by Pipeline; Inspection and Test Intervals

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Final rule.

SUMMARY: This amendment restates the time intervals in which periodic inspections, tests, and other activities must be conducted. Current requirements do not permit sufficient flexibility in scheduling personnel.

EFFECTIVE DATE: This amendment becomes effective November 22, 1982.

FOR FURTHER INFORMATION CONTACT: Ralph T. Simmons, 202-426-2392. Copies of the amendment may be obtained from the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Federal gas pipeline safety standards in Part 192 and the Federal hazardous liquids pipeline safety standards in Part 195 require pipeline operators to conduct various inspections, tests, and other activities at frequently recurring time intervals. For example, § 195.420 requires that each main line valve on a hazardous liquid pipeline system be inspected at intervals not exceeding 6 months to determine that it is functioning properly.

Petitioners (Interstate Natural Gas Association of America, Mountain Fuel Resources, Inc. (P-8), American Petroleum Institute (P-11), and Explorer Pipeline Company (82-IW)) have argued that such recurring time intervals do not permit sufficient flexibility in scheduling personnel. They stated that the extremes of weather and unexpected delays in scheduled work unavoidably conflict with the specified intervals, but that restating the periodic requirements on a calendar year basis, with longer intervals, would provide the flexibility needed to schedule personnel to meet the requirements without reducing public safety.

Experience shows that requirements for perodic action based on a fixed recurring interval do not allow sufficient flexibility in scheduling personnel. However, minor modifications which extend the intervals without reducing the number of inspections, tests, or other activities that must be performed each year will allow operators more

discretion in scheduling. The inspection and testing intervals specified by the corrosion control regulations in Part 192 were modified in 1978 to achieve this result (Amendment No. 192–33; 43 FR 39389).

Because this document does not substantively change the requirements in Parts 192 and 195 for pipeline facilities, good cause exists for finding that notice and public procedure are unnecessary, and in accordance with 5 U.S.C. 553, the amendment is final.

Also, since the amendment will have a positive effect on the economy of less than $100 million a year, will result in a cost savings to consumers and industry, and no adverse effects are anticipated, this action is not "major" under Executive Order 12291 or "significant" under Department of Transportation procedures.

List of Subjects in 49 CFR Parts 192 and 195

Pipeline safety.

For the above reasons, 49 CFR Parts 192 and 195 are amended as set forth below:

1. The authority citation for Part 192 is:

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53 and Appendix A to Part 1.

2. The authority citation for Part 195 is:

Authority: Sec. 203, Pub. L. 96–129, 93 Stat. 1004, 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A to Part 1.

PART 192—[AMENDED]

3. In § 192.227, paragraph (c)(1) is revised and the introductory text of paragraph (c)(2) is revised to read as follows:

§ 192.227 [Amended]

* * * * *

(c) * * *

(1) Within the preceding 15 calendar months, the welder has requalified, except that the welder must requalify at least once each calendar year; or

(2) Within the preceding 7½ calendar months, but at least twice each calendar year, the welder has had—

* * * * *

4. The table in § 192.705(b) is revised to read as follows:

§ 192.705 Transmission lines: Patrolling.

* * * * *

(b)* * *

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1, 2	7½ months; but at least twice each calendar year.	15 months; but at least once each calendar year.
3	4½ months; but at least four times each calendar year.	7½ months; but at least twice each calendar year.
4	4½ months; but at least four times each calendar year.	4½ months; but at least four times each calendar year.

5. Section 192.706(b) is revised to read as follows:

§ 192.706 Transmission lines: Leakage surveys.

* * * * *

(b) Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with § 192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted—

(1) In Class 3 locations, at intervals not exceeding 7½ months, but at least twice each calendar year; and

(2) In Class 4 locations, at intervals not exceeding 4½ months, but at least four times each calendar year.

6. Section 192.721(b) is revised to read as follows:

§ 192.721 Distribution systems: Patrolling.

* * * * *

(b) Mains in place or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled at intervals not exceeding 4½ months, but at least four times each calendar year.

7. Section 192.723(b)(1) is revised to read as follows:

§ 192.723 Distribution systems: Leakage surveys and procedures.

* * * * *

(b) * * *

(1) A gas detector survey must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year.

* * * * * *

8. Section 192.731(c) is revised to read as follows:

§ 192.731 Compressor stations: Inspection and testing of relief devices.

* * * * *

(c) Each remote control shutdown device must be inspected and tested at intervals not exceeding 15 months, but at least once each calendar year, to determine that it functions properly.

9. The introductory text of § 192.739 is revised to read as follows:

§ 192.739 Pressure limiting and regulating stations: Inspection and testing.

Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is—

* * * * *

10. Section 192.743(a) is revised to read as follows:

§ 192.743 Pressure limiting and regulating stations: Testing of relief devices.

(a) If feasible, pressure relief devices (except rupture discs) must be tested in place, at intervals not exceeding 15 months, but at least once each calendar year, to determine that they have enough capacity to limit the pressure on the facilities to which they are connected to the desired maximum pressure.

* * * * *

11. Section 192.745 is revised to read as follows:

§ 192.745 Valve maintenance: Transmission lines.

Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

12. Section 192.747 is revised to read as follows:

§ 192.747 Valve maintenance: Distribution systems.

Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

13. Section 192.749(a) is revised to read as follows:

§ 192.749 Vault maintenance.

(a) Each vault housing pressure regulating and pressure limiting equipment, and having a volumetric internal content of 200 cubic feet or more, must be inspected at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is in good physical condition and adequately ventilated.

* * * * *

PART 195—[AMENDED]

14. Section 195.402(a) is revised to read as follows:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

* * * * *

15. The introductory text of § 195.403(b) is revised to read as follows:

§ 195.403 Training.

* * * * *

(b) At intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

* * * * *

16. Section 195.412(a) is revised to read as follows:

§ 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way.

* * * * *

17. In § 195.416, paragraphs (a) and (c) are revised to read as follows:

§ 195.416 External corrosion control.

(a) Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, conduct tests on each underground facility in its pipeline systems that is under cathodic protection to determine whether the protection is adequate.

* * * * *

(c) Each operator shall, at intervals not exceeding 2½ months, but at least six times each calendar year, inspect each of its cathodic protection rectifiers.

* * * * *

18. Section 195.418(c) is revised to read as follows:

§ 195.418 Internal corrosion control.

* * * * *

(c) The operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, examine coupons or other types of monitoring equipment to determine the effectiveness of the inhibitors or the extent of any corrosion.

* * * * *

19. Section 195.420(b) is revised to read as follows:

§ 195.420 Valve maintenance.

* * * * *

(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

* * * * *

20. Section 195.428(a) is revised to read as follows:

§ 195.428 Overpressure safety devices.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

* * * * *

21. Section 195.432 is revised to read as follows:

§ 195.432 Breakout tanks.

Each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, inspect each breakout tank (including atmospheric and pressure tanks).

Issued in Washington, D.C., on October 15, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-28878 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-60-M

Federal Railroad Administration

Urban Mass Transportation Administration

49 CFR Part 670

[UMTA Docket No. 82-B]

Transfer of Conrail Commuter Service Operations

AGENCY: Federal Railroad Administration (FRA) and Urban Mass Transportation Administration (UTMA), DOT.

ACTION: Rule-related notice.

SUMMARY: The purpose of this document is to clarify the scope of the final rule published by FRA and UMTA on August 5, 1982 (47 FR 33965), to implement section 1139(b) of the Northeast Rail Service Act of 1981. Since the publication of the final rule, Congress has appropriated an additional $5 million in commuter transition assistance. This document extends coverage of the final rule to the newly appropriated funds.

FOR FURTHER INFORMATION CONTACT: William R. Fashouer, Office of the Chief Counsel of the Federal Railroad Administration, (202) 426-7710, or Anthony A. Anderson, Office of the Chief Counsel of the Urban Mass Transportation Administration, (202) 426-4011, both located at 400 Seventh Street, S.W., Washington, D.C. 20590. FRA and UMTA office hours are from 8:30 a.m. to 5:00 p.m. EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this document is to clarify the scope of the final rule published by FRA and UMTA on August 5, 1982 (47 FR 33965), to implement section 1139(b) of the Northeast Rail Service Act of 1981 [NERSA], Subtitle E of Title XI of Pub. L. 97-35, 95 Stat. 643 (1981). In the preamble to the final rule on the transfer of Conrail commuter service operations, FRA and UMTA stated that "[t]his final rule is not intended to cover the distribution of any funds appropriated in the future" 47 FR 33966. The intent of that statement was to indicate that the final rule would only govern the distribution of funds originally authorized in section 1139(b) of NERSA to ensure the orderly transfer of Conrail rail commuter operations. Although section 1139(b) has authorized $50 million in transition assistance, Congress has appropriated only $45 million as of the date of issuance and publication of the final rule. *See* Department of Transportation and Related Agencies Appropriation Act, 1982, Pub. L. 97-102, 95 Stat. 1451. On September 10, 1982, Congress appropriated an additional $5 million of fiscal year 1982 funds to carry out the provisions of section 1139(b). *See* Supplemental Appropriations Act, 1982, Pub. L. 97-257.

Since it has always been the intention of FRA and UMTA to distribute the $50 million authorized by Congress in section 1139(b) in accordance with the August 5 final rule, and in order to avoid

unnecessary delay in the distribution of the $5 million appropriated in the Supplemental Appropriations Act, 1982, FRA and UMTA announce by this document that the $5 million appropriated in the Supplemental Appropriations Act, 1982, to facilitate the transfer of rail commuter services from Conrail to other operators will be distributed in accordance with the final rule published by FRA and UMTA on August 5, 1982 (47 FR 33965).

Dated: October 15, 1982.

Thomas A. Till,

Federal Railroad Deputy Administrator.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

[FR Doc. 82-28960 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-6-M

BILLING CODE 4910-57-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[42nd Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Forty-Second Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., October 19, 1982, and continuing in effect until 11:59 p.m., January 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: October 15, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting the following authorities:

Item 6. *Chicago Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. From West Davenport, Iowa, through and including Muscatine, Iowa, and to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. At Washington, Iowa.

E. At Davenport, Iowa.

Item 8. *Little Rock and Western Railroad Company (LRWN):*

A. From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. From Little Rock, Arkansas (milepost 136.4) to the Missouri Pacific/RI interchange (milepost 130.6).

Item 27. *Fort Worth and Denver Railway Company (FWD):*

C. From Amarillo, Texas (milepost 760.6) to Groom, Texas (milepost 718.9).

Item 28. *Okarche Central Railway, Inc. (OCRI):*

A. From Enid, Oklahoma (milepost 345.27) to El Reno, Oklahoma (milepost 405.21).

B. From El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).

C. At El Reno, Oklahoma (milepost 402.73 to milepost 404.19).

Appendix A is further revised by adding Item 27, the authority for the Omaha, Lincoln and Beatrice Railway Company (OLB) to operate 1.67 miles at Lincoln, Nebraska, which has been leased from the Trustee and connects with their existing operation. This track is to be used as an operational extension of their line, and not to serve shippers. The Colorado and Eastern Railway Company (COE) has also requested authority at Lincoln, Nebraska over a four mile Rock Island segment which includes the 1.67 mile segment leased by the OLB. In the interest of allowing additional service to shippers at Lincoln, COE's request is granted as described in Appendix A, at Item 28. However, in consideration of OLB's lease with the Trustee and in the interest of operational clarity, OLB will have responsibility for coordinating and supervising operations and maintenance over its leased segment. (See Item 27, Note). COE also requested authority to operate at Colorado Springs and Denver, Colorado, concurrently with the Cadillac and Lake City Railway Comany (CLK), which is presently providing service to shippers at those locations. In considering COE's request for concurrent authority with CLK at Denver and Colorado Springs, Colorado, we have applied criteria previously utilized for competing applications. These criteria consist of: (1) Extent of current and/or proposed operations (2) Service to the public (3) Increased shipper market and competitive advantage (4) Shipper support and (5) Court approved lease arrangements with the Trustee.

The Board has reviewed COE's application consistent with the enumerated criteria and finds, that the extent to which COE proposes to operate is approximately 171.3 miles less than CLK's current operation; that the service to the public would not be greater in Denver and Colorado Springs, and the loss of those lucrative areas to CLK might require cessation of the balance of its operations in eastern Colorado and western Kansas, thus seriously diminishing service to the public; that nothing in COE's application suggests that shippers would enjoy a greater competitive advantage from their operation than from CLK's; that no shipper support has been offered to demonstrate a general shipper preference for COE over CLK, and that no information has been provided with respect to the existence currently of a Court approved lease. Based on the foregoing, the Board believes that no compelling reason presently exists for granting authority to COE beyond the segment at Lincoln, Nebraska, described in Appendix A, at Item 28.

It has been brought to the attention of the Board that, in certain cases, payment of compensation to the Trustee for the use of Rock Island property is in arrears. All interim operators are reminded that compensation, whether determined by lease, agreement, or the Rock Island Formula, is a requirement of this order and should remain current.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order

effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) *Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 11:59 p.m., October 19, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. Law 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 10339

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien, J. Warren McFarland not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

P. at Hartley, Iowa.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska, (between milepost 502 to milepost 504).

S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/ PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

*6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

7. *St. Louis Southwestern Railway Company (SSW):*

A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. at North Topeka and Topeka, Kansas.

*8. *Missouri Pacific Railroad Company (MP):*

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

9. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

10. *Cadillac and Lake City Railway Company (CLK):*

A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

11. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

12. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4)

13. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9, and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

14. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

15. *The Brandon Corporation (BRAN):*

A. from Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approximately 35 miles.

16. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)

B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

17. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milespost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)

E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

J. from Altoona to Pella, Iowa.

18. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma

(milepost 365.0), a distance of approximately 131.4 miles.

19. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

20. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

21. *North Central Texas Railway, Inc. (NCTR)*

A. from Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

22. *Enid Central Railway, Inc. (ENIC)*

A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.

B. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

23. *North Central Oklahoma Railway, Inc. (NCOK)*

A. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

B. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

C. from Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).

D. from El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

E. from Chickasha, Oklahoma (milepost 434.69) to Sunray, Oklahoma (milepost 482.44).

24. *South Central Arkansas Railway, Inc. (SCAR)*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

25. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

C. at Lawton, Oklahoma.

26. *Fort Worth and Denver Railway Company (FWD):*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

+27. *Omaha, Lincoln and Beatrice Railway Company (OLB):*

A. at Lincoln, Nebraska (milepost 559.16) to (milepost 560.83).

Note.—In the interest of operational clarity and efficiency, and considering OLB's lease with the Trustee, OLB will be the supervising carrier for operations and maintenance for the above segment to be operated jointly with COE.

+28. *Colorado and Eastern Railway Company (COE):*

A. at Lincoln, Nebraska (milepost 558.0) to (milepost 562.0) a distance of approximately 4.0 miles. (This authority is joint with OLB between mileposts 559.16 and 560.83, see Item 27, Note).

+Added.
* Changed.

[FR Doc. 82-28883 Filed 10-20-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 204
Thursday, October 21, 1982

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations concerning broad-based nonprofit organizations operating on a regional or statewide basis by including a specific definition for such organizations and requirements for local participation from the area and community where such an applicant proposes to construct and operate farm labor housing using FmHA loan and grant resources. This action is being taken to clarify existing procedure. The intended effect is to provide guidance to regional and statewide applicants on the Agency's requirements for local membership.

DATE: Comments must be received on or before December 20, 1982.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6349, South Agriculture Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: John H. Pentecost, Senior Loan Officer, 202–382–8983, Farmers Home Administration, U.S. Department of Agriculture, Room 5337, South Agriculture Building, 14th and Independence Avenue, SW, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and has been determined to be non-major. This action requires no change in recordkeeping requirements and no increase in costs to the Government or public. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action. The revision is intended to provide guidance to broad-based nonprofit organizations who apply for FmHA funds to develop farm labor housing. The FmHA programs and projects which are affected by this Subpart are subject to state and local clearinghouse reviews in the manner delineated in Part 1901, Subpart H of this chapter. The affected program is CFDA No. 10.405, Farm Labor Housing Loans and Grants. Charles W. Shuman, Administrator, Farmers Home Administration, has determined that the action will not have a significant economic impact on a substantial number of small entities because of the relatively small scope of the program and the historically few regional or statewide broad-based nonprofit organizations that have exhibited interest in the program. This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this proposed action does not constitute a major federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Two alternatives were considered: (1) Make no changes; and (2) revise FmHA regulations to clarify the meaning of "local participation" in regional and statewide broad-based nonprofit organizations. Present regulations include broad-based nonprofit organizations that operate on a regional or statewide basis as eligible organizations. However, confusion exists over the interpretation of local participation in such organizations. This has resulted from not separately defining local organizations from regional or statewide broad-based nonprofit organizations. Since there are substantial differences between local and regional or statewide organizations of this type, especially in their membership, it is necessary to define them as well as to explain the term "variety of interest."

The Agency adopts option (2). This selection is the most practical and cost effective because it removes the confusion and possible conflict of interpretation between the Agency field staff and potential applicants.

FmHA proposes to revise Subpart D of Part 1944 of Chapter XVIII, Title 7, Code of Federal Regulations. The proposed change adds a definition of "regional and statewide broad-based nonprofit organizations" and a definition of "variety of interests" to be represented in the membership of a broad-based nonprofit organization.

The proposed revision will assure broad-based representation from the community and employment area where labor housing will be located when the applicant is either a regional or statewide nonprofit organization. Such local representation is consistent with FmHA policies for local participation in housing financed by the Agency through its multi-family housing loan and/or grant programs. Broad local participation, especially in regional or statewide groups, strengthens the organization with long-term stability in its operation in the local area and provides local oversight for project development and management.

List of Subjects in 7 CFR Part 1944

Farm labor housing, Grant programs—Housing and Community Development, Loan programs—Housing and Community Development, Migrant labor, Nonprofit organizations, Public Housing, Rental assistance, Rural housing.

PART 1944—[AMENDED]

Therefore, as proposed, Subpart D of Part 1944 of Chapter XVIII, Title 7, Code of Federal Regulations, is to be amended as follows:

1. As proposed, § 1944.153 is amended by redesignating paragraphs (k) through (v) as (m) through (x) respectively, revising paragraphs (j), and adding paragraphs (k) and (l) to read as follows:

§ 1944.153 Definitions.

* * * * *

(j) *Local broad-based nonprofit organization.* An organization, public or private, which operates in one community or trade area and which (1) is incorporated within the State, Puerto

Rico, Virgin Islands, or a Federally recognized Indian Tribe, (2) is organized and operated on a nonprofit basis, (3) is legally precluded from distributing any profits or dividends to its members or any private individual during its corporate lifetime, (4) is not grower oriented (majority of board must be nonfarmers), (5) pledges to administer the housing as a community service in the interest of the whole community, regardless of race, color, national origin, sex, religion, age, handicap, and marital status, (6) has at least 25 members for projects with a total development cost of up to $100,000 and additional members for projects costing more than $100,000, and (7) has a membership reflecting a variety of interests of the area where the housing will be located.

(k) *Regional or Statewide broad-based nonprofit organization.* An organization which operates in more than one community of trade area, which provides or is planning to provide labor housing in more than one location, and which meets the following criteria in addition to those in paragraph 1944.153(j)(1) through (6):

(1) The membership of the organization must be broadly representative of the region or state by having representation from either the counties or trade areas in which it provides or is planning to provide labor housing; and

(2) The membership must include at least eight (8) members from the employment area to be served by the project who represent a variety of interests. If the project is located in a community or dependent upon a nearby community for essential services, at least five of the eight members must be residents of that community.

(l) *Variety of interests.* To meet the representation of a variety of interests in a broad-based nonprofit organization, members should be actively affiliated with or participating in civic, business, agricultural, or service organizations in their community; members' previous and current occupations may be considered in this determination. Individual members may represent multiple interests as well.

* * * * *

§ 1944.157 [Amended]

2. As proposed, § 1944.157 is amended by removing paragraph (a)(8)(i) and redesignating paragraphs (a)(8)(ii) through (v) as paragraphs (a)(8)(i) through (iv) respectively.

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: September 21, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-28963 Filed 10-20-82; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission has issued the October 1982 Regulatory Agenda. The Agenda, which is a quarterly summary of all rules on which the NRC has proposed or is planning action, is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESS: A copy of this report, designated NRC Regulatory Agenda (NUREG-0936) Vol. 1, No. 3 is available for inspection and copying at a cost of five cents per page at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Single copies of the report may be obtained at a cost of $7.50, payable in advance from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Phillips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, Telephone (301) 492-7086, Toll free number (800) 368-5642.

Dated at Bethesda, Maryland this 14th day of October 1982.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 82-29053 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NW-17-AD]

Airworthiness Directives; Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Amendment to notice of proposed rulemaking; and extension of comment period.

SUMMARY: Notice of Proposed Rulemaking (NPRM), Docket No. 81-NW-17-AD would require inspection, and repair as necessary, of certain significant structural items on high time Boeing 707/720 series airplanes. This document amends the NPRM by: (1) Adding a note stating that acceptable incorporation of the Supplemental Inspection Document items referenced in the body of the proposed Airworthiness Directive (AD) into the approved continuing airworthiness maintenance program of an operator is an alternate means of compliance with the AD; and (2) extending the time for comments for the proposed rule.

DATE: Comment period for the NPRM, as amended, is extended to November 22, 1982.

ADDRESSES: Send comments on the proposed rule in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 81-NW-17-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Hart, Jr., Airframe Branch ANM-120S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Notice of Proposed Rulemaking, Docket No. 81-NW-17-AD, was published in the **Federal Register** on January 11, 1982, (47 FR 1142). This proposed rule would require inspection, and repair as necessary, of certain significant structural items on high time Boeing 707/720 series airplanes. As a result of comments and further discussions with the Air Transport Association of America (ATA), the FAA is amending the NPRM and extending the period for comments. The amendment adds a note stating that acceptable incorporation of the Supplemental Inspection Document items referenced in the AD into an operator's approved airplane maintenance program constitutes an approved alternate means of compliance with the AD. To allow further comment on the notice, as amended, the comment period is being extended as well.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Accordingly, the "Proposed Amendment" as stated in the Notice of Proposed Rulemaking in Federal Register Doc. 82–451, appearing at page 1142 in the issue of January 11, 1982, is amended by adding the following note after item D.

Note—Acceptable incorporation of the Supplemental Inspection Document items listed above into the approved airplane maintenance program of an operator constitutes an approved alternate means of compliance for those items.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(A), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this action which adds an alternate means of compliance to a proposed rule, which does not change its impact, therefore it: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as it effects few small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on September 23, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–28584 Filed 10–20–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–20–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive which would supersede Airworthiness Directive 78–25–06 dated December 11, 1978, which required inspection and retorquing of the forward fuse bolts on trailing edge flap tracks Nos. 2, 3, 6, and 7, and the replacement of the forward fuse bolts on trailing edge flap tracks Nos. 1 and 8 on certain Boeing Model 747 airplanes. This action is required because subsequent testing indicated that the fuse bolts installed per Service Bulletin 747–57–2177, referred to in AD 78–25–06, may not reach required service life limits; and other airplanes groups not previously covered also can have fuse bolt failures which could allow one end of the flap to become detached from the airplane.

DATES: Comments must be received on or before November 22, 1982. Compliance scheduled as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at Federal Aviation Administration Northwest Mountain Region, Seattle Area Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM–120S, at the above address, telephone (206) 767–2516. Mailing Address: Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the rules docket, for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–20–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Broken forward fuse bolts at the No. 8 flap track have been reported on several airplanes with total landings ranging from 2800 to 8800. Analysis of some of the broken bolts indicates that the breakage was caused by cyclic loading. Operation with a broken fuse bolt has resulted in damage to the fail-safe strap allowing one end of the flap to separate from the wing.

This AD would supersede AD 78–25–06 which referred to Service Bulletin 747–57–2177, "Trailing Edge Flap Track Forward Fuse Bolt Inspection, Retorquing and Replacement." Subsequent to the release of SB 747–57–2177 additional testing on fuse bolts was performed. Test results showed that the forward fuse bolts installed per Service Bulletin 747–57–2177 may not reach the required service life limits. Also, AD 78–25–06 did not cover all existing fuse bolt configurations.

Boeing has issued Service Bulletins 747–57–2217 and 747–57–2206, Revision 1, which define the applicability group, inspections, and modifications required for flap tracks 1 through 8 on certain Boeing 747 series aircraft. This AD is not applicable to aircraft after line No. 523 which have an equivalent change incorporated during manufacture. This proposed AD would require the modification in accordance with these Boeing Service Bulletins.

Since this condition is likely to exist or develop in other airplanes of the same type design the proposed AD would require modification of certain Boeing 747 series airplanes to prevent failure of flap track fuse bolts.

It is estimated that 254 airplanes of U.S. registry will be affected by this AD, that it will take approximately 30 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $40 per man-hour Repair parts are estimated at $3,000 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $1,066,800. For these reasons the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) by adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes certificated in all categories, listed in Boeing Service Bulletin 747–57–2206, Revision 1, and 747–57–2217 or later FAA

approved revisions. The effectivity is divided into eight groups for 57–2206–R1 and three groups for 57–2217, listed in the service bulletins. To prevent trailing edge flap track fuse bolt failures, accomplish the following:

A. Within 200 landings after the effective date of this AD, unless accomplished within the last 1,800 landings, and at intervals thereafter not to exceed 2,000 landings until replacement called for in Paragraph B. or C. is accomplished, visually inspect the bolts listed in Table I, below, for deformation and failure. Bolts found deformed or failed must be replaced in accordance with paragraph B. or C. as applicable prior to further flight. Bolts found acceptable for service are to be retorqued in accordance with Table I prior to further flight.

B. Within 200 landings after the effective date of this AD, or prior to the accumulation of the threshold landings listed in Table 1, 3, and 4, Section III, of Boeing Service Bulletin 57–2206, Rev. 1, or later FAA approved revisions, whichever is later, replace forward fuse bolts on flap tracks No. 1, 2, 3, 6, 7, and 8 with redesigned bolts in accordance with Figures 1, 3, and 5 of the Boeing Service Bulletin as applicable.

C. Within 200 landings after the effective date of this AD, or prior to the accumulation of 25,000 landings, whichever is later, replace the trailing edge flap track fuse bolts listed in Table I & II of Boeing Service Bulletin 57–2217 or later FAA approved revisions in accordance with Figures 2 and 3 of the bulletin.

D. For purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspection, the number of landings may be determined by dividing each airplane's hours time-in-service by the operator's fleet average from takeoff to landing for the airplane type.

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

F. Aircraft may be ferried to a base for maintenance in accordance with Sections 21.197 and 21.199 of the Federal Aviation Regulations.

G. This AD supersedes AD 78–25–06.

TABLE I

Flap track	Inspect and retorque in accordance with	Airplane part number	Group
1 and 8.	Fig. 2: S/B 57–2206 R1.	See Table I, Section III of S/B 57–2206 R1.	I–IV, VII and VIII as defined by S/B 57–2206 R1.
2 and 7.	Fig. 1: S/B 57–2217.	See Table I of S/B 57–2217.	III as defined by S/B 57–2217.
4 and 5.	Fig. 4: S/B 57–2217.	See Table II of S/B 57–2217.	I, II, and III as defined by S/B 57–2217.

Note.—Later FAA approved revisions of the above service bulletins may be used. Manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.— For the reasons discussed earlier in the preamble: the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on September 23, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–28579 Filed 10–20–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–78–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) that would require a change in type design and modification of in-service parts. A number of incidents have been reported of engine flameout due to fuel starvation resulting from improper fuel loading. This action is necessary to provide the flight crews with the ability to conduct the built-in-test-equipment (BITE) checks of all cockpit fuel quantity indication systems at any time. This AD will reduce the potential for an airplane being forced to make unscheduled landings due to low fuel quantity.

DATES: Comments must be received no later than January 5, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM–140L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–78–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion. Various electrical failures in the fuel quantity indicating systems on the DC–10 have caused erroneous high readings that resulted in improper fuel loading and subsequent engine flameout due to fuel starvation.

The cockpit fuel quantity indicators incorporate a two-position test switch that tests the validity of the system. Most of the indicator units in service have a slotted switch that requires a screwdriver to operate and is, therefore, normally only tested during ground maintenance checks. However, Gull Instruments has issued Service Bulletin 28–35, dated January 15, 1981, which provides for installation of a hand operated knob that will permit system checks by flight crews and possible early warning of low fuel quantity. In consideration of the hazardous consequence of erroneous high fuel quantity indication, and since this

condition is likely to exist or develop on other airplanes of the same type design, an AD is being proposed which requires modification of the fuel quantity indication system.

The estimated costs associated with the AD are as follows:

Modification Cost=457 indicators×1.75 mhr/indicator×$35/mhr=$27,991.25; Kit Cost=$75/kit×457 Kits=$34,275; Total Cost=$62,266.25.

For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10 Series airplanes, certificated in all categories. Compliance required as indicated unless previously accomplished.

To reduce the possibility of an erroneous high fuel quantity indication, accomplish the following within one year after the effective date of this AD:

A. Modify the C (Compensator) & S (System) switch on all cockpit fuel quantity indicators to add a knob as described in Gull Service Bulletin 28–35, dated January 15, 1981, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office FAA Northwest Mountain Region.

B. Revise the FAA approved Airplane Flight Manual, Report No. MDC–J1010, MDC–K1015, MDC–K0030, MDC–J1030, MDC–J5830, MDC–J1040, or MDC–J2140, as appropriate, by adding the following paragraph to Section 1, Limitations:

"For each fuel tank that has been refueled, a fuel quantity indicator BITE check (the "C" function of the C and S fault isolation knob/switch) must be performed. Fuel quantity indicators must be checked for satisfactory operation using both A and B channels of the fuel quantity power supply."

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

D. MEL procedures are permitted for inoperative fuel quantity indicators.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 553(a)(1).

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168, or 4344 Donald Douglas Drive, Long Beach, California 90808.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transporation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on October 7, 1982.

Charles R. Foster,

Northwest Mountain Region.

[FR Doc. 82-28578 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Review of Existing Rules

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of review of existing rules.

SUMMARY: The Regulatory Flexibility Act requires the Commission and all other Federal agencies to review all rules which were in existence on January 1, 1981, and which have a significant economic impact on a substantial number of small entities, including small businesses. The purpose of the review, which must be completed by December 31, 1990, is to determine whether the rules should be continued without change, or should be amended or revoked, consistent with the objectives of the agency, in order to minimize any impact which they may have on small businesses. The Commission is beginning its review of existing rules by soliciting comments from all interested persons on 17 rules issued under the Consumer Product Safety Act. Subsequent notices will solicit comments on rules issued by the Commission under the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act.

DATE: Interested persons are invited to submit written comments on any of the rules described in this notice on or before December 20, 1982.

ADDRESS: Comments and any accompanying material should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and titled "Regulatory Flexibility Act Review of CPSA Rules."

FOR FURTHER INFORMATION CONTACT: Douglas Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492–6554. Inquiries from the press and broadcast media should be addressed to Lou Brott, Office of Public Affairs, telephone: (202) 634–7780.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*) became effective on January 1, 1981, and generally requires all Federal agencies, including the Commission, to evaluate and take into consideration the impact of their rules on small entities, including small businesses.

Section 610(a) of the RFA (5 U.S.C. 610(a)) requires the Commission to review all rules which were in existence on January 1, 1981, and which have or will have a significant economic impact on a substantial number of small businesses. Section 610(a) of the RFA provides fourther that the purpose of this review shall be to determine whether those rules should be continued in effect without change, or should be amended or revoked, consistent with the objectives of the statutes administered by the Commission, to minimize any significant economic impact which they may have on a substantial number of small businesses. This review of existing rules must be completed by December 31, 1990. Section 610(a) also requires the Commission to review any rule issued after January 1, 1981, within 10 years of its issuance on a final basis.

Section 610(b) of the RFA (5 U.S.C. 610(b)) specifies that in the review of rules conducted in accordance with section 610, the Commission must consider the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) The length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

Plan for Review of Rules

Section 610(a) of the RFA also requires the Commission to publish in the **Federal Register** a plan for making the review of rules called for by that section. In the **Federal Register** of September 14, 1981 (46 FR 45621), the Commission published a plan for reviewing all regulations in existence on January 1, 1981, which have a significant economic impact on a substantial number of small businesses. That plan also set forth the schedule by which the Commission proposes to review rules issued after January 1, 1981, within ten years of their issuance on a final basis.

Section 610(c) of the RFA (5 U.S.C. 610(c)) requires that the Commission must publish in the **Federal Register** each year a list of the rules to be reviewed pursuant to section 610 during the next twelve months. That section requires further that the notice must include a brief description of each rule to be reviewed, the need for the rule and its legal basis, and invite public comment upon the rule.

By publication of this notice, the Commission announces that it is beginning its review of all rules in existence on January 1, 1981, which have a significant economic impact on a subtantial number of small businesses by considering 17 rules issued under the Consumer Product Safety Act.

As stated in the notice of September 14, 1981, which described the Commission's plan for review of rules under section 610 of the RFA, the Commission believes that a number of rules concerning the Commission's internal operations and specifying administrative procedures for complying with obligations imposed by laws such as the Government in the Sunshine Act, the Privacy Act, the Freedom of Information Act, and the National Environmental Policy Act would not have a significant economic impact on a substantial number of small businesses. For that reason, the Commission will not review the rules published in Title 16 of the Code of Federal Regulations, Chapter II, Parts 1000, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1021, 1025, 1028, 1030, 1031, 1032, 1109, 1118, and 1145.

Additionally, the notice of September 14, 1981, stated that the Commission was excluding from its review of existing rules those which have been substantially outdated by subsequent legislative amendments which are published in Title 16, Chapter II, Parts 1018, 1105, and 1110. Since publication of the notice of September 14, 1981, the Commission has revoked procedural regulations published at 16 CFR Part 1050. See **Federal Register** notice published on March 25, 1982 (47 FR 12789).

As stated in the notice of September 14, 1981, the Commission will review and solicit comments on all other rules issued under the Consumer Product Safety Act.

Rules To Be Reviewed

In accordance with provisions of section 610(c) of the RFA, the Commission announces that during the next twelve months it will be reviewing the rules listed below for any significant economic impact which they may have on a substantial number of small businesses. As required by section 610(c) of the RFA, a brief description of each rule, the need for the rule, and its legal basis are set forth for each rule to be reviewed. All of these rules are published in Chapter II of Title 16 of the Code of Federal Regulations.

1. Part 1009—General statements of policy or interpretation. The rules published in Part 1009 set forth the Commission's policies with regard to enforcement of statutes and regulations in cases involving domestic manufacturers and importers of products subject to the Commission's jurisdiction; establishment of priorities for Commission action; and granting of emergency exemptions from regulations enforced by the Commission. These rules are needed to establish and record the Commission's approach to these three aspects of regulation, and for the information of the regulated industries and the general public about these topics. These statements of policy were issued under the authority of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 *et seq.*), the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 *et seq.*), the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*), the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*), and the Refrigerator Safety Act (15 U.S.C. 1211 *et seq.*).

2. Part 1019—Procedures for export of noncomplying products. The rule in Part 1019 establishes the procedures which exporters must use to notify the Commission of their intent to export from the United States products which are banned or which fail to comply with an applicable safety standard, regulation or statute. This rule is needed to implement the notification requirements established by the Consumer Product Safety Act Authorization Act of 1978 (Pub. L. 95-631). These rules were issued under the authority of section 18 of the CPSA (15 U.S.C. 1067); section 14 of the FHSA (15 U.S.C. 1273); and section 15 of the FFA (15 U.S.C. 1202).

3. Parts 1115—Substantial product hazard reports. This rule sets forth reporting requirements imposed on manufacturers, importers, distributors, and retailers by section 15(b) of the CPSA (15 U.S.C. 2064(b)); and the actions and sanctions which the Commission may require or impose to protect the public from substantial product hazards. This rule is needed for the enforcement of section 15 of the CPSA, which authorizes the Commission to order notification to the public and corrective action with regard to articles which present a substantial product hazard to consumers. This rule was issued under the authority of sections 12, 15, and 16 of the CPSA (15 U.S.C. 2061, 2064, and 2065).

4. Part 1201—Safety standard for architectural glazing materials. This consumer product safety standard sets forth requirements for glazing materials used or intended for use in doors, storm doors, bathtub doors and enclosures; shower doors and enclosures, and sliding glass (patio) doors. The rule is needed to protect consumers from unreasonable risks of injury associated with breakage of glazing materials by accidental human impact. This rule has been the subject of three partial revocations to eliminate tests for plastic glazing materials and coverage of glazing materials used as "glazed panels." This rule was issued under the authority of sections 7, 9, and 14 of the CPSA (15 U.S.C. 2056, 2058, and 2063).

5. Part 1202—Safety standard for matchbooks. This consumer product safety standard establishes safety requirements, including labeling, for matchbooks. The standard is needed to protect consumers from unreasonable risks of burn injuries and eye injuries associated with matchbooks. It was issued under the authority of sections 7, 9, and 14 of the CPSA (15 U.S.C. 2056, 2058, and 2063). Several tests that were included in the standard when originally issued by the Commission were set aside on judicial review. The standard has been reissued to delete those tests that were set aside.

6. Part 1205—Safety standard for walk-behind power lawn mowers. This consumer product safety standard prescribes performance and labeling requirements for walk-behind rotary

power lawn mowers, and labeling requirements for walk-behind reel power lawn mowers. The standard is needed to protect consumers from unreasonable risks of injury from lacerations, amputations of fingers, toes, and other body parts, and avulsions (the tearing of flesh or of a body part) which have resulted from contact with the moving blade of a power lawn mower. In the **Federal Register** of November 5, 1981 (46 FR 54932), the Commission amended this standard to provide that a lawn mower equipped with only manual starting controls may meet the blade stoppage requirements for rotary power lawn mowers by stopping the engine under certain conditions specified in the amendment. This amendment was mandated by the Consumer Product Safety Amendment of 1981 (Pub. L. 97–35; 95 Stat. 703). This rule was issued under the authority of sections 7, 9, and 14 of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, and 2063).

7. Part 1207—Safety standard for swimming pool slides. This consumer product safety standard establishes design and performance requirements for swimming pool slides. This standard is needed to eliminate or reduce unreasonable risks to consumers associated with swiming pool slides including leg fractures, impact with other persons, and falls. In 1981, the Commission voted against revocation of this standard. This standard was issued under the authority of sections 7, 9, and 14 of the CPSA (15 U.S.C. 2056, 2058, and 2063). Certain mandatory signs that were included in the standard when originally issued by the Commission were set aside on judicial review. The standard has been reissued to delete those mandatory signs that were set aside.

8. Part 1209—Safety standard for cellulose insulation. This consumer product safety standard establishes requirements for resistance to ignition and corrosiveness of cellulose insulation. The standard is needed to protect consumers from an unreasonable risk of injury associated with flammable and corrosive cellulose insulation. This standard was issued under the authority of sections 14 and 35 of the CPSA (15 U.S.C. 2063 and 2082).

9. Part 1212—Safety standard requiring oxygen depletion safety shutoff systems (ODS) for unvented gas-fired space heaters. This consumer product safety standard requires oxygen depletion safety shutoff systems (ODS) and specified labeling for unvented gas-fired space heaters. This rule is needed to protect consumers from unreasonable risks of death and serious injury from carbon monoxide poisoning associated with unvented gas-fired space heaters. This rule was issued under the authority of sections 7, 9 and 14 of the CPSA (15 U.S.C. 2056, 2058, 2063).

10. Parpt 1301—Ban of unstable metal refuse bins. This rule declares that certain unstable metal refuse bins are banned hazardous products. This rule is needed to protect children from unreasonable risks of death and other serious injuries associated with certain unstable metal refuse bins offered for sale to, or the personal use of, consumers in or around a permanent or temporary residence, a school, in recreation, or otherwise. In 1981, the Commission amended this rule to exempt certain straightsided refuse bins with an internal capacity of one to two cubic yards from the coverage of the banning rule (46 FR 55925, November 13, 1981). This rule was issued under the authority of sections 8 and 9 of the CPSA (15 U.S.C. 2057 and 2058).

11. Part 1302—Ban of extremely flammable contact adhesives. This rule declares that extremely flammable contact adhesives and similar liquid or semi-liquid consumer products are banned hazardous products. This rule is needed to eliminate or reduce unreasonable risks of serious burn injuries and deaths associated with extremely flammable contact adhesives offered for sale to or use by consumers in or around a permanent or temporary residence, a school, in recreation, or otherwise. This rule was issued under provisions of sections 8 and 9 of the CPSA (15 U.S.C. 2057 and 2058).

12. Part 1303—Ban of lead-containing paint and certain consumer products bearing lead-containing paint. This rule declares that any paint which is offered for sale to or use by consumers and contains lead or lead compounds in which the lead content is in excess of 0.06 per cent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film is a banned hazardous product. The rule also declares that toys or other articles intended for use by children bearing any lead-containing paint described above, and any item of furniture for consumer use bearing any lead-containing paint described above, are banned hazardous products. This rule is needed to eliminate or reduce the risk of injury of lead poisoning of children. The rule was issued under provisions of sections 8 and 9 of the CPSA (15 U.S.C. 2057 and 2058).

13. Part 1304—Ban of consumer patching compounds containing respirable free-form asbestos. This rule declares that consumer patching compounds containing intentionally-added respirable free-form asbestos fibers are banned hazardous products. This banning rule applies to patching compounds used to cover, seal, or mask cracks, joints, holes and other openings in the trim, walls, or ceilings of building interiors which are sanded to a smooth finish after drying, when such products are produced and distributed for sale to or use by consumers in or around a permanent or temporary residence, a school, in recreation, or otherwise. This rule is needed to eliminate or reduce unreasonable risks of injury from cancer, including lung cancer and mesothelioma. This rule was issued under the authority of sections 8 and 9 of the CPSA (15 U.S.C. 2057 and 2058).

14. Part 1305—Ban of artificial emberizing materials (ash and embers) containing respirable free-form asbestos. This rule declares that artificial emberizing materials (ash and embers) containing respirable free-form asbestos fibers that can become airborne under reasonably foreseeable conditions of use are banned hazardous products. The products covered by this banning rule are used by consumers on artificial fireplace logs to simulate live embers and ashes. The rule is needed to eliminate or reduce an unreasonable risk of cancer, including lung cancer and mesothelioma. This rule was issued under the authority of sections 8 and 9 of the CPSA (15 U.S.C. 2057 and 2058).

15. Part 1401—Self pressurized consumer products containing chlorofluorocarbons: Requirements to provide the Commission with performance and technical data; requirements to notify consumers at point of purchase of performance and technical data. This rule requires firms which import or market self pressurized consumer products that contain chlorofluorocarbons as propellants to inform the Commission of all such products which they import or market. This rule also requires those firms to provide performance and technical information about those products to state that they contain a chlorofluorocarbon that may harm the public health and environment by reducing the ozone in the upper atmosphere. This rule is needed because scientific research indicates that chlorofluorocarbons may pose a risk of depletion of ozone in the stratosphere. Ozone depletion would allow more shortwave ultra-violet rays of the sun to reach the earth, with possible consequences of an increase in the occurrence of skin cancer. The Commission issued this rule to enable consumers to make a conscious choice

of whether to use products containing chlorofluorocarbon propellants. This rule was issued under the authority of section 27(e) of the CPSA (15 U.S.C. 2076(e)).

16. Part 1402—CB base station antennas, TV antennas, and supporting structures. This rule requires manufacturers and importers of citizens band base station antennas, outdoor television antennas, and supporting structures to provide information to consumers about ways to avoid the hazard of electrocution which exists if these products come near powerlines while the antennas are being installed or taken down. This rule requires that the information must be provided by a label on the products, in instructions that accompany the products, and by statements on the packaging of the products. This rule is needed to inform consumers of hazards involved with installation or removal of these products near powerlines and safe methods for installation and removal of these products. This rule was issued under the authority of section 27(e) of the CPSA (15 U.S.C. 2076(e)).

17. Part 1404—Cellulose insulation. This rule requires manufacturers and importers of cellulose insulation to inform consumers of ways to avoid hazards of fire from installation of cellulose insulation. The rule requires that all bags of cellulose insulation must contain prominent instructions to keep the insulation off the top of recessed lighting fixtures; and to keep the insulation away from other heat sources such as exhaust flues of furnaces or hot water heaters. The rule is needed to avoid fires which may result when cellulose insulation is installed too close to heat sources. The rule was issued under the authority of sections 27(e) and 35 of the CPSA (15 U.S.C. 2076(e) and 2082).

Previous Review of Rules

The Commission reviewed seven of the rules described above in 1980 in accordance with provisions of former section 27(m) of the CPSA (15 U.S.C. 2076(m), repealed by the Consumer Product Safety Amendments of 1981, Pub. L. 97–35; 95 Stat. 703). The rules reviewed in 1980 were: Part 1201, architectural glazing standard; Part 1202, matchbook standard; Part 1207, swimming pool slide standard; Part 1301, ban of unstable refuse bins; Part 1302, ban of extremely flammable contact adhesives; Part 1303, ban of lead-containing paints; and Part 1305, ban of emberizing materials containing free-foam asbestos. A copy of the Commission's report concerning its review of these rules is available in the Commission's public reading room, 8th floor, 1111 18th Street, N.W., Washington, D.C., or by calling the Office of the Secretary, (301) 492–6800

All interested parties are invited to submit written comments concerning any or all of the 17 rules issued under the CPSA and described in this notice to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. To be considered in this rule review proceeding, comments must be received not later than December 20, 1982.

Dated: October 13, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-28890 Filed 10-20-82; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[IC-12675; Filed No. S7-943]

Exchange Offers by Certain Registered Separate Accounts or Others the Terms of Which Do Not Require Prior Commission Approval

Correction

In FR Doc 82–26467, beginning on page 42374, on Monday, September 27, 1982, make the following changes:

1. On page 42374, in the third column, in the first paragraph under **"Background and Discussion"**, in the sixth line "or any" should read "or of any".

2. On page 42376, in the second column, in footnote 13, in the second paragraph, in the seventh line "would" should read "could".

3. Also on page 42376, in the third column, in footnote 16, in the fifth line "or the" should be "of the".

4. On page 42377, in the first column, in the first full paragraph, in the fifth line "both front-end" should read "both a front-end".

5. Also on page 42377, in footnote 18, in the fourth line, "subject to" should read "subject both to".

6. On page 42377, in the second column, in the third line "resrves" should read "reserves".

BILLING CODE 1505-01-M

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 903

Surface Mining and Reclamation Operation Under Federal Program for Arizona

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

ACTION: Clarification of public hearing date.

SUMMARY: On October 6, 1982 (47 FR 44194), OSM published the proposed Federal program for the State of Arizona. Two dates were given for the end of the public comment period. This notice confirms that the public comment period ends on December 15, 1982. Other dates are correct.

DATES: Written Comments: The close of comment period on the proposed Federal program is 5:00 P.M. on December 15, 1982.

ADDRESS: Written Comments: Hand-delivered or mailed to the Office of Surface Mining, New Mexico Field Office, Administrative Record (R&I–26), 219 Central Avenue, N.W. Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240: 202–343–5866.

Dated: October 15, 1982.

Gene E. Krueger,

Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-28991 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-05-M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1656 and 1660

Selective Service Regulations; Alternative Service

AGENCY: Selective Service System.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule on alternative service that appeared at page 43079 in the **Federal Register** of September 30, 1982 (47 FR 43079). This action is necessary to extend the comment date in the proposed rule.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel,

Selective Service System, Washington, D.C. 20345 Phone: (202) 724–1167.

The Dates section in the preamble is corrected to read as follows:

DATES: Comment Date: Written comments received on or before November 30, 1982 will be considered. Effective date. Subject to the comments received the amendments are proposed to become effective upon publication in the **Federal Register** of a final rule not earlier than December 1, 1982.

Dated: October 14, 1982.

Thomas K. Turnage,

Director of Selective Service.

[FR Doc. 82-29011 Filed 10-20-82; 8:45 am]

BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPTS-00038; TSH-FRL 2231-2]

Administrator's Toxic Substances Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee (ATSAC) to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94–569). The meeting will be open to the public.

DATE: The meeting will take place on Tuesday, November 16, 1982, at 9:30 a.m. and adjourn by 4 p.m.

ADDRESS: The meeting will be held in: Rm. M–3906–3908, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Phyllis Hetrick Bennett, Executive Secretary, Administrator's Toxic Substances Advisory Committee (TS–779), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–229, 401 M St., SW., Washington, D.C. 20460, (202–382–3717).

SUPPLEMENTARY INFORMATION: The ATSAC agenda will include briefings on Agency activities in the area of biotechnology. Richard Hill, M.D., science adviser to Dr. John A. Todhunter, Assistant Administrator for the Office of Pesticides and Toxic Substances (OPTS), will review OPTS activities and Dr. Morris Levin, of the Innovative Research Program, in the Office of Research and Development will discuss current research projects from the Office of Exploratory Research. The ATSAC has been asked to develop comments on biotechology issues.

The meeting will be open to the public and time will be set aside for public comments concerning the work of the Committee. Any member of the public wishing to present an oral or written statement relating to the Committee's work should contact Dr. Phyllis Hetrick Bennett at the address or phone number listed above.

As required by the Regulatory Flexibility Act(5 U.S.C. 601),EPA hereby certifies that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses.

Dated: October 13, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-29013 Filed 10-20-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition filed by Societa Pneumatici Pirelli (Pirelli), requesting this agency to revise the strength test for new passenger car tires, set forth in Federal Motor Vehicle Safety Standard No. 109. According to the petition, the test currently puts low profile tires (a tire whose section height is a smaller percentage of its section width than older tire designs) at an unfair disadvantage. The petition is denied because it provided no data to show that the tires in question are as safe as those tires which can pass the current strength test or that those tires are in fact unfairly penalized.

FOR FURTHER INFORMATION CONTACT: Arturo Casanova, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–1714).

SUPPLEMENTARY INFORMATION: Pirelli has filed a petition with NHTSA requesting a revision of the strength test currently incorporated in sections S5.3.2.2 and S5.3.2.3 of Safety Standard No. 109 (49 CFR 571.109). Those sections require that a steel plunger be pushed against the tire while it is mounted on a rim until the plunger reaches the rim or the tire breaks, whichever occurs first. The force necessary to break the tire or reach the rim is recorded. This force must exceed minimum requirements set forth in Table II of Appendix A of Standard No. 109.

In its petition, Pirelli argued that newer low-profile radial tires with very flexible sidewalls offer significant fuel savings potential because they have lower rolling resistance than older stiffer tire designs. However, again according to Pirelli, these newer designs are unfairly penalized by the strength test. Its argument was as follows: because these tires are so flexible, they will not break before the plunger reaches the rim during the strength test. Therefore, the energy to be recorded is that required to make the plunger reach the rim. However, this value is not high enough to pass the strength test because these tires are so flexible and because the low profile design of the tire results in a shorter travel distance for the plunger to reach the rim. According to Pirelli, this forces them to stiffen the sidewalls of the tires and sacrifice some of the reduced rolling resistance.

The petition is denied, because no data were provided to substantiate any of these arguments or that these tires are as safe as those tires which can pass the current strength test. The strength test was originally incorporated in Standard No. 109 to ensure that tires would be able to withstand road hazards and the stress of handling maneuvers. It has functioned well in meeting these goals. Any tire so flexible that it could not meet the strength test would be susceptible to rim damage from road hazards (when the road hazard hits the rim) and to cord damage (when the cords rub against the rim as the road hazard drives the tire into the rim). Further, there are many low profile radial tire designs offered for sale in the United States which have been certified as passing the strength test, including the P6, P7, and P8 designs offered by Pirelli. Thus, the test does not seem to be inhibiting new technology. If Pirelli has any data showing that tires which do not pass the requirements of the strength test are as safe as those which do, or any other data supporting the arguments made in this petition, it should submit such data with a new petition. For instance, Pirelli may have data on warranty claims made in Europe for road hazard failures on both its tire designs which meet the strength test and those which do not meet the strength

test. Alternatively, Pirelli could submit an engineering analysis of the stresses put on the tire when it encounters a road hazard for tires which meet and do not meet the strength test. If such a petition were received, the agency would give it careful consideration. NHTSA will not amend this test, however, without some evidence showing that it is not achieving its intended purpose, or some evidence showing that tires which fail the test are as safe as those which pass the test.

The program official and attorney principally responsible for the development of this agency position are Arturo Casanova and Stephen Kratzke, respectively.

(Secs. 103, 119, 201 and 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 13, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–28868 Filed 10–20–82; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 22

Eagle Permits; Permits for Falconry Purposes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes regulations for the use of golden eagles for purposes of falconry as provided for in the Bald Eagle Protection Act, as amended. In particular, the regulations will allow golden eagles captured during depredations control activities or captive bred to be used for falconry purposes. This proposed rule will require falconers to possess a Letter of Authorization to obtain and maintain golden eagles. In this way qualified falconers will be able to practice a traditional sport which has historically provided much valuable biological data on these birds.

DATES: Comments on this proposed rule must be submitted on or before December 20, 1982.

ADDRESSES: Comments and requests for additional information may be mailed to Director (FWS/WM/WA), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: William C. Reffalt, Chief, Division of Wildlife Management, 202–632–2202.

SUPPLEMENTARY INFORMATION: Golden eagles have been used for falconry throughout the world for thousands of years. However, the amendments to the Bald Eagle Protection Act (16 U.S.C. 668–668d) in 1962, to include the golden eagle under similar provisions, made no provisions for their use in falconry. The Bald Eagle Protection Act was further amended in 1972 (Pub. L. 92–535) to provide for such use of golden eagles; these proposed rules implement the 1972 amendments.

Biology of Golden Eagles

The golden eagle is widely distributed throughout the northern hemisphere. Although 5 races are currently recognized, only *Aquila chrysaetos canadensis* is found in North America. This bird occupies a wide range of climatic and habitat conditions ranging from flat open grasslands to high mountains above timber line to the Tundra of Alaska. Golden eagles typically prefer "open" versus "wooded" country to fulfill their habitat needs. Highest breeding densities normally occur on the mountain foothills or in rolling sagebrush—grassland where scattered rimrocks or cliffs provide suitable nesting sites. Historically, breeding golden eagles were found in the eastern U.S., but today only a remnant population remains. Presently, the greatest densities of breeding golden eagles are found in the western States, particularly in mountain habitat and intermontane valleys.

The western population of golden eagles is large and viable. Fish and Wildlife Service population surveys indicate a relatively stable wintering population throughout extensive portions of the west. A recent estimate of the western wintering population is approximately 63,000 birds in 16 States with a density of from 0.9 to 12.9 birds per 100 square miles of typical eagle habitat.

Management Conflicts

In response to the growing awareness of and interest in raptors on the part of the American public and the necessity to appropriately manage this resource, the Fish and Wildlife Service is involved with substantial activity in behalf of golden eagles. Some of this work involves reduction of inadvertent man-related mortality such as electrocution on distribution power lines, and the education of the public on the benefits of these birds. Similarly, illegal taking of eagles is vigorously prosecuted by law enforcement officers.

Depredation damage sustained by the livestock industry, particularly sheep and goat producers, has led to the need for the golden eagle damage control activities in some States. Early activities in this area involved unregulated aerial hunting. The Bald Eagle Protection Act now governs control of depredations by golden eagles. Currently, Service personnel actively assist livestock operators in resolving problems caused by eagles through trapping and translocation efforts.

Use of Birds Captured During Depredation Control

Eagles taken in trap and relocation efforts are usually young eagles. These birds have a natural high mortality rate; thus the Service feels that there would be no impact upon the golden eagle population as a result of removal of a limited number of birds from the wild. Although the largest number of golden eagles captured and relocated for depredations control purposes in any year was 145 birds in 1975, the Service feels that the initial requirement for birds will be in the 30–50 range and that 5–10 per year thereafter will be utilized by falconers under the criteria proposed.

In addition to providing opportunity for falconers to fly these birds, more of the basic biology of golden eagles will become known through falconry activity. For example, golden eagles, trained and flown using falconry techniques, were invaluable in research to develop utility pole design to reduce raptor electrocution problems. Additionally, golden eagles in the hands of falconers may provide excellent opportunities for public education concerning these birds.

Public and Agency Comments Solicited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the location identified in the Addresses section of this preamble. Final promulgation of regulations will take into consideration comments received by the Director. Such comments and any additional information may lead the Service to adopt regulations that differ, in part, from the proposal.

Regulatory Analysis

The intent of the proposed rule is to provide for individuals to use golden eagles for falconry; however, only those golden eagles taken for the control of livestock or wildlife depredations will be available for such purposes. The

proposed rule will have no economic impact in and of itself. Since there will continue to be no legal commercial traffic in these birds, a market will neither be "created" nor "destroyed" by this rule. The equipment appropriate to falconry is generally handcrafted and home manufactured by the individual falconer.

The only foreseeable economic impact that could result from this rule is the travel expense of individual falconers in acquiring birds and pursuing their sport. Since falconers are currently incurring these costs and this rule only adds another raptor to those available to be used for falconry, the economic impacts added by this rule are anticipated to be slight and of a positive nature.

Conclusions reached in this section are the result of analysis of review comments on the Draft Golden Eagle Management Plan, consultation with the Migratory Bird Management Office, and review of correspondence with falconers in Division of Wildlife Mangement files.

Most of the potential economic effects of this rule would impact small entities. As discussed above, the effects would be caused by falconers in acquiring birds and pursuing their sport. Falconer expenses are likely to be in the form of travel, meal, and lodging costs which would impact, for example, service stations, restaurants, and motels. However, as previously stated, the effects of this rule are likely to be insubstantial since falconers are already incurring such costs and this rule merely adds a new species of raptors to those that can be used by falconers.

Therefore, the Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Information Collection Requirements

The proposed rule will allow individuals who possess master or equivalent falconry permits to request that they be allowed to use golden eagles in their sport. The Service contemplates amending those permits upon request, with a Letter of Authorization provided that the individual meets experience and qualification standards to ensure proper treatment of eagles. Although the criteria will be more stringent, the type and amount of information required to be submitted will not be different than that currently required for the master or equivalent permit. Also, the number of birds allowed in possession under the falconry permit will not change. Therefore, record keeping and reporting requirements and the number of permittees will be unchanged.

The Service estimates that only one to three percent of the approximately 1,000 individuals holding master or equivalent permits will request and qualify for authorization to use golden eagles. The Letter of Authorization would remain in effect as long as the individual possesses a valid master or equivalent falconry permit. The Service anticipates between 5 and 10 applicants annually.

Since the information collection requirements associated with falconry permits are cleared under the Paperwork Reduction Act of 1980 (Office of Management and Budget approval number 1018–0022) and no further changes in the respondents or burden are anticipated, this rule does not require further review by the Office of Management and Budget under 44 U.S.C. 3507.

Environmental Effects

Based on a review and evaluation of the information contained in an Environmental Assessment, the Department has determined that the proposed regulations implementing amendments to the Bald Eagle Protection Act concerning the use of golden eagles obtained during depredation control (or captive bred) for purposes of falconry is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on this proposal is not required. Interested parties may obtain copies of the Environmental Assessment by writing the Director (FWS/WM/WA) U.S. Fish and Wildlife Service, Washington, D.C. 20240.

List of Subjects in 50 CFR Part 22

Exports, Imports, Reporting requirements, Wildlife.

Proposed Falconry Regulations for Use of Golden Eagles

Accordingly, a new 50 CFR 22.24 is proposed to read as follows:

§ 22.24 Permits for falconry purposes.

(a) *General.* These regulations permit the use of golden eagles for falconry purposes under certain circumstances and with specific limitations. These regulations require the general information and certification required by § 13.12(a), 21.28, and 21.29 of this Subchapter and application for and receipt of a Letter of Authorization from the Director, U.S. Fish and Wildlife Service, obtained as follows. NOTE: The information collections contained in this section 22.24 are cleared by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and assigned approval number 1018–0022. The information is necessary to determine potential permittee's qualifications and is required to obtain a permit.

(b) *Application procedures.* Applications for Letters of Authorization to use golden eagles for falconry purposes shall be submitted to the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Each application shall contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A description of experience in the handling of large raptors including such information as the specie(s), the nature of the experience, and the duration of the experience. At least 5 years experience at the level of master falconer or equivalent are required to obtain authorization to use golden eagles.

(2) A description of facilities specifically available for housing eagles.

(3) A copy of authorization, from the state of residence, to possess golden eagles per the provisions in Part 21.29 of this subchapter.

(4) A letter of reference from an individual with recognized eagle handling experience. This individual's experience may be in the nature of handling pre-Act birds, zoological specimens, rehabilitating eagles, or the use of eagles in scientific studies.

(5) If requesting an eagle from the Service, the applicant must state sex, age, and condition of the eagle that they will accept.

(6) Name, address, age, and raptor handling qualifications of any person the applicant proposes to act for him as his agent in taking possession of eagles provided by the Service.

(7) To obtain replacement eagles, a request in writing must be tendered and include the number of the existing Letter of Authorization and a description of the reason for the replacement bird.

(c) *Additional Conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, Letters of Authorization to use eagles for purposes of falconry shall be subject to the following conditions:

(1) Only golden eagles may be used in falconry under the provisions of this section and then only those captured to resolve depredation problems and/or captive-reared golden eagles.

(2) The primary source of additional birds will be those captured by the Service in live capture programs to resolve depredation problems.

(3) Under authority obtained under Subpart D of this Subchapter, golden eagles may also be trapped from the wild by the applicant. Appropriate permits and authorizations must be obtained, and birds must be taken only from an identified depredation area. To exercise this privilege, the applicant must request and obtain authority from the Service as a part of the Letter of Authorization.

(4) The applicant, or authorized representative, must agree to take possession of a requested eagle within 72 hours of notification of availability. Expenses incurred by the applicant in taking possession of the eagle will be the applicant's responsibility.

(d) *Issuance criteria.* The Director shall conduct an investigation and issue a Letter of Authorization when he has determined that such use is compatible with the preservation of golden eagles and that the applicant is qualified to handle golden eagles. In making the latter determination, the Director shall consider, among other criteria, the applicant's cumulative falconry experience, the applicant's demonstrated ability to handle and care for large raptors, and the applicant's letter of reference from an individual with recognized eagle handling experience. Golden eagles possessed under this Letter of Authorization shall be maintained in accordance with Federal falconry standards for facilities and equipment described in 50 CFR 21.29.

(e) *Tenure of the Letter of Authorization.* The tenure of the Letter of Authorization will be as long as the holder maintains a valid master or equivalent falconry permit or until revoked in writing by the Service.

(f) Any golden eagle acquired by the Service in conjunction with live capture programs to resolve depredation problems may be provided to a falconer in accordance with this section.

Dated: September 21, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-28892 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Hunting; Proposed Modifications to the Delta Migratory Bird Closed Area, Louisiana, and Revocation of the Malheur Migratory Bird Closed Area, Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to modify the boundaries of the area closed to migratory bird hunting on the Delta National Wildlife Refuge, Louisiana, and to remove the Malheur Migratory Bird Closed Area, Oregon, from the list of areas closed to migratory bird hunting. The Delta Migratory Bird Closed Area would be modified to lift the present administrative restrictions which prohibit the taking of migratory game birds on 16,000 acres of the Delta National Wildlife Refuge. Further rulemaking action would be necessary to open the refuge to hunting of migratory birds. Changes in the habitat at Malheur National Wildlife Refuge and the level of use by waterfowl and wading birds no longer justify continuation of the closure. The effect of this rulemaking would be to reopen private lands and their connecting waters within the Closed Area to migratory bird hunting at Malheur Refuge.

DATE: Comments must be received on or before November 1, 1982.

ADDRESS: Comments may be addressed to the Director (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets NW., Washington D.C. 20240 (telephone 202-343-4791).

SUPPLEMENTARY INFORMATION: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (telephone 202-343-4305) is the primary author of this proposed rule.

Delta Migratory Bird Closed Area

Certain waters within and adjacent to Delta National Wildlife Refuge were designated as a closed area in or on which pursuing, hunting, taking, capturing or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted (29 FR 13820). This proposed action would remove the present administrative restrictions which prohibit the taking of migratory game birds on approximately 16,800 acres of the refuge. The restrictions prohibiting the taking of migratory game birds would continue in effect on the remaining 31,200 acres of the refuge. In general, the restrictions on taking would be lifted on portions of the refuge north of Main Pass and the area south of Raphael Pass. This rulemaking in and of itself would not open the refuge to the hunting of migratory birds. However, in a separate rulemaking action, (47 FR 41790) the Service is proposing to amend the list of open areas, migratory birds, by adding Delta National Wildlife Refuge. It is anticipated that both these actions will be consolidated into one final rulemaking.

Malheur Migratory Bird Closed Area

Executive Order No. 929, August 18, 1908, closed all land within the shoreline of Malheur and Harney Lakes, and their connecting waters, and the smallest legal subdivisions adjacent to the shoreline subject to existing rights and established the Lake Malheur Reservation as a "preserve and breeding ground for native birds." On July 19, 1935, Executive Order No. 7106 enlarged the refuge and established the Malheur Migratory Bird Refuge. Presidential Proclamation No. 2516 of October 1, 1941, closed all lands and waters within the meander lines of Malheur and Harney Lakes and their connecting waters to the hunting of migratory birds. Presidential Proclamation No. 2818 of October 20, 1948, superseded Proclamation No. 2516; Proclamation No. 2589 of October 20, 1949, superseded Proclamation No. 2818; and the unnumbered Secretarial Order of October 16, 1953 (18 FR 6685), superseded Proclamation No. 2589, all of which relieved parts of the restrictions previously in effect. When the above cited proclamations and Secretarial Order were issued, most of the approximately 940 acres of private land subject to the closure provided good wetland habitat for waterfowl and wading birds. Since 1953, however, much of the private land has been drained and is now used for pasture and cropland. The only game birds which regularly use the private land within the closed area are a few Canada geese and mallards after the harvest. The change in the habitat has resulted in a level of waterfowl use which does not justify continuation of the closure. Rescinding the Closed Area will have a limited effect on the local economy in that waterfowl hunting will be permitted on private lands. However, this action will have no adverse impact on the effectiveness of the refuge.

Special circumstances are involved in the promulgation of this rulemaking which limit the amount of time which the Service can allow for public comment. Opening dates for the State hunting seasons are rapidly approaching and the public interest would not be served by delaying this action unnecessarily. Nevertheless, it is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposal to the Director by November 1, 1982. All relevant comments will be considered by the Department prior to issuance of a final rule.

NEPA Considerations

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" (FES 76–59) was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), environmental assessments have been prepared for each of these proposed actions and are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail, addressing the Director at the address above. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Conformation With Statutory and Regulatory Authorities

This action is taken by virtue of and pursuant to Section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, as amended; 16 U.S.C. 704), and in accordance with Section 4(a) of the Administrative Procedure Act of June 11, 1946, as amended (60 Stat. 238; 5 U.S.C. 551 *et seq.*).

There are a number of statutory criteria which must be considered in these matters. Neither the modification of the Delta Closed Area nor the revocation of the Malheur Closed Area will have any appreciable effect on the distribution or abundance of migratory waterfowl. At Delta Refuge, this action is a precursor to migratory waterfowl hunting on the refuge. At Malheur Refuge, this action would result in elimination of a prohibition of hunting on certain private lands, but would not result in any additional hunting opportunities on the refuge. The breeding habits of migratory waterfowl would not be affected by this action. There would be no appreciable effect on the times and lines of migratory flight.

In accordance with Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act, the Secretary is authorized under such regulations as he may prescribe to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: Provided, that not to exceed 40 percent at any one time of any area that has been, or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive Order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe, unless he finds that the taking of any species of migratory game birds in more than 40 percent of such areas would be beneficial to the species. Each of these refuges was originally established as an inviolate sanctuary for migratory birds.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer the refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: "(a) that such recreation use(s) will not interfere with the primary purposes for which the areas were established, and (b) that funds are available for the development, operation, and maintenance of these permitted forms of recreation."

The proposed use authorized by these regulations is compatible with the major purposes for which these areas were established. In regard to the 40 percent provisions of the National Wildlife Refuge System Administration Act, these regulations would not authorize the taking of migratory game birds in more than 40 percent of any refuge area. The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations.

This action is proposed after having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds included in the terms of this country's migratory bird treaties with Canada, Mexico, Japan and the Soviet Union. The implementation of these changes will be consistent with all applicable laws and compatible with the principles of sound wildlife management and will otherwise be in the public interest. These determinations are based upon a consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976 and environmental assessments which have been prepared for each of these proposed actions.

Other Determinations

Although this rulemaking in and of itself would not authorize migratory waterfowl hunting at Delta National Wildlife Refuge, the Service has issued a proposed rule, (47 FR 41790) to open the refuge to migratory bird hunting. The circumstances are different at Malheur Refuge in that the prohibition on hunting would be rescinded on private lands within the Closed Area.

This regulation will have a positive effect on local filling stations, sporting goods, providers of meals, and overnight accommodations. This rule will impose no costs on small entities; the exact number and the amount of business that will result from this refuge-related recreation is unknown. The aggregate effect is a positive economic effect on a limited number of small entities. The positive effects will be spread over two (2) States.

The Department of the Interior has determined that this document is not a major rule within the meaning of Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Copies of the Determination of Effects are available upon request from the above address.

These regulations impose no reporting or recordkeeping requirements which require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (Pub. L. 96–511).

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife refuges.

It is proposed to amend 50 CFR 32.4 by deleting the Malheur Migratory Bird Closed Area, Oregon, and inserting a new citation revising the boundary of the Delta Migratory Bird Closed Area, in or on which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted, all of the water area in Plaquemines Parish, Louisiana.

The Delta Migratory Bird closed area boundary description reads as follows:

Beginning at the navigation light marking the south bank of Cubits Gap on the Mississippi River; thence northwesterly, crossing the mouth of Cubits Gap, approximately 4,400 feet to a navigation light on the north side of Cubits Gap; thence easterly, with the north bank of Cubits Gap, approximately 3,500 feet; thence northeasterly, with the northwest or left descending bank of Main Pass, approximately 44,500 feet; thence easterly crossing Main Pass, approximately 1,700 feet; thence northerly, with the east or right descending bank of Main Pass, approximately 8,800 feet; thence N. 45°00′ E., 5,200 feet to a point in the Gulf of Mexico at 29° 20.4′ N latitude and 89° 10.3′ W. longitude; thence S. 33° 45′ E., approximately 34,800 feet across the waters of the Gulf of Mexico to a point at 29°15.6′ N. latitude and 89°06.7′ W., longitude; thence south, approximately 13,400 feet across the waters of the Gulf of Mexico to the mouth of Raphael Pass, at Willow Point; thence southwesterly, with the east bank of Raphael Pass, approximately 20,600 feet to the south boundary of Section 22, T. 21 S., R. 20 E.; thence westerly, with said south boundary, approximately 1,100 feet to the corner common to Sections 22 and 28; thence southerly, with the east boundary of said Section 28, approximately 800 feet to the east bank of Raphael Pass; thence southerly with the east bank of Raphael Pass, approximately 2,500 feet to the north boundary of the SE ¼, Section 28; thence westerly, with said north boundary approximately 900 feet; thence southerly, with the west boundary of the SE ¼, Section 28, approximately 400 feet to the south bank of Raphael Pass; thence westerly, with the south bank of Raphael Pass, approximately 23,000 feet to the northeast boundary of Radial Section 35; thence northwesterly, with the northeast boundary of Radial Sections 35, 34, and 33, approximately 2,400 feet; thence southwesterly, with the northwest boundary of Radial Section 33, approximately 2,600 feet to the south bank of Raphael Pass; thence northwesterly, with the south bank of Raphael Pass and Cubits Gap, approximately 7,700 feet to the place of beginning.

PART 32—[AMENDED]

Accordingly, it is proposed to amend 50 CFR Part 32 as follows:

§ 32.4 [Amended]

1. For the State of Louisiana, enter the date, under the column headed "date", and enter the **Federal Register** citation, under the column headed "Citation" of the description of the Delta National Wildlife Refuge Closed Area as published in the **Federal Register** in final form.

2. Removing the Entry for "Oregon" in its entirety.

(16 U.S.C. 704; 16 U.S.C. 460k, 668dd)

Dated: October 8, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-28682 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

American Lobster Fishery Management; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Public Hearing.

SUMMARY: The New England Fishery Management Council (Council) announces a schedule of public hearings to obtain comments on a proposed fishery management program for American lobster *(Homarus americanus)*. This program is described in the Draft Environmental Impact Statement/American Lobster Fishery Management Plan (DEIS/FMP), which was prepared by the Council in consultation with the Mid-Atlantic Fishery Management Council. A concise written summary of the proposed lobster management program will be provided at each public hearing. These hearings are being held in accordance with Section 302(h)(3) of the Magnuson Fishery Conservation and Management Act and Section 1506.b(c) of the Council on Environmental Quality's National Environmental Policy Act regulations. Comments received, at these hearings as well as any written comments received, will be taken into consideration and addressed in the preparation of the Final Environmental Impact Statement/Fishery Management Plan.

DATES: Comments. Individuals or organizations wishing to comment on the DEIS/FMP may do so at any of the 14 scheduled public hearings. See Supplementary Information for dates and locations of these hearings. All of the Public hearings will begin promptly at 7 p.m. and adjourn at approximately 10 p.m. The hearings may be lengthened or shortened as necessary depending on the extent of the discussion.

ADDRESS: Send comments to: Chairman, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906. Copies of the draft plan and environmental impact statement are available at this address.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council. Telephone: (617) 231-0422

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council has prepared a draft Fishery Management Plan for American Lobster *(Homarus americanus)* (FMP) in accordance with the procedures established by the Magnuson Fishery Conservation and Management Act and other applicable law. The proposed management program calls for the immediate adoption of the management measures in the fishery conservation zone (FCZ) that directly complement those already established by most of the coastal, lobster-producing, States. The FMP measures include (1) a minimum carapace length, (2) prohibition on the possession/landing of parts, meats, or berried females, and (3) a requirement for escape vents in trap gear. The FMP also calls for the licensing of all vessels participating in the FCZ fishery.

Public Hearings

Public hearings on the proposed lobster management program will be held on the dates and at the locations listed below.

Friday, October 22, 1982—Riverhead, New York, Location: Holiday Inn, Route 25

Thursday, October 28, 1982—Ocean City, Maryland, Location: Sheraton Fontainbleau Inn, 10100 Ocean Highway

Friday, October 29, 1982—Red Bank, New Jersey, Location: Molly Pitcher Hotel (Federal A Room), 88 Riverside Avenue

Monday, November 1, 1982—Danvers, Massachusetts, Location: King's Grant Inn (Stratford Sussex Room), Route 128 at Trask Lane

Monday, November 1, 1982—Galilee, Rhode Island, Location: Dutch Inn, Great Island Road

Wednesday, November 3, 1982—Machias, Maine, Location: University of Maine at Machias, Health and Physical Ed. Building, Classrooms A and B

Wednesday, November 3, 1982—Branford, Connecticut, Location: John B. Sliney School, Eads Street

Thursday, November 4, 1982—Ellsworth, Maine, Location: Holiday Inn (Hancock Room), Jct. Route 1 and Route 3

Thursday, November 4, 1982—Westport, Massachusetts, Location: White's Restaurant, 56 State Road

Monday, November 8, 1982—Plymouth, Massachusetts, Location: Governor Carver Inn, 25 Summer Street at Town Square

Tuesday, November 9, 1982—Rockland, Maine, Location: Community Building (Recreation Department), 44 Limerock Street

Tuesday, November 9, 1982—Portsmouth, New Hampshire, Location: City Hall Chambers, 126 Daniel Street

Wednesday, November 10, 1982—Portland, Maine, Location: Ramada Inn, 1230 Congress Street

Wednesday, November 10, 1982—Hyannis, Massachusetts, Location: Sheraton-Regal (Princess Room), Route 132 and Bearse's Way.

(16 U.S.C. 1801 et seq.)

Date: October 18, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-28958 Filed 10-18-82; 4:35 pm]

BILLING CODE 3510-22-M

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50 CFR Part 662

Pacific Fishery Management Council, Northern Anchovy Fishery; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Pacific Fishery Management Council (Council) will hold public hearings to receive comments on a proposed amendment to the Northern Anchovy Fishery Management Plan (FMP). Comments received at these hearings will be used by the Council during its November 17–18 meeting in Monterey, California, in deciding whether to recommend their preferred options in the proposed amendment.

DATES: Written comments on the amendment may be submitted no later than November 17, 1982. Individuals, agencies, or organizations wishing to comment on the amendment may do so at public hearings to be held as follows:

November 15, 1982—Long Beach, California

November 17, 1982—Monterey, California

The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared at each hearing.

ADDRESSES: Send comments to: Herman J. McDevitt, Chairman, Pacific Fishery Management Council, 526 S.W. Mill St., Portland, Oregon 97201, or J. Gary Smith, Chief, Fisheries Management Division, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Hearing Locations

November 15, 1982—7:00 p.m.—California State University (Administrative Office Building, Conference Room), 400 Golden Shore Drive, Long Beach, California.

November 17, 1982—5:00 p.m.—Casa Munras, Garden Hotel, Norman Room, 700 Munras Avenue, Monterey, California.

FOR FURTHER INFORMATION CONTACT: Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503) 221-6352; or J. Gary Smith, Chief, Fisheries Management Division, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, (213) 548-2518.

SUPPLEMENTARY INFORMATION: The proposed amendment to the FMP would (a) replace the current minimum size restriction on achovies landed for reduction purposes with a minimum mesh size restriction of $^{1}/_{16}$ inch in the net and $^{9}/_{16}$ inch in the bag of the net, both measurements to be made when the gear is wet; and (b) establish a reduction quota reserve of half of the annual reduction quota that will be released if no evidence is revealed in-season that would change original stock size estimates. The Council cited problems arising from enforcement and wastage as reasons for considering possible replacement of the size limit with the mesh size restrictions. The reason for the proposed reduction quota reserve is to compensate for current uncertainties in biomass estimates and domestic harvesting and processing capacities. Other options to the size limit change and the reduction quota reserve are considered in the draft amendment.

List of Subjects in 50 CFR Part 662

Fish, Fisheries, Fishing.

(16 U.S.C. 1801 et seq.)

Dated: September 18, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-28986 Filed 10-20-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 204
Thursday, October 21, 1982

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

DEPARTMENT OF AGRICULTURE

Economic Research Service

Organization, Functions, and Availability of Information

Notice is hereby given for the guidance of the general public as to the organization, functions, and availability of information for the Economic Research Service (ERS).

Part 1—Organization and functions

Section 1—*General.* The ERS was reestablished as an agency of the U.S. Department of Agriculture by Secretary's Memorandum 1000–1, Reorganization of Department, dated June 17, 1981. Research responsibility is authorized principally by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627). The specific delegations of authority from the Assistant Secretary for Economics to the Administrator, ERS are found in 7 CFR 2.84.

Section 2—*Organization.* ERS is headquartered in Washington, D.C. A small economic research staff is maintained in each of 31 States, primarily at Land Grant Colleges and universities. Much of the research is conducted cooperatively with the State Agricultural Experiment Stations.

The organization of ERS is as follows:

Administrator
Deputy Administrator
Assistant Administrator
Director, National Economics Division
Director, International Economics Division
Director, Natural Resource Economics Division
Director, Economic Development Division
Director, Data Services Center

Section 3—*Authority to act for the Administrator.* In the Administrator's absence the following officials are authorized to act for him in the order indicated:

Deputy Administrator
Director, National Economics Division
Director, International Economics Division
Director, Natural Resource Economics Division
Director, Economic Development Division
Assistant Administrator

Section 4—*Functions.* The principal function of ERS is to serve the critical need for timely and reliable agricultural economic information (research, forecasts of major agricultural economic indicators, policy analysis, and data) that addresses the multitude of economic concerns and the decisionmaking needs of farmers, extension workers, private analysts, processors, marketers, input suppliers, and policy officials in the Federal Government, Congress, and State and local government.

Specific functions include: (a) Identify measure, and explain interrelationships among economic forces, institutions, and alternative governmental policies and programs that affect food and fiber consumption and production, natural resources availability and use, and welfare of rural people and communities.

(b) Conduct research related to production, marketing, distribution, consumption, and foreign trade of food and fiber.

(c) Evaluate use, conservation, development, and control of water, land, and other natural resources as they affect economic growth, income distribution, and environmental quality.

(d) Conduct research related to rural people and communities, and their present and prospective economic adjustment problems.

(e) Make research and analytical results available on a timely basis to public and private decisionmakers concerned with food, agriculture, natural resources, and rural people and communities.

Section 5—*Authority and Functions of ERS Officials.*

a. *Administrator and Deputy Administrator.* Formulate current, intermediate, and long-range policies and plans for conducting economic and other social science research, analysis, and information programs relating to food and agriculture (national and international), natural resources, and rural people and communities. Research results are used by the Department of Agriculture and other Federal decisionmakers, farmers and related industries, consumers, rural communities, and the general public.

b. *Director, National Economics Division.* Formulates and administers a national program of economic intelligence, research and analysis, and associated work that relates to all aspects of the domestic food and fiber system and its relation to national and international economics. This research program covers the following:

(1) Current intelligence on domestic food and agricultural developments and forecasts of domestic supply and demand for inputs, food, and other agricultural products.

(2) Special analyses for policy officials as input to agricultural policy formulation and the development and operation of programs to implement those policies.

(3) Economic research to identify and empirically estimate the interrelationships between the domestic agricultural system and the general economy.

c. *Director, International Economics Division.* Formulates and administers a program of international agricultural economic intelligence, analysis and research, and statistical programs. This program covers the following:

(1) Current international agricultural and economic developments and forecasts of world, regional, and country supply and demand for food and agricultural products.

(2) Special analyses for policy officials as input to foreign agricultural policy formulation and the development and operation of programs to implement those policies.

(3) Economic research to identify and empirically estimate the interrelationships between the domestic and world agricultural food systems.

d. *Director, Natural Resource Economics Division.* Formulates and administers a national program of research and analysis, statistical programs and associated service work on the use, conservation, development, and control of natural resources and their contribution to local, regional, and national economic growth. Assesses the implications of environmental policies

on agricultural production and rural communities.

e. *Director, Economic Development Division.* Formulates and administers a national program of research and analysis, statistical programs and associated service work related to rural people and rural communities. Identifies and evaluates alternative public and private actions which impact on these areas.

f. *Assistant Administrator.* Assists the Administrator, particularly in the program planning, evaluation, and administration areas.

Part II—Availability of Information

Section 6—*General.* This part is issued in accordance with the regulations of the Secretary of Agriculture in Part I, Subpart A, of Subtitle A of Title 7, CFR (7 CFR 1.1–1.16), and Appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this part, govern the availability of ERS records to the public.

Section 7—*Indexes.* 5 U.S.C. 552(a)(2) requires that certain materials, and a current index, be made available for the public to inspect and copy. ERS maintains no materials of this nature.

Section 8—*Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and addressed to: Chief, Records, Systems, and Analysis Branch, Administrative Services Division, Economics Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250. Authority is hereby delegated to this official to make determinations regarding such requests in accordance with 7 CFR 1.4(c).

Section 9—*Appeals.* Any person whose request for records is denied shall have the right to appeal in accordance with 7 CFR 1.3(e) and 1.7. Appeals should be addressed to: Administrator, Economic Research Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Section 10—*Requests for published data and related information.* A list of published data on ERS programs can be found in the ERs Research Abstracts newsletter, available without cost from the Director, Information Division, Economics Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250. Publications from this list may be purchased from the Government Printing Office and the National Technical Information Service.

Dated: October 4, 1982.

John E. Lee, Jr.,

Administrator, Economic Research Service.

[FR Doc. 82-28995 Filed 10-20-82; 8:45 am]

BILLING CODE 3410-18-M

Office of the Secretary

Joint Committee on the Future of Cooperative Extension; Meeting

Notice is hereby given that the Joint Committee on the Future of Cooperative Extension will meet November 10, 1982, from 12:00 p.m. to 11:00 p.m. at the Chase Park Plaza Hotel, 212 Kings Highway Boulevard, St. Louis, Missouri 63108.

The Committee's purpose is to advise the Secretary of Agriculture on policies and programs affecting the mission, future scope and priorities of Cooperative Extension nationally throughout the 1980's and beyond. The agenda for the meeting will consist of finalization of the Committee Report and discussion of plans for dissemination and implementation of report recommendations.

The meeting of the Joint Committee on the Future of Cooperative Extension is open to the public for observation on a space available basis.

For additional information contact Dr. Mary Nell Greenwood, Administrator, Extension Service, Room 340 Administration Building, 14th and Independence Avenue, SW, Washington, D.C. 20250. Telephone 202/447-3377. Written comments may also be addressed to Dr. Greenwood.

Mary Nell Greenwood,

Administrator, Extension Service.

[FR Doc. 82-28891 Filed 10-20-82; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Bicycles From the Republic of Korea and Taiwan; Initiation of Antidumping Investigations

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Antidumping Investigations.

SUMMARY: On the basis of petitions filed in proper form with the United States Department of Commerce, we are initiating antidumping investigations to determine whether bicycles from the Republic of Korea (Korea) and Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of these actions so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigations proceed normally, the ITC will make its preliminary determinations on or before November 8, 1982, and we will make ours on or before March 3, 1983.

EFFECTIVE DATE: October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Richard Rimlinger, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone: (202) 377-1279.

SUPPLEMENTARY INFORMATION: On September 24, 1982, we received petitions in proper form from counsel for AMF Wheel Goods Division, Columbia Manufacturing Company, Huffy Corporation and Murray Ohio Manufacturing Company, both individually and as members of the Bicycle Manufacturers Association of America, Inc.

In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitions allege that imports of the subject merchandise from Korea and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value of this merchandise from Korea is supported by comparisons of offered United States prices with the foreign market values based on the constructed value of this merchandise using approximate costs in Korea. The allegation of sales at less than fair value of this merchandise from Taiwan is supported by comparisons of offered United States prices with the foreign market value based on home market sales prices.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petitions filed by the industry, and we have found that they meet the requirements of section 732(b) of the Act. Therefore, we are initiating

antidumping investigations to determine whether bicycles from Korea and Taiwan are being, or are likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by March 3, 1983.

Scope of the Investigations

The merchandise covered by these petitions are complete bicycles imported from Korea and Taiwan and classified under item numbers 732.02 through 732.26 of the *Tariff Schedules of the United States (TSUS).*

Bicycles come in a variety of designs, but petitioners cite three basic model types which are said to dominate the market: 10-speed bicycles with wheels 26 or 27 inches in diameter and weight of less than 36 pounds; three-speed bicycles with wheels 26 inches in diameter and weight of less than 36 pounds; and single-speed bicycles with 20-inch wheels, including so-called motorcross (BMX) bicycles.

Notification to ITC

Section 732(d) of the Act requires us to notify the United States International Trade Commission of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days of the date the petitions were received whether there is a reasonable indication that imports of bicycles from Korea and Taiwan are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

October 14, 1982.

[FR Doc. 82-28989 Filed 10-20-82; 8:45 am]

BILLING CODE 3510-25-M

Toy Balloons (Including Punchballs) and Playballs From Mexico; Preliminary Affirmative Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determinations.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs as described in the "Scope of the Investigations" section of this notice. The estimated net bounties or grants are 9.403 percent *ad valorem* for toy balloons (including punchballs) and 15.917 percent *ad valorem* for playballs. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on the merchandise in the amount equal to the estimated net bounties or grants. If these investigations proceed normally, we will make our final determinations by December 29, 1982.

EFFECTIVE DATE: October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that the government of Mexico provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs as described in the "Scope of the Investigations" section of this notice.

The estimated net bounties or grants are 9.403 percent *ad valorem* for toy balloons (including punchballs) and 15.917 percent *ad valorem* for playballs.

Case History

On May 18, 1982, we received a petition from National Latex Products Company of Ashland, Ohio, on behalf of the U.S. industry producing toy balloons (including punchballs) and playballs. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of toy balloons (including punchballs) and playballs in Mexico.

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to these investigations. Because the subject merchandise is nondutiable and there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Mexico, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products cause or threaten to cause material injury to a U.S. industry. We found the petition to contain sufficient grounds upon which to initiate countervailing duty investigations and, on May 26, 1982, we initiated countervailing duty investigations (47 FR 23798).

On June 8, 1982, we presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. Subsequently, on July 21, 1982, we determined that the case was extraordinarily complicated within the meaning of section 703(c)(1)(B) of the Act, and we published a notice of the postponement of the preliminary countervailing duty determination (47 FR 32557). On October 6, 1982, we received a partial response to the questionnaire.

Scope of the Investigations

The merchandise covered by these investigations consists of toy balloons (including punchballs) and playballs. Balloons and punchballs are inflatable, thin-walled articles made by dipping non-porous forms (called "mandrels") in natural latex. Punchballs have slightly thicker walls than balloons and are sold packaged with bands. A playball is a hollow sphere produced from polyvinyl chloride (a thermoplastic resin) and other thermoplastics that will bounce when inflated with air and which yields diameters from 4 to 20 inches. Playballs are not nylon-wound or made of rubber, and are not to be confused with sportballs (used in athletic activities). Playballs are not an athletic product, because they are lighter in weight and smaller in size; however, styles of the vinyl playballs include models resembling footballs, basketballs, and

other sports-oriented items. Balloons and punchballs are currently classifiable under item number 737.9536 and playballs under item number 735.0990 of the *Tariff Schedules of the United States Annotated.*

Latex Occidental, S.A., is the only known producer and exporter of balloons and punchballs; and Industries Salver, S.A. is the only known producer and exporter of playballs. The period for which we are measuring subsidization is the first half of 1982.

Analysis of Programs

Based upon our analysis to date of the petition and the response to our questionnaire, we preliminarily determine the following:

I. Program Preliminarily Determined to Confer a Bounty or Grant

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs under preferential export financing programs. The Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export financing must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos, and the maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation.

The government of Mexico's response states that Latex Occidental, S.A., and Industries Salver, S.A. received FOMEX export financing loans, but the response is silent concerning any FOMEX pre-export financing loans received by either company. Since the recipients of FOMEX export financing were also recipients of FOMEX pre-export financing in the ceramic tile, litharge, red lead and lead stabilizers, pectin, and polypropylene film investigations, we believe that the producers, manufacturers and exporters of toy balloons (including punchballs) and playballs also received FOMEX pre-export financing loans. Neither the Mexican government nor counsel for the exclusive U.S. importer of the Mexican toy balloons manufacturer denies that pre-export loans were obtained, but they have been unable to provide specific information on the amount of such loans received. Accordingly, on the basis of the best information available we have preliminarily determined the estimated net bounty or grant to be 4.757 percent *ad valorem,* the largest outstanding bounty or grant for FOMEX pre-export financing determined by the Department in any previous case concerning this program in Mexico. This was the rate determined in the *Pectin from Mexico* preliminary affirmative countervailing duty determination of September 17, 1982 (47 FR 42014).

The response states that Latex Occidental, S.A., and Industries Salver, S.A., received export financing FOMEX loans at 6 percent interest. The response provided no information on the commercial rate of interest in Mexico for short term peso and dollar-denomiated loans, but it did include information on some U.S. loans received by Latex Occidental, S.A.

On the basis of the best information available, we used as a benchmark commercial rate of interest in Mexico for short-term dollar-denominated loans, the average company rate received for all non-FOMEX dollar-denominated loans in the *Litharge, Red Lead and Lead Stabilizer from Mexico* preliminary affirmative countervailing duty determination (Litharage) of September 15, 1982 (47 Fed. Reg. 41607). During the first six months of 1982, we preliminarily determined in Litharge that comparable dollar-denominated loans for producers, manufacturers and exporters of that product were available at 17.16 percent. We computed the difference in interest expenses between the FOMEX export loans received by Latex Occidental, S.A., for toy balloons and punchballs during the period January 1, 1982–June 30, 1982, and the benchmark commercial rate of interest. We allocated this amount over the value of exports to the U.S. of toy balloons and punchballs during the same period for which export financing loans were obtained.

The portion of the Mexican government's response concerning the utilization of FOMEX export financing by Industries Salver, S.A., for playballs may be inconsistent. The response indicates that the value of the export loans exceeds by 30 times the value of the playballs exported during the same period. It is our current understanding that the maximum loan value under FOMEX export financing cannot exceed the value of the exports. We have requested clarification from the government of Mexico, but they have been unable to provide clarification at this time. For this preliminary determination, we have used the best information available to calculate the benefit rate for FOMEX export financing for playballs. We calculated the difference in interest expense between the 6 percent FOMEX rate and the most adverse benchmark commercial rate (the 17.16 percent rate from the recent Litharge case concerning the same program) on the full value of exports of playballs during the first 6 months of 1982. We divided this amount by the value of exports of playballs during the same period and we preliminarily determine the rate of 11.16 percent *ad valorem* as the benefit for the FOMEX export financing program for play balls.

We preliminarily determine the estimated net amount of the bounty or grant for pre-export loans to be 4.757 percent *ad valorem* for all the merchandise under investigation and the net amount of the benefit for export financing to be 4.646 percent *ad valorem* for toy balloons (including punchballs) and 11.16 percent *ad valorem* for playballs. The total estimated bounty or grant under the FOMEX programs is 9.403 percent *ad valorem* for toy balloons (including punchballs) and 15.917 percent *ad valorem* for playballs.

II. Program Preliminarily Determined Not to Confer Bounties or Grants

We preliminarily determine that bounties or grants are not being provided to manufacturers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs under the export insurance program.

Export Insurance Program

The petition alleges that the Mexican Credit Insurance Company (COMESEC) provides subsidized export insurance premium rates. The Mexican government's response states that COMESEC, which is a company funded by law and owned by private insurance companies, insured the exports to the

United States of the merchandise under investigation. Examination of COMESEC's annual report for 1980 reveals that it experienced an operating profit on insurance activities as well as receiving revenue from investments.

III. Programs Preliminarily Determined Not to Be Utilized

We preliminarily determine that the programs listed below which were listed in the notice of "initiation of Countervailing Duty Investigation, Toy Balloons (including Punchballs) and Playballs from Mexico" are not being used by the manufactuers, producers, or exporters in Mexico of toy balloons (including punchballs) and playballs.

A. Other Preferential Financing Programs

Petitioner alleged that producers, manufacturers, or exporters in Mexico of toy balloons (including punchballs) and playballs received a bounty or grant through the receipt of preferential loans from the Guarantee Fund for the Development of Small and Medium Sized Industries (FOGAIN), the Industrial Equipment Fund (FONEI), and the National Fund for industrial Development (FOMIN).

The government of Mexico's response states that none of the companies producing or exporting the merchandise under investigation received loans under the FOGAIN, FONEI, and FOMIN programs.

B. The Cedi Program

The Certificado de Devolucion de Impuesto (CEDI) is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are utilized, a percentage of the c.i.f. value of the exported product. The Secretary of Commerce of Mexico is responsible for setting the CEDI rate, which is not published. Exporters are required to apply for each CEDI by providing to the Ministry of Commerce (SECOM) documentation with respect to each individual shipment of qualifying exports. SECOM processes the application and, on approval, instructs the Ministry of the Treasury (TESORERIA) to issue the CEDIs in the amount specified.

The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico's response states that it discontinued the eligibility of toy balloons (including punchballs) and playballs for CEDI tax rebates by an Executive Order published in the *Diario Oficial de la Federacion* (Official Gazette) on August 25, 1982. The order abrogates prior Executive Orders which contained the lists of products eligible to receive CEDI certificates. Discontinuance of the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial.*

C. The CEPROFI Program

In 1979, the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion (CEPROFI), are used to promote the NIDP goals, which include increased employment, regional decentralization, industrial development, the promotion of small and medium sized firms, and the promotion of exports. The response states that none of the companies producing or exporting the merchandise under investigation received CEPROFIs.

D. Trade Development Services

The petition alleges that the Mexican Foreign Trade Institute (IMCE) has aided firms producing and exporting the merchandise under investigation by providing services in helping to develop foreign markets for their products. The government of Mexico's response to our questionnaire states that none of the companies producing or exporting the merchandise under investigation received or requested services from IMCE.

E. Rail Freight Rebates

The petition alleges that some Mexican companies have benefitted in the past from rebates on railroad freight rates. The government of Mexico's response states that rail freight rebates do not exist.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in making our final determinations.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of toy balloons (including punchballs) and playballs from Mexico which are entered, or withdrawn from warehouse, for consumption, on or after October 21, 1982, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 9.403 percent *ad valorem* for toy balloons (including punchballs) and 15.917 percent *ad valorem* for playballs.

This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10 a.m. on November 16, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW. Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by November 9, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

October 15, 1982.

[FR Doc. 82-28987 Filed 10-20-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 639]

Suin, S.A. and Carlos Mira Gallant; Order Temporarily Denying Export Privileges

In the matter of: SUIN, S.A., Calle Clot 194, Barcelona 27, Spain and Paseo Manuel Gironall, Ctra. N–340 Km 243'400, Vilaseca (Tarragona), Spain and CARLOS MIRA GALLART, a/k/a CARLOS MIRA, Barcelona and Tarragona, Spain, Hernandez Inglesias No. 4, Madrid 27, Spain.

The Department of Commerce (the "Department"), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1981)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Suin, S.A., Barcelona and Tarragona, Spain, and Carlos Mira Gallart, a/k/a Carlos Mira, its Managing Director and President ("Suin and Mira").

The Department states that Suin and Mira are under investigation by the Department's Office of Export Enforcement. The Department states further that its investigation gives it reason to believe: (i) That Suin and Mira have engaged in a scheme to procure United States-origin goods for use in, for, or by Bulgaria; (ii) that, in carrying out certain transactions, Suin and Mira have reexported U.S.-origin commodities contrary to the Regulations; and (iii) that Suin and Mira may attempt future reexports contrary to the Regulations unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order temporarily denying all export privileges to Suin and Mira is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.* (Supp. III 1979)), and the Regulations and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby.

Ordered

I. All outstanding validated export licenses in which respondents or any related party appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents and employees and to any successor. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondent is not or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. The business organizations now known to be owned by or affiliated with Suin and Mira, and which are accordingly subject to the provisions of this order, are:

Comerciasl R.M.S., S.A., Calle Clot 194, Barcelona 27, Spain

Magnetoflux, S.A., Pallars 1950, Barcelona, Spain.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authroization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacitiy, on behalf of or in any association with the respondents or any related party or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondents or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date. In accordance with the provisions of § 388.22 of the Regulations, the respondent or any related party may appeal to the Assistant Secretary for Trade Administration, U.S. Department of Commerce, Room 3898–B, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an order temporarily denying export privileges.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the respondent as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondents and the above-designated related parties.

Dated: October 14, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82–28988 Filed 10–20–82; 8:45 am]

BILLING CODE 3510–25–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Control on Certain Cotton Apparel Products from the People's Republic of China

October 19, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing levels of restraint for cotton sweaters on Category 345, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on August 28, 1982 and extends through November 25, 1982 and during the twelve-month period beginning on November 26, 1982 and extending through November 25, 1983.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was established in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (47 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR

52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool, and Man-made Fiber Textile Agreement of September 17, 1980, as amended, between the Governments of the United States and the People's Republic of China, consultations have been held concerning imports into the United States of cotton, wool, and man-made fiber apparel products in Category 345, among others, from the People's Republic of China. Notice of the intention to hold these consultations was published in the **Federal Register** on September 3, 1982 (47 FR 38961). Under the terms of the bilateral agreement, the People's Republic of China is obligated to limit its exports to the United States of these products during designated ninety-day and twelve-month periods to the following amounts:

Category 345: Ninety-Day Level of Restraint (August 28, 1982—November 25, 1982—)19,159 dozen.

Category 345: Twelve-Month Level of Restraint (November 26, 1982—November 25, 1983—)59,448 dozen.

In the event the limit established for the ninety-day period has been exceeded, such excess amount shall be charged to the level defined in the agreement for the subsequent twelve-month period.

Inasmuch as a mutually satisfactory solution has not yet been reached between the two governments, the United States Government has decided, in carrying out the provisions of the agreement, to limit the entry of imports as set forth above. The United States remains committed to finding a mutually satisfctory solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

EFFECTIVE DATE: October 25, 1982

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 17, 1981 there was published in the **Federal Register** (46 FR 61495) a letter dated December 14, 1981 to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool, and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1982. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Category 345, which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 345, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day and twelve-month periods, in excess of the designated levels of restraint.

Paul T. O'Day

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 19, 1982

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 17, 1980, as amended, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 25, 1982 and for the ninety-day period which began on August 28, 1982 and extends through November 25, 1982 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 345 produced or manufactured in the People's Republic of China and exported on and after August 28, 1982, in excess of the following level of restraint:

Category 345: Ninety-Day Level of Restraint [1]—19,159 dozen.

Textile products in Category 345 which have been exported to the United States prior to August 28, 1982 shall not be subject to this directive.

You are further directed to prohibit, effective on October 25, 1982 and for the twelve-month period beginning on November 26, 1982 and extending through November 25, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 345 produced or manufactured in the People's Republic of China and exported on and after November 26, 1982, in excess of the following level of restraint:

Category 345: Twelve-Month Level of Restraint [2]—59,448 dozen.

In carrying out this directive, entries of textile products in Category 345 produced or manufactured in the People's Republic of China, which have been exported to the United States during the period, August 28, 1982 through November 25, 1982, shall be charged against the levels of restraint established for such goods during this period. Goods in excess of the level of restraint established for that period shall be charged to the level of restraint established for the twelve-month period beginning on November 26, 1982 and extending through November 25, 1983.

Textile products in Category 345 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981, (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton textile products from China has 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 exception 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,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82–29075 Filed 10–20–82; 8:45 am]

BILLING CODE 3510–25–M

[1] The level of restraint has not been adjusted to reflect any imports after August 27, 1982.

[2] The level of restraint has not been adjusted to reflect any imports after November 25, 1982.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 13, 1982.

The USAF Scientific Advisory Board Space Division Advisory Group will

meet at the Los Angeles Air Force Station, California on November 15 and 16, 1982. The purpose of the meeting will be to review selected Air Force space programs. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82–28916 Filed 10–20–82; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Privacy Act OF 1974; Amendment to a System of Records

AGENCY: Department of the Navy, Defense.

ACTION: Amendment to a system of records notice.

SUMMARY: The Department of the Navy proposes to amend the notice for a system of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATE: The proposed action will be effective without further notice on November 22, 1982.

ADDRESS: Any comments, to include written data, views or arguments concerning the action proposed should be addressed to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, D.C.20350. Telephone: 202/694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** at:

FR Doc. 81–674 (47 FR 2574) January 18, 1982
FR Doc. 81–9204 (47 FR 14944) April 7, 1982
FR Doc. 82–9844 (47 FR 15636) April 12, 1982
FR Doc. 82–12593 (47 FR 20018) May 10, 1982
FR Doc. 82–15596 (47 FR 25041) June 9, 1982
FR Doc. 82–23533 (47 FR 37948) August 27, 1982

These changes do not require an altered system report as prescribed by 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

October 15, 1982.

NO7230–1

System name:

Civilian Pay System (47 FR 2721) January 18, 1982

Changes:

System name:

Delete the entire entry and substitute with the following: "Navy Standard Civilian Payroll System (NAVSCIPS)"

System location:

In line 2, delete the phrase: "125 Navy and Marine" and substitute with the following: "* * * 72 Navy and 1 Marine * * *"

Categories of records in the system:

In line 1, delete the word "All * * *"

Authority for maintenance of the system:

Delete the entire entry and substitute with the following: "5 U.S.C. 5301, Pay Rates and Systems, Pay Comparibility System Policy."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In line 1, delete the work "* * * all> * * *" In line 21 and 22, delete the phrase "* * * for FICA wage reporting; the Internal Revenue Service and, * * * " and substitute with the following: "* * * for FICA and FITW wage reporting, * * * "

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Retention and disposal:

In line 2, delete the number "2", and substitute with the number "6". In lines 3 through 6, delete the phrase "* * * after completion of on/site audits by GAO; if on-site audit is performed, retain records on-site for 4 years". In line 20, delete the acronym "CSC" and substitute with the acronym "OPM".

N07230–1

SYSTEM NAME:

Navy Standard Civilian Payroll System (NAVSCIPS)

SYSTEM LOCATION:

Decentralized. Maintained by 72 Navy and 1 Marine Corps civilian payroll offices; a list is available from the Commander, Navy Accounting and Finance Center (NAFC–42), Washington, DC 20376.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees who are employed by Navy and Marine Corps activities and are paid from appropriated funds.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5301 Pay Rates and Systems, Pay Comparability System Policy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To pay Navy and Marine Corps civilian employees, maintain leave and retirement records and to record, report and account for government expenditures for personal services.

User:

Navy and Marine Corps civilian payroll offices.

Uses:

Provides a means of paying, recording and accounting for government expenditures for personal services of Navy and Marine Corps civilian employees; provides time and attendance information to individual employees and management; provides audit trails for GAO, Navy Area Audit, and internal audit procedures; provides federal, state, and city tax information to appropriate authorities; provides retirement information and monies to OPM for computation of annuities; provides other data to OPM as required for special studies; provides information to the Treasury Department in connection with check issuance, the Veterans Administration in regard to disability or serverance pay entitlement, the Social Security Administration for FICA and FITW wage reporting, state and local tax authorities for computing or resolving tax liability; state employment agencies wage information to determine eligibility for unemployment compensation benefits of former employees.

To provide to financial organizations lists of those employees who make deposits and the amount of the deposit to each financial organization. To provide officials of labor organizations recognized under Executive Order 11491, as amended, with information as to the identity of employees contributing dues each pay period and the amount of dues withheld from each contributor. To provide information to GAO on those requests for waiver of overpayments of

pay which are forwarded to them for adjudication.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Payroll records are maintained on-site for 6 years, then shipped to Federal Record Center where they are retained for 56 years. Leave Records—same as above, except held by Federal Record Center for 10 years.

* * * * *

[FR Doc. 82-28879 Filed 10-20-82; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DOD.

ACTION: Publication of phanges in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 116. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 116 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: October 14, 1982.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 116

To the Heads of Executive Departments and Establishments

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropiate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 115 except in the cases identified by an asterisk which rates are effective on the date of this Bulletin.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.60
Anaktuvuk Pass	140.00
Anchorage	89.00
Barrow	169.00
Bethel	114.00
College	97.00
Cordova	109.00
Deadhorse	142.00
Dillingham	103.00
Dutch Harbor	82.00
Eielson AFB	97.00
Elmendorf	89.00
Fairbanks	97.00
Ft. Richardson	89.00
Ft. Wainwright	97.00
Juneau	97.00
Ketchikan	96.00
Kodiak	103.00
Kotzebue	109.00
Murphy Dome	97.00
Noatak	109.00
Nome	110.00
Noorvik	109.00
Petersburg	96.00
Point Hope	100.00
Prudhoe Bay	142.00
Shemya AFB [1]	11.00
Shungnak	109.00
Sitka-Mt. Edgecombe	96.00
Skagway	96.00
Spruce Cape	103.00
Tanana	110.00
Valdex	93.00
Wainwright	79.00
Wrangell	96.00
All Other Localities	83.00
American Samoa	65.00
Guam M.I	74.00
Hawaii:	
Oahu	91.00
All Other Localities	67.00
Johnston Atoll [2]	19.10
Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
12-16—5-15	119.00
5-16—12-15	88.00
Carolina:	
12-16—5-15	119.00
5-16—12-15	88.00
Fajardo (Including Luquillo):	
12-16—5-15	119.00
5-16—12-15	88.00
Ft. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16—5-15	119.00
5-16—12-15	88.00
*Ponce (Incl. Ft. Allen NCS)	72.00
Roosevelt Roads:	
12-16—5-15	119.00
5-16—12-15	88.00
Sabana Seca:	
12-16—5-15	119.00
5-16—12-15	88.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	119.00
5-16—12-15	88.00
*All Other Localities	80.00
Virgin Islands of U.S.:	
12-1—4-30	113.00
5-1—11-30	88.00
Wake Island [2]	15.00
All Other Localities	20.00

[1] Commercial facilities are not available. The $12.60 per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

Dated: October 15, 1982.

M. S. Healy,

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

[FR Doc. 82-28818 Filed 10-20-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: November 11–12, 1982, 9:00 a.m. to 5:00 p.m.

ADDRESS: Convention Center, S. Alamo at E. Durango Blvd., San Antonio, Texas.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D. C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section

313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including polices and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes:

Consolidation and Block Grants
Council Budget
Committee Reports
Executive Director's Report
Council Chairman's Report

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D. C. on October 18, 1982.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 82-28956 Filed 10-20-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Educational Opportunity Centers Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1983

Applications are invited for noncompeting continuation awards under the Educational Opportunity Centers Program.

Authority for this program is contained in sections 417A and 417E of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d, 1070d–1c)

The Secretary awards grants under this program to institutions of higher education, public and private agencies and organizations, and, in exceptional cases, to secondary schools.

The purpose of the awards is to assist disadvantaged persons desiring to pursue a program of postsecondary education by providing them with information on available financial and academic assistance and by helping them apply for admission to postsecondary institutions and for financial aid to attend such institutions.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by November 22, 1982.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.066 (Educational Opportunity Centers), Washington D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington D.C. time), daily except Saturdays, Sundays, and Federal holidays.

Available Funds: The Administration's fiscal year 1983 budget request does not include the Educational Opportunity Centers Program. However, if Congress appropriates funds for this program in fiscal year 1983, the Secretary plans to make these funds available for noncompeting continuation awards.

Accordingly, noncompeting continuation applications are being requested even though no funds are currently available for the Educational Opportunity Centers Program. Current grantees wil be notified if and when such funds become available.

Application Forms: Application forms for noncompeting continuation awards are expected to be ready for mailing no later than October 21, 1982. They are mailed routinely to currently funded projects. If a grantee does not receive the form by November 1, 1982, the grantee should telephone the information Systems and Program Support Branch of the Division of Student Services at (202) 245–7070.

Applications must be prepared and submitted in accordance with instructions and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts, 74, 75, 77, and 78: and

(b) Regulations for the Educational Opportunity Centers Program in 34 CFR Part 644 as published in the **Federal Register** on January 14, 1982, (47 FR 2258–2265).

Further Information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2511.

(Catalog of Federal Domestic Assistance Number: 84.066–Educational Opportunity Centers Program)

(20 U.S.C. 1070d, 1070d–1c)

Dated: October 15, 1982.

Edward M. Elmendorf,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 82-28955 Filed 10-20-82; 8:45 am]

BILLING CODE 4000-01-M

Talent Search Program; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1983

Applications are invited for noncompeting Continuation awards under the Talent Search Program.

Authority for this program is continued in sections 417A and 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d, 1070d–1)

The Secretary awards grants under this program to institutions of higher education, public and private agencies and organizations, and, in exceptional cases, to secondary schools.

The purpose of the awards is to allow applicants to carry out projects designed to enable disadvantaged youths to continue in and graduate from secondary school and to enroll in postsecondary educational programs.

Closing Date For Transmittal Of Applications: To be assured of consideration for funding, application for a noncompeting continuation award should be mailed or hand delivered by November 22, 1982.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered By Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.044 (Talent Search), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered By Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays.

Available Funds: The Administration's fiscal year 1983 budget request does not include the Talent Search Program. However, if Congress appropriates funds for this program in fiscal year 1983, the Department plans to make these funds available for noncompeting continuation awards.

Accordingly, noncompeting continuation applications are being requested even though no funds are currently available for the Talent Search Program. Current grantees will be notified if and when such funds become available.

Application Forms: Application forms for noncompeting continuaton awards are expected to be ready for mailing no later than October 21, 1982. They are mailed routinely to currently funded projects. If a grantee does not receive the forms by November 1, 1982, the grantee should telephone the Information Systems and Programs Support Branch of the Division of Student Services at (202) 245–7070.

Applications must be prepared and submitted in accordance with instructions and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to noncompeting continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations for the Talent Search Programs in 34 CFR Part 643 as published in the **Federal Register** on February 19, 1982, (47 FR 7604–7610).

Further Information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education, (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2511.

(Catalog of Federal Domestic Assistance Number: 84.044–Talent Search Program)

(20 U.S.C. 1070d, 1070d–1)

Dated: October 15, 1982.

Edward M. Elmendorf,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 82–28957 Filed 10–20–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since October 7, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Thursday, October 14, 1982, (47 FR 45898).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252–2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395–3087)

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should

also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., October 18, 1982.

Yvonne M. Bishop,

Director, Statistical Standards Energy Information Administration.

DOE Forms Under Review by OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
GC-498A	Application for Nonexclusive Patent License.	Extension	On occasion	Required to obtain benefits.	Applicants with plans for development and/or marketing the invention.	15	15	The information in the applications is necessary to allow DOE to qualify applicants for desired license. Information as to use of licensed inventions is necessary to allow DOE to administer "march-in" provisions which allow DOE to terminate or modify the license if satisfactory utilization of the licensed subject matter is not achieved.
GC-498B	Exclusive Patent License.	Extension	On occasion	Required to obtain benefits.	Applicants with plans for development and/or marketing the invention.	15	15	
GC-498C	Inquiry as to Usage of Licensed Subject Matter.	Extension	On Occasion	Required to obtain benefits.	Licensees	200	100	
FERC-6	Annual Report of Oil Pipeline Companies.	Reinstatement.	Annual	Mandatory	Oil Pipeline Companies.	138	17,772	FERC-6 is a financial and operating report used by the Federal Energy Regulatory Commission (FERC) to carry out its regulatory responsibilities under the Interstate Commerce Act. Data are used to establish rates, in rate proceedings, in formal investigations, financial audits and continuous review of the financial condition of the oil pipeline companies regulated by the FERC.

[FR Doc. 82-28954 Filed 10-20-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals Cases Filed; week of September 27 Through October 1, 1982

During the week of September 27 through October 1, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: October 15, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 27 through Oct. 1, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 7, 1982	Economic Regulatory Administration/Marathon Oil Company, Washington, D.C.	HRZ-0096	Interlocutory Order. If granted: The office of Hearings and Appeals would adopt the principal findings of fact as set forth in the Proposed Remedial Order issued to Marathon Oil Company (Case No. HRO-0025).
Do.	Economic Regulatory Administration/Marathon Oil Company, Washington, D.C.	HRZ-0098	Interlocutory Order. If granted: Certain issues raised in Marathon Oil Company's Statement of Objections to a Proposed Remedial Order (Case No. HRO-0025) would be stricken from the record of the proceeding.
June 4, 1982	Economic Regulatory Administration/Marathon Oil Company, Washington, D.C.	HRZ-0097	Interlocutory Order. If granted: The Office of Hearings and Appeals would adopt the principal findings of fact as set forth in the Proposed Remedial Order issued to Marathon Oil Company (Case No. HRO-0024).
Do.	Economic Regulatory Administration/Marathon Oil Company, Washington, D.C.	HRZ-0099	Interlocutory Order. If granted: Certain issues raised in Marathon Oil Company's Statement of Objections to a Proposed Remedial Order (Case No. HRO-0024) would be stricken from the record of the proceeding.
Sept. 21, 1982	Texaco, Inc., White Plains, New York	HRD-0077	Motion for Discovery. If granted: Discovery would be granted to Texaco, Inc. in connection with its Statement of Objections to a Proposed Remedial Order issued to it (Case No. DRO-0199).
Sept. 27, 1982	Safe Energy Communications Council, Washington, D.C.	HFA-0085	Appeal of an Information Request Denial. If granted: The Safe Energy Communications Council would receive access to information provided by the DOE Office of Nuclear Energy.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Sept. 27 through Oct. 1, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 29, 1982	Gulf Oil Corporation, Washington, D.C.	HFZ-0100	Interlocutory Order. If granted: The Office of Hearings and Appeals would accept certain factual representations made by Gulf Oil Corporation in its Statement of Objections to the May 1, 1979 Proposed Remedial Order issued to it (Case No. DRO-0184).
Do.	Imperial Refineries, Washington, D.C.	HCX-0048	Supplemental Order. If granted: The June 2, 1982 Decision and Order issued to Imperial Refineries by the Office of Hearings and Appeals (Case No. BRO-0093) would be modified in accordance with the September 22, 1982 Order Remanding Proceeding issued by the Federal Energy Regulatory Commission.
Do.	Office of Special Counsel/Atlantic Richfield Company, Washington, D.C.	HRZ-0101	Interlocutory Order. If granted: Atlantic Richfield Company would be compelled to conduct an additional search for documents responsive to the November 19, 1981 Decision and Order issued to the Office of Special Counsel (Case No. BRH-0126).
Do.	Utex Oil Company, Salt Lake City, Utah	HRD-0081, HRH-0081	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Utex Oil Company in response to the Proposed Remedial Order issued to the firm (Case No. HRO-0081).
Sept. 30, 1982	Mills Bennett Estate, Houston, Texas	HEE-0042	Exception to the Reporting Requirements. If granted: Mills Bennett Estate would not be required to file form EIA-278A "Monthly Petroleum Sales Report".
Oct. 1, 1982	Robert J. Kane and Associates, Inc. Washington, D.C.	HFA-0086	Appeal of an Information Request Denial. If granted: Robert J. Kane & Associates would receive access to certain DOE information held by the Energy Information Administration.

[FR Doc. 82-28993 Filed 10-20-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180615; PH-FRL 2232-7]

Ferriamicide; Issuance of Specific Exemptions for Use To Control Imported Fire Ants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has granted specific exemptions to the Arkansas State Plant Board, the Mississippi Department of Agriculture and Commerce and the Texas Department of Agriculture (the "Applicants") for use of the pesticide product Ferriamicide to control imported fire ants. The specific exemptions are issued under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

DATE: The specific exemptions expire no later than June 30, 1983. See Supplementary Information for further details.

FOR FURTHER INFORMATION CONTACT: Ferial S. Bishop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716G, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: The imported fire ant is an insect pest which causes adverse public health and economic effects in the southeastern United States. The sting or bite of the imported fire ant causes fiery, burning and often debilitating pain in the victim and infrequently may result in death. The imported fire ant also has adverse economic effects in areas of infestation due to reduced yields in agricultural crops, damage to agricultural equipment from fire ant mounds and increased harvesting costs for labor intensive crops.

Despite intensive efforts by the pesticide industry and governmental bodies, there is currently no pesticide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), (7 U.S.C. sec. 136 *et seq.*) which legally can be used to control the imported fire ant through broadcast application to agricultural acreage. While a pesticide to control the fire ant is registered for broadcast application to land not used for the production of crops, EPA has received reliable information indicating that there are areas of high infestation where this registered product is not yet adequately available. Therefore, there are presently no registered pesticides which are adequately available to control the imported fire ant in the Applicants' States.

The Environmental Protection Agency has received applications from the Arkansas State Plant Board, the Mississippi Department of Agriculture and Commerce, and the Texas Department of Agriculture requesting that the Agency grant exemptions from the registration requirements of FIFRA to permit the use of the pesticide Ferriamicide to control the imported fire ant in the Applicants' States. Section 18 of FIFRA (7 U.S.C. sec 136p) and 40 CFR Part 166 allow the Administrator of EPA in his discretion to grant such an exemption if he determines that emergency conditions exist. Based on the available information, the Agency has determined that there are currently no adequate methods of control of the imported fire ant available to the Applicants, that the imported fire ant is causing significant economic and health problems in infested areas of the Applicants' States, and that during the time for which the exemptions are granted no registered pesticide is likely to become available adequately to control the imported fire ant. The Agency, therefore, has determined that an emergency exists in the Applicants' States and has determined to grant exemptions to the registration provisions of FIFRA. The exemptions do not grant all of the relief sought by the Applicants and are narrowly circumscribed to avoid any under harm to the environment. The exemptions will expire on June 30, 1983, and may be rescinded earlier if the Agency determines that alternatives to the use of Ferriamicide have become sufficiently available to alleviate the emergency.

EPA has authorized the use of Ferriamicide (1) On cropland, after the crop has been harvested and prior to planting the following crop, and (2) On noncrop areas where registered pesticides cannot be used due to lack of availability of registered alternatives or lack of proper application equipment. The Agency has established a guideline of a minimum of 50 mature (one foot or greater in diameter) active mounds per acre for use by the States in determining whether infested areas should be treated. This guideline will be used in conjunction with other conditions set out in the telegram granting the

exemption. The following is a list of the conditions and restrictions imposed on the use of Ferriamicide under the exemptions:

1. The States are responsible for ensuring that all provisions of the specific exemptions are met. They are responsible for providing information in accordance with 40 CFR 166.5. This information is to be submitted to EPA headquarters through the EPA regional office.

2. The use of a bait formulation of Ferriamicide containing 0.05 percent of the active ingredient dodecachlorooctahydro-1,3,4-metheno-2H-cyclobuta (CD) petalene is authorized.

3. The States will consider, in addition to other conditions and limitations set forth herein, a guideline of 50 mature (one foot or greater in diameter) active mounds per acre in determining which infested areas should be treated.

4. The product, packaged in containers of five pounds or larger, will be shipped and used under labeling submitted by the Mississippi Department of Agriculture and Commerce with the exception that directions for use will be in accordance with the conditions and restrictions of the exemptions.

5. Use of Ferriamicide is authorized on land to be used for crop production and contiguous margins (up to 150 feet in width) and on non-cropland areas.

6. Prior to use on non-cropland areas, each State must certify that a registered pesticide and/or application equipment are not available at the proposed time of application of Ferriamicide. The certification statements must be submitted to the Agency in the status report as required in 40 CFR 166.5.

7. No applications will be made to rangeland or pastureland.

8. No applications will be made to growing crops.

9. No applications will be made to areas less than one acre in size.

10. No Applications will be made to levees.

11. Application of Ferriamicide in coastal zones and to aquatic areas is prohibited. The State should take the appropriate measures to minimize the indirect contamination of aquatic areas.

12. Ferriamicide will be applied at a maximum rate of one pound of formulation per acre.

13. No more than two applications will be made to any one acre.

14. All applications will be made by certified applicators only.

15. All applications will be made using properly calibrated equipment.

16. Application may be made only as broadcast treatments (individual mound treatment is prohibited) using either ground or aerial application equipment.

17. Aerial applications will be made using either helicopters or single-engine aircraft flying at an altitude of no greater than 150 feet and at a speed of no more than 150 miles per hour provided that these conditions do not conflict with regulations of other agencies, including the Federal Aviation Administration, governing the aerial applications of pesticides. In those instances where a conflict does exist, ground applications only may be made.

18. Grazing or foraging of treated areas is prohibited for at least six weeks following treatment with Ferriamicide.

19. Loaders and applicators of Ferriamicide must wear plastic or rubber gloves and take care to avoid contact of the bait with mouth or eyes.

20. Women of child-bearing age are prohibited from loading/applying Ferriamicide.

21. Each State is solely responsible for all distribution of its Ferriamicide bait and will monitor all distribution and use to ensure compliance with the exemption.

22. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with the exemption.

23. Unused product must be returned to the Mississippi Fire Ant Authority or disposed of in an approved hazardous waste disposal site.

24. A final report summarizing the results of this program must be submitted no later than four months following the expiration of each exemption.

25. The specific exemptions expire on June 30, 1983, or when a registered pesticide is available which would alleviate the emergency situation, whichever occurs first.

Dated: October 15, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-29084 Filed 10-20-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00037; TSH FRL 2230-7]

Interagency Toxic Substances Data Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting

SUMMARY: This notice announces the forthcoming meeting of the Interagency Toxic Substances Data Committee.

DATE: The meeting will take place on November 2, 1982, at 9:30 a.m.

ADDRESS: This meeting and all subsequent meetings will be held in the: First Floor Conference Rm., Council on Environmental Quality, 722 Jackson Pl., NW., Washington, D.C. 20006.

Please use the entrance on Jackson Place.

FOR FURTHER INFORMATION CONTACT: Mary Belferman (TS-777), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460 (202-554-1404).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually take place on the first Tuesday of alternate months at 9:30 a.m. and are open to the public. This meeting and all future meetings will be held at the location given under ADDRESS above.

The next meeting of the Interagency Toxic Substances Data Committee will take place on January 4, 1983.

Dated: October 12, 1982.

Mary Belferman,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 82-28942 Filed 10-20-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(3) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested person may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawkeye Bancorporation*, Des Moines, Iowa; to acquire 80 percent of the voting shares of State Bank of

Vinton, Vinton, Iowa. Comments on this application must be received not later than November 15, 1982.

Board of Governors of the Federal Reserve System, October 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28903 Filed 10-20-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Hospital Trust Corporation,* Providence, Rhode Island (mortgage banking and servicing activities; Nationwide): to engage through its subsidiary, RIHT Mortgage Corporation, in originating, selling and servicing commercial and residential mortgage loans. These activities would be conducted from offices in Charlotte and Raleigh, North Carolina; Atlanta, Georgia; and Miami, Florida, serving North Carolina, Florida, Georgia, South Carolina, Virginia, District of Columbia, Maryland, Delaware and Pennsylvania, with respect to mortgage banking; servicing activities will be conducted nationwide. Comments on this application must be received not later than November 8, 1982.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation,* New York, New York (commercial finance; New Jersey): To engage through a *de novo* office of its indirect subsidiary Finance One Commercial Corporation to be located in Marlton, New Jersey, in the activities of making, acquiring, or servicing commercial loans and other extensions of credit such as could be made or acquired by a commercial finance company under New Jersey law. Such activities will include but not be limited to, engaging in commercial and business financing of all types, and making loans secured by residential real estate to individuals for business purposes. This office would serve the entire State of New Jersey. Comments on this application must be received not later than November 15, 1982.

2. *Manufacturers Hanover Corporation,* New York, New York (commercial finance; Pennsylvania): To engage through a *de novo* office of its indirect subsidiary Finance One Commercial Corporation to be located in Philadelphia, Pennsylvania, in the activities of making, acquiring, or servicing commercial loans and other extensions of credit such as could be made or acquired by a commercial finance company under Pennsylvania law. Such activities will include but not be limited to, engaging in commercial and business financing of all types, and making loans secured by residential real estate to individuals for business purposes. This office would serve the entire State of Pennsylvania. Comments on this application must be received not later than November 15, 1982.

C. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Northeastern Bancorp,* Scranton, Pennsylvania (trust company activities; Florida): To engage, through a *de novo* limited purpose national bank, in activities that may be performed or carried on by a trust company (including activities of a fiduciary, agency or custodian nature), in the manner authorized by Federal or State law. These activities would be conducted from offices in Vero Beach, Florida, serving Indian River, Brevard, Saint Lucie and Martin Counties, Florida. Comments on this application must be received no later than November 15, 1982.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation,* Albuquerque, New Mexico (trust company activities, including activities of a fiduciary, agency, or custodian nature; New Mexico): To engage, through its subsidiary First City Trust Company, in all functions or activities that may be performed by a trust company, including activities of a fiduciary, agency, or custodian nature. These activities would be conducted from offices in Albuquerque, New Mexico, serving Bernalillo County and the State of New Mexico, to the extent permitted by New Mexico Statutes, which do not allow for the establishment of branch offices. Comments on this application must be received not later than November 15, 1982.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BandAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Mississippi and Alabama): To continue to engage, through its indirect subsidiaries, FinanceAmerica Industrial Plan Inc. and FinanceAmerica Corporation, both Mississippi corporations, in the activities of making of acquiring for their own account loans and other extensions of credit such as would be made of acquired by a finance company, servicing loans and other extensions of credit, and offering credit-related life insurance credit-related accident and health insurance and credit-related property insurance in the states of Mississippi and Alabama. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales contracts, making loans and other extensions of credit to small businesses, making loans and other extensions of credit secured by real and personal property, and offering credit-related life, credit-related accident and health, and credit-related property insurance directly related to extensions of credit made or acquired by both FinanceAmerica Industrial Plan

Inc. and FinanceAmerica Corporation. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of both FinanceAmerica Industrial Plan Inc. and FinanceAmerica Corporation. The activities of both corporations will be conducted from an existing office located in Columbus, Mississippi, serving the entire states of Mississippi and Alabama. Comments on this application must be received not later than November 15, 1982.

Board of Governors of the Federal Reserve System, October 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28902 Filed 10-20-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Heartland Financial Bancshares, Inc.*, El Paso, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of Woodford County Bank, El Paso, Illinois; Woodford Investment Company; Eureka, Illinois; State Bank of Cornland, Cornland, Illinois; and Bank of Carlock, Carlock, Illinois. Comments on this application must be received not later than November 15, 1982.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Central Corporation*, Searcy, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Searcy, Searcy, Arkansas. Comments on this application must be received not later than November 15, 1982.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *M.M. Enterprises of Plentywood, Inc.*, Plentywood, Montana; to become a bank holding company by acquiring 80 percent of the voting shares of Security State Bank of Plentywood, Plentywood, Montana. Comments on this application must be received not later than November 15, 1982.

2. *MSB Holding Co., Inc.*, Bismarck, North Dakota; to become a bank holding company by acquiring 83.7 percent of the voting shares of Mandan Security Bank, Mandan, North Dakota. Comments on this application must be received not later than November 15, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Lancaster Bancshares, Inc.*, Lancaster, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Lancaster, Lancaster, Texas. Comments on this application must be received not later than November 15, 1982.

2. *San Pedro Bancshares, Inc.*, San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of San Pedro State Bank, San Antonio, Texas. Comments on this application must be received not later than November 15, 1982.

E. **Board of Governors of the Federal Reserve System**, (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Park National Corporation*, Knoxville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Park National Bank, Knoxville, Tennessee. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than November 15, 1982.

Board of Governors of the Federal Reserve System, October 15, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-28904 Filed 10-20-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Orphan Products Development; Public Meeting

The Department of Health and Human Services and the Office of the Assistant Secretary for Health announce that a public meeting will be held on November 18, 1982, in Washington, D.C., to receive information and views from interested persons on the issue of orphan products development. The meeting will be chaired by Edward N. Brandt, Jr., M.D., Assistant Secretary for Health, and will commence at 9:30 a.m., in Room 800—Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Written notice of participation should be sent to Orphan Products Development/HF-35, Food and Drug Administration, Room 12-11, 5600 Fishers Lane, Rockville, Maryland 20857, and should be received by November 9, 1982.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Pharm.D., Executive Secretary, Orphan Products Board, Food and Drug Administration/HF-35, Department of Health and Human Services, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4903

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services announced in March his intention of forming an Orphan Products Board to be chaired by the Assistant Secretary for Health. The Board is composed of representatives from the Department, the Veterans Administration (VA), and the Department of Defense (DoD). Representatives from Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), Centers for Disease Control (CDC), Food and Drug Administration (FDA), Health Care Financing Administration (HCFA), National Cancer Institute (NCI), National Institutes of Neurological and Communicative Disorders and Stroke (NINCDS), and the Office of the Assistant Secretary for Health (OASH) have been appointed.

The Board will foster action within the Department to facilitate the research, development, and approval of orphan products. The Board will coordinate government activities with the private sector to achieve these goals. With these goals in mind, the Board would like to receive information and views on a number of issues surrounding the development and availability of orphan products.

The Assistant Secretary for Health believes that an open public meeting will provide a forum for participation to receive comments and discussions to guide the Board in its future decisions. Future public meetings to be chaired by the Assistant Secretary for Health are also expected.

The Orphan Products Board realizes there are a number of unsettled issues related to the development of orphan products. However, it requests that discussion presented at this meeting be directed to a few general questions and a number of more specific questions.

1. What are the main issues of concern to the consumer, relating to orphan products?

2. How can disease-oriented interest groups assist in orphan product development?

3. What incentives should be made available to the manufacturers of orphan products?

In addition to these three general questions, specific responses are requested to the following questions:

1. Is there a need for a national information center for the distribution of information about orphan diseases and orphan drugs? If so, what specific information should be compiled and who should establish and maintain the center?

2. What public education measures can be taken to inform patients and their families of the availability of approved treatment for orphan diseases?

3. How can research scientists participate in orphan product development?

4. In what ways can industry participate in orphan drug development?

Those persons wishing to make a presentation at the meeting should submit a written request to the Executive Secretary of the Orphan Products Board for a time slot. The request for participation should be submitted before November 9, 1982, and should include:

1. Name, address and telephone number of the person desiring to make a presentation;

2. Affiliation, if any;

3. A summary of the presentation; and

4. The approximate amount of time required for the presentation (no more than 10 minutes, unless more time can be justified).

Individuals and organizations with common interests are urged to coordinate or consolidate their presentations. Joint presentations may be required by persons or organizations with common interest. The time available for the meeting will be allocated among the individuals who request an opportunity for a presentation. A schedule of the meeting with the approximate times will be made available prior to the meeting to provide for adequate travel arrangements. Formal written statements or extensions of remarks (preferably 5 copies) may be presented to the chairman on the day of the meeting for inclusion in the record of the meeting. At the discretion of the Chairman of the Orphan Products Board, and as time permits, any person in attendance may be heard with respect to the questions under consideration. This time will, most likely, be at the end of the afternoon session.

For those not able to attend the meeting, comments may be sent to Stephen C. Groft, Pharm. D., Executive Secretary of the Orphan Products Board, at the address listed above.

Dated: October 15, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-28886 Filed 10-20-82; 8:45 am]

BILLING CODE 4160-17-M

Office of the Secretary

Advisory Council on Social Security; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10 (a) (2) of Pub. L. 92-463, The Federal Advisory Committee Act, notice is hereby given of the first meeting of the Advisory Council on Social Security, as established by the Secretary of Health and Human Services, and announced on September 16, 1982.

DATE/ADDRESS: The meeting will be held on November 7, 1982 from 2:00 to 7:30 P.M. at the Holiday Inn, Washington-Capital Mall Area, 550 C Street, SW, Washington, D.C. 20024, and on November 8, from 9:30 A.M. to 4:30 P.M. in the auditorium of the Hubert H. Humphrey Building of the Department of Health and Human Services, 200 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, 200 Independence Ave., SW., Washington, D.C. 20201; telephone (202) 245-8502.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Attendance will be limited to the space available. Interested parties are invited to submit written presentations for consideration by the Council. Suggested topics for future Council deliberation will also be welcome. Correspondence can be addressed to Advisory Council on Social Security, 200 Independence Ave., SW., Washington, D.C. 20201.

The proposed agenda includes briefings on the Medicare program; discussions of the financial status of Medicare in the 1980s; and such other business as the chairperson, the executive director, or the membership may put before the Council.

The Advisory Council on Social Security is established by title VII, section 706 of the Social Security Act (title 42, United States Code, section 907.) The Council was to have been appointed in 1981 but was delayed until now. Its purpose is to place particular emphasis on a review of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of the programs under Parts A and B of title XVIII, and to review the scope of coverage and adequacy of benefits. Reports are to be prepared and submitted on their findings and recommendations.

Records are kept of all Council proceedings and are available for public inspection at the office of the Administrative Officer, Advisory Council on Social Security, Room 317H, HHH Building, 200 Independence Ave., SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 82-28885 Filed 10-20-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Devils Lake Sioux Tribe; Fort Totten Indian Reservation, North Dakota; Transfer of Federally Owned Lands

October 5, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On May 7, 1982, pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 93-599 dated January 2, 1957 (88 Stat. 1954), the below-described property was transferred by the Administrator of General Services to the Secretary of the Interior, without reimbursement, to be held in trust for the use and benefit of the Devils Lake Sioux Tribe, Fort Totten Reservation, North Dakota:

A parcel of land and buildings located in Lot 7, Sec. 16, T. 152 N., R. 65 W., 5th P.M.,

North Dakota, more particularly described as: commencing at the southwest corner of said Sec. 16, which is common to Sections 17, 20 and 21, T. 152 N., R. 65 W.; thence N. 00°00', 280 feet; thence N. 88°00' E., 625 feet to point of beginning; thence N. 02°00' W., 167 feet; thence N. 88°00' E., 127 feet; thence S. 02°00' E., 167 feet; thence S. 88°00' W., 127 feet to point of beginning, containing .5 acre more or less.

These lands are to be treated as and receive the same benefits and protection as other lands held for the benefit and use of the Devils Lake Sioux Tribe. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-28938 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[W-71209]

Conveyance Noncompetitive Sale of Public Land in Park County, Wyoming

Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976; 43 U.S.C. 1713 (1976), Lee G. and Charlotte H. Wurst have purchased, by noncompetitive sale, and received a patent for public land in Park County, Wyoming described as:

Sixth Principal Meridian

T. 52 N., R. 104 W.,
Sec. 18, lot 49.

Aggregating 0.4 acres.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-28936 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

Miles City District Advisory Council; Meeting

October 15, 1982

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Miles City District Advisory Council will be held December 1, 1982. The meeting will begin at 10:00 a.m. in the conference room at the Miles City District, Bureau of Land Management Office, Highway 10-12 at Garryowen Road, Miles City, Montana.

The agenda is a follows:

1. Orientation and election of officers.
2. Asset managment.
3. Meridian Land and Mineral Co. proposed coal exchange.
4. Oil and gas development near Makoshika State Park.

The meeting is open to the public. The public may make oral statements before the Advisory Council or file written statements for the council's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact District Manager, Miles City District, Bureau of Land Mangement, P.O. Box 940, Miles City, Montana 59301.

Robert A. Teegarden,

Associate District Manager.

[FR Doc. 82-28934 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

Montana; Reassessment of Wilderness Final Inventory Decisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reassessment of wilderness final inventory decisions remanded by Interior Board of Land Appeals.

SUMMARY: The Interior Department Board of Land Appeals (IBLA) has directed the BLM's Montana State Office to reassess its wilderness intensive inventory decisions on five units in the Missouri Breaks, Lewistown District. The Board's action is the result of appeals by the following appellants:

(1) The Wilderness Society ET *AL* (IBLA 81-606),

(2) Square Butte Grazing Association (IBLA 81-607),

(3) Ken Brower (IBLA 81-609),

(4) Charles M. Hauptman (IBLA 81-611, 81-663), and

(5) Charles Schwenke (IBLA 81-664).

The units involved are: MT-066-250 Stafford; MT-066-253 Ervin Ridge; MT-066-255 Bullwhacker; MT-066-256 Cow Creek; and MT-068-244 Dog Creek South.

The Montana State Director will issue any revised record of decisions on these units by November 17, 1982.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Lewistown District, Airport Road, Lewistown, Montana 59457 (406/538-7461).

Glenn W. Freeman,

District Manager.

[FR Doc. 82-28932 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 54141]

New Mexico; Legal Notice

October 14, 1982.

Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 54141, members of the public are hereby invited to participate with Northwestern Resources Company, on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in McKinley and Sandoval Counties, New Mexico, and are described as follows:

T. 16 N., R. 4 W., New Mexico Prin. Mer., New Mexico
Sec. 8: NW¼NW¼.

T. 16 N., R. 5 W., New Mexico Prin. Mer., New Mexico
Sec. 1: SE¼NW¼, SE¼SE¼;
Sec. 2: SE¼NE¼, SE¼,
Sec. 3: S½;
Sec. 4: SW¼;
Sec. 5: NE¼, SW¼;
Sec. 6: NE¼SW¼;
Sec. 7: SE¼NW¼;
Sec. 8: NE¼, SW¼;
Sec. 9: NW¼, SE¼SE¼;
Sec. 10: NE¼SE¼;
Sec. 11: E½, SE¼SW¼;
Sec. 12: MW¼SE¼;
Sec. 13: NE¼NE¼, SE¼NW¼, SE¼SW¼, NE¼SE¼;
Sec. 15: NE¼NE¼, NE¼NW¼, SW¼SW¼, NE¼SE¼;
Sec. 16: NW¼NE¼,W½SE¼;
Sec. 17: NE¼SE¼;
Sec. 18: SE¼NW¼;
Sec. 19: NW¼SE¼;
Sec. 20: NE¼NW¼, NE¼SE¼;
Sec. 21: SE¼NW¼.

T. 17 N., R. 6 W., New Mexico Prin. Mer., New Mexico
Sec. 35: SE¼SE¼.

Containing 2,880.00 acres.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Northwestern Resources Company, P.O. Box 1899, Billings, Montana 59103. Such written notice must be received no later than 30 calendar days after the publication of this notice in the **Federal Register.**

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is full described and will be conducted pursuant to an exploration plan to be approved by the Minerals Management Service and the Bureau of Land Management. A copy of exploration plans as submitted by Northwestern Resources Company may

be examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, Mew Mexico, and the Minerals Management Service, 411 N. Auburn Avenue, Farmington, New Mexico.

Leroy C. Montoya,

Acting State Director.

[FR Doc. 82-28929 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 54142]

New Mexico; Legal Notice

October 14, 1982.

Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 54142, members of the public are hereby invited to participate with Boulder Exploration Group, Inc., on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in McKinley County, New Mexico, and are described as follows:

T. 15 N., R. 19 W., New Mexico Principal Meridian, New Mexico
Sec. 6, lots 1, 2, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, N½NE¼;
Sec. 8, NE¼SE¼.

T. 15 N., R. 20 W., New Mexico Principal Meridian, New Mexico
Sec. 1, lots 3, 4, S½NW¼; SW¼;
Sec. 2, lot 1, SE¼NE¼, SW¼, NE¼SE¼, SW¼SE¼;
Sec. 11, SE¼SW¼, E½;
Sec. 12, SE¼NE¼, W½NW¼, SE¼SW¼, SE¼.

Containing 2030.70 acres.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Boulder Exploration Group, Inc., 885 Arapahoe Street, Boulder, Colorado 80302. Such written notice must be received no later than 30 calendar days after the publication of this notice in the **Federal Register.**

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the Minerals Management Service and the Bureau of Land Management. A copy of the exploration plan as submitted by Boulder Exploration Group, Inc., may be examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, and the Minerals Management Service, 411 N. Auburn Avenue, Farmington, New Mexico.

Leroy C. Montoya,

Acting State Director.

[FR Doc. 82-28930 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 54144]

New Mexico; Legal Notice

October 14, 1982.

Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 54144, members of the public are hereby invited to participate with Boulder Exploration Group, Inc., on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in McKinley County, New Mexico and are described as follows:

T. 17 N., R. 11 W., New Mexico Prin. Mer., New Mexico
Sec. 2: NW¼SW¼, S½SW¼;
Sec. 3: S½;
Sec. 4: S½;
Sec. 5: S½;
Sec. 6: Lots 3, 4, 5, S½NE¼, SE¼NW¼, N½SE¼;
Sec. 8: NE¼, N½NW¼;
Sec. 9: N½NE¼, NW¼;
Sec. 10: NE¼;
Sec. 11: N½, NE¼SE¼, S½SE¼;
Sec. 12: NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 13: W½NE¼, W½;
Sec. 14: All;
Sec. 15: NE¼, N½SE¼;
Sec. 23: NE¼, NE¼NW¼, NE¼SE¼;
Sec. 24 All.

T. 18 N., R. 12 W., New Mexico Prin. Mer., New Mexico
Sec. 6: Lot 1, SE¼NE¼, E½SE¼;
Sec. 8: N½, NE¼SW¼;
Sec. 15: SW¼;
Sec. 17: SE¼SW¼, SE¼;
Sec. 19: SE¼;
Sec. 20: NE¼, E½NW¼, SW¼;
Sec. 21: All;
Sec. 22: All;
Sec. 23: SW¼;
Sec. 26: All;
Sec. 27: All;
Sec. 28: All;
Sec. 29: All;
Sec. 30: Lots 1, 2, 3, E½, E½W¼;
Sec. 31: NE¼, NE¼NW¼, NE¼SE¼;
Sec. 32: SW¼, NW¼SE¼, S½SE¼;
Sec. 33: N½, N½SW¼;
Sec. 34: N½;
Sec. 35 N½.

T. 18 N., R. 13 W., New Mexico Prin. Mer., New Mexico
Sec. 22: NW¼, S½;
Sec. 26: NE¼, NE¼NW¼.

Containing 13, 276.89 acres.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Boulder Exploration Group, Inc., 885 Arapahoe Street, Boulder, Colorado 80302. Such written notice must be received no later than 30 calendar days after the publication of this notice in the **Federal Register.**

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the Minerals Management Service and the Bureau of Land Management. A copy of exploration plan as submitted by Boulder Exploration Group, Inc., may be examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, and the Minerals Management Service, 411 N. Auburn Avenue, Farmington, New Mexico.

Leroy C. Montoya,

Acting State Director.

[FR Doc. 82-28931 Filed 10-19-82; 8:45 am]

BILLING CODE 4310-84-M

Oklahoma; Intent to Prepare Planning Analyses

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare planning analyses in Oklahoma.

SUMMARY: This notice is to advise the public that the District Manager, Albuquerque District, Bureau of Land Management (BLM) will prepare planning analyses in Oklahoma. The planning analyses will allow for evaluation of the potential for multiple-use management of public lands in Oklahoma. Public lands not suitable for multiple-use management will be identified for disposal.

SUPPLEMENTARY INFORMATION: The planning analyses will be prepared in response to the Interior Department's support of the Administration's initiative to improve federal asset management and dispose of unneeded federal property. An estimated 470 parcels in 42 Oklahoma counties will be evaluated for disposal out of federal ownership. Parcels identified as isolated holdings that are difficult and expensive to manage as public lands will be processed for disposal.

Management decisions for the public land tracts will be based on the following criteria: analysis of those values that could be impacted by

disposal from federal ownership, results of public participation, coordination with other federal and state agencies, suitability for management by another federal department or agency, and difficulty of managing the public land tracts. Background standards and procedures for the planning analyses are contained in 43 CFR Part 1600 and 2700.

The planning analyses will be prepared by staff specialists of the BLM Oklahoma Resource Area Office. Disciplines to be represented include cultural resources, geology, hydrology, land use, recreation, socioeconomics, soils, vegetation, visual resource management, and wildlife.

Public participation opportunities will be provided by: (1) Sending a notice of intent to conduct a planning analysis to federal, state, and local governments and adjacent landowners that would be concerned with the plan or have land use regulatory authority in the vicinity of the public land tracts, and asking them to identify issues and concerns; (2) Publishing a news release to appear in local newspapers announcing the recommended decision of the planning analysis; (3) Making the planning analysis available for a 30-day public comment and protest period. Protests will be received by the State Director during the 30-day period. The recommended decision may become final no sooner than 309 days following the notice and after any protests are resolved.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management, Oklahoma Resource Area Office, Room 548, 200 NW Fifth Street, Oklahoma City, Oklahoma 73102, Phone (405) 231-4481. Documents relevant to the planning process are available for public inspection at the above address.

Dated: October 12, 1982.

L. Paul Applegate,

District Managers, Albuquerque Bureau of Land Management.

[FR Doc. 82-28935 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon and Washington; Redelegation of Authority

1. Pursuant to the authority contained in Part I, Section 1.1 of Bureau Order No. 701 of July 23, 1964, as amended, authority is hereby redelegated to the following employees to perform the functions listed below.

A. Within their respective areas of responsibility, the Districts Managers are authorized to take all actions under the following parts:

Part I, Section 1.2(1)—Perform all actions regarding acquisition of lands and/or interest in lands, and reciprocal and cooperative road permit and agreement programs.

Part I, Section 1.9 (a), (i), and (o)—Take all actions in issuing leases, easements, and permits pursuant to 43 CFR Part 2910 and 2920.

B. Within their respective areas of responsibility, the District Managers are authorized to take the following actions under the following parts:

Part I, Section 1.3(d)—Determine liability and accept damages for trepass on the public lands, and dispose of resources recovered in trespass cases for not less than the appraised value thereof. With the concurrence of the State Director, recommend to the Field or Regional Solicitor:

(1) Institution of suits arising out of trespass when actual damages are not in excess of $5,000, and

(2) Compromise of trespass claims when actual damages are not excess of $20,000, and

(3) Write-off of uncollectible accounts when actual damages are not excess of $2,500.

Part I, Section 1.7(f)—Approve the following actions concerning wild horses and burros:

(1) Adoption of more than four animals.

(2) Onsite adoptions.

(3) Power of Attorney adoptions.

(4) Removal plans.

(5) Applications for titles.

C. Within their respective areas of responsibility, the District Managers in the Salem, Eugene, Roseburg, Medford, and Coos Bay District Offices are authorized to take the following actions under the following part:

Part I, Section 1.8(a)—Dispose of forest products for up to 25,000,000 feet board measure. This authority may not be redelegated.

D. Within their respective areas of responsibility, the Area Managers in the Salem, Eugene, Roseburg, Medford and Coos Bay District are authorized to take the following actions under the following part:

Part III, Section 3.8(a)—Dispose of forest products for up to 10,000,000 feet board measure. This authority may not be redelegated.

The effective date of this redelegation is October 1, 1982.

Dated: October 5, 1982.

Stanley D. Butzer,

Acting State Director.

[FR Doc. 82-28933 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 10936]

Sale of Public Lands in Amador County, Calif.

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than the appraised fair market value shown:

Mount Diablo Meridian, California

T. 6 N., R. 12 E., Section 3

Parcel No.	Acres	Value
Tract 52A	7.04	$37,500.00
Tract 52B	.25	100.00
Tract 52C	.49	100.00
Tract 52D	.28	100.00

The above described land will be offered for sale by sealed bid only utilizing modified competitive bidding procedures. The individuals named below who own land adjoining the sale parcels will be the designated bidders; i.e., they will be offered the right to purchase the land indicated below by meeting the highest bid:

Designated bidders	Parcel No.
Elton V. Rodman	
Louis E. Ludekens	Tract 52A.
Clarence and Lillian Foyil and Herbert S. Fessel.	Tract 52B.
Allen R. and Donna Lee Rueger.	Tract 52C.
John J. Snooks and Thelma Ruby Pete.	Tract 52D.

The sale land is a small isolated tract completely surrounded by private land in an area being developed as homesites. The sale parcels are too small to be classified as homesites under present zoning, even collectively. Their best use is in conjunction with the adjoining land. Therefore, because of its location and physical characteristics, the sale land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning for the land, and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Elton V. Rodman must file with the Bureau of Land Management (BLM) a relinquishment of the Manzanita Quartz claim filed with BLM on January 23, 1979, under serial No. CA MC 21167, prior to the date of the sale.

The sealed bids will be open at 10:00 a.m. on December 20, 1982 at the California State Office of the Bureau of Land Management, Room E–2811, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Bids may be made by a principal or a duly qualified agent either mailed or delivered to the California State Office, Bureau of Land Management, at the above address. Federal law requires that individuals be United States citizens and that corporations be subject to the laws of any State or of the United States. Sealed bids shall be considered only if received prior to 10:00 a.m. on December 20, 1982, and are made for at least the appraised value of the land. Each sealed bid shall be accompanied by certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed envelope must be marked in the lower left hand corner "Public sale bid, Parcel No. ——, serial number CA 10936, sale held December 20, 1982." No bid will be accepted for less than the appraised value, and bids must include all of the land in the parcel. If two or more envelopes are received containing valid bids of the same amount, the determination of which is to be considered the highest bid shall be by drawing. The highest qualifying sealed bid will be publicly declared on the day of the sale.

For a period of 30 days following the date of the sale, the designated bidders will have the opportunity to claim the preference rights indicated above. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

Detailed information concerning the sale, including the land report and environmental assessment report is available for review at the California State Office at the above address. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final detemination. In the absence of any action by the State Director, this realty action will become a final determination.

Dated: October 13, 1982.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–28937 Filed 10–20–82; 8:45 am]

BILLING CODE 4310–84–M

Newcastle Resource Area, Casper District Offices; Availability of Draft Grazing Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft Grazing Environmental Impact Statement for Crook, Weston, and Niobrara Counties, Wyoming, and has made copies available for reviews and comments.

DATES: Written comments on the proposed contained in the draft environmental impact statement will be accepted up to and including December 31, 1982.

ADDRESS: Written comments on the proposal in the document are to be addressed to: Casper District, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

The draft environmental impact statement can be obtained from: Glen Nebeker, Team Leader, Casper District, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601, (307) 261–5595, or Darrell Short, Area Manager, Newcastle Resource Area, P.O. Box 757, Newcastle, Wyoming 82701.

SUPPLEMENTARY INFORMATION: The draft statement analyzes environmental impacts that would result from the No Action Alternative (continuation of current grazing management) and the Range Improvement Alternative.

Comments on the grazing proposal and on the environmental impact statement will be considered in the preparation of the final environmental impact statement.

Paul Arrasmith,

District Manager.

[FR Doc. 82–28944 Filed 10–20–82; 8:45 am]

BILLING CODE 4310–84–M

[N–36739, et al.]

Nevada; Notice of Realty Action Corrected; Sale of Public Land in Clark County

October 12, 1982.

FR Doc. 82–26568, appearing on pages 42832 and 42833 of the issue of Wednesday, September 29, 1982 is hereby corrected with respect to the date of the sale. The public auction will be held on December 7, 1982 in Las Vegas.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82–28949 Filed 10–20–82; 8:45 am]

BILLING CODE 4310–84–M

[Exchange CA 12985]

Public Lands in Humboldt County, California; Realty Action

Correction

In FR Doc. 82–21098, on page 34048, in the issue of Thursday, August 5, 1982, make the following correction in the second column under "T. 2N., R. 4E.," line 3, correct the entry now reading "Sec. 18, E½SW¼, SW¼,SE¼;" to read "Sec. 18, E½SW¼, SW¼SE¼;".

BILLING CODE 1505–01–M

[N–37171]

Nevada; Proposed Withdrawal and Reservation of Lands

October 12, 1982.

The Department of the Navy, on September 22, 1982, filed application N–37171 for the withdrawal of the following described land subject to valid existing rights from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, but not the mineral leasing laws:

Mount Diablo Meridian, Nevada

Electronic Warfare Range (EWR)

T. 16 N., R. 33 E.,
- Sec. 1, portion of lot 1 lying north of Highway 50;
- Sec. 5, portion of W½ lying north of Highway 50.

T. 17 N., R. 33 E.,
- Secs. 1 through 5, 8 thru 17, 20 thru 29, 32 through 36, all;

T. 17 N., R. 33½ E.,
- Secs. 1, 12, 13, 24, 25 and 36, all;

T. 17 N., R. 34 E.,
- Sec. 3, lots 3 and 4, S½NW¼, SW¼;
- Secs. 4 through 9, all;
- Sec. 10, W½;
- Sec. 15, W½;
- Secs. 16 through 21, all;
- Sec. 22, W½;
- Sec. 27, W½;
- Secs. 28 through 33, all;

Sec. 34, W½.
T. 18 N., R. 33 E.,
Secs. 1 through 3, all;
Sec. 9, E½;
Secs. 10 through 15, all;
Sec. 16, E½;
Secs. 21 through 28, all;
Sec. 29, E½;
Secs. 32 through 36, all;
T. 18 N., R. 33½ E.,
Secs. 1, 12, 13, 24, 25 and 36, all.
T. 18 N., R. 34 E.,
Secs. 1 through 11, all;
Sec. 12, W½;
Secs. 14 through 23, 27 through 34, all.
T. 19 N., R. 33 E.,
Sec. 22, E½;
Secs. 23 through 27, 34 through 36, all.
T. 19 N., R. 33½ E.,
Secs. 24, 25 and 36, all.
T. 19 N., R. 34 E.,
Secs. 19 through 24, all;
Secs. 25 and 26, all, except patents;
Secs. 27 through 34, all;
Secs. 35 and 36, all, except patents.
T. 19 N., R. 35 E.,
Sec. 19, all;
Secs. 30 and 31, all, except patents
Comprising approximately 92,672.80 acres.

Shoals Sites

T. 15 N., R. 32 E.,
Sec. 3, W½W½W½;
Secs. 4 and 5, all;
Sec. 8, N½;
Secs. 9, N½, SE¼;
Secs. 10 and 11, all;
Sec. 14, N½;
Sec. 15, N½;
Sec. 16, NE¼.
T. 16 N., R. 32 E.,
Sec. 22, S½;
Sec. 23, S½;
Sec. 24, SW¼;
Sec. 25, W½;
Secs. 26, 27, 33 and 34, all.
Comprising approximately 7,403.66 acres.

A portion of the land described in T. 15 N., R. 32 E., is currently withdrawn by the Department of Energy (formerly Atomic Energy Commission).

Bravo-19 Target Range

T. 15 N., R. 29 E.,
Secs. 4 through 9, 16 through 21, all.
T. 15 N., R. 30 E.,
Secs. 1, 2, 11 through 14, 23 and 24, all
T. 15 N., R. 31 E.,
Secs. 5 through 8, 17 through 20 and 30, all.
Comprising approximately 18,038.19 acres.

Bravo-17 Target Range

T. 15 N., R. 33 E.,
Secs. 1 through 11, all;
Sec. 12, all, except patent;
Secs. 13 through 28, 35 and 36, all.
T. 15 N., R. 34 E.,
Secs. 5 and 6, all;
Sec. 7, all, except patent;
Secs. 8 and 17, all;
Sec. 18, all, except patent
Secs. 19, 20, 29 through 31, all.
T. 16 N., R. 33 E.,
Sec. 1, portion lying south of Highway 50;
Sec. 2, portion of lot 1, SE¼Ne¼, E½SE¼, lying south of Highway 50;
Sec. 7, all;
Sec. 8, NE¼NW¼, W½W½;
Sec. 11, NE¼NE¼, E½NW¼NE¼;
Sec. 18 and 19, all;
Sec. 29, W½, SE¼
Sec. 30 and 32, all;
Sec. 33, W½, SE¼.
T. 16 N., R. 33½ E.,
Sec. 1, portion lying south of Highway 50.
T. 16N., R. 34 E.,
Sec. 6, portion lying south of Highway 50;
Sec. 20, portion not currently withdrawn;
Sec. 29, portion not currently withdrawn;
Sec. 32, portion not currently withdrawn;
Comprising approximately 31,904.64 acres.

Bravo-16 Target Range

T. 17 N., R. 27 E.,
Sec. 10, all;
Sec. 11, W½;
Sec. 14, W½;
Secs. 15 and 22, all.
T. 17 N., R. 28 E.,
Secs. 21 and 28, all.
T. 18 N., R. 27 E.,
Secs. 1 through 4, 8 through 16, 21 through 28, 33 through 36, all.
T. 18 N., R. 28E.,
Sec. 6, lots 3 through 7, SE¼NW¼, E½SW½;
Sec. 7, lots 1 through 4, E½W½, W½E½;
Sec. 16, SW¼;
Secs. 17 through 20, all;
Sec. 21, SW¼NE¼, W½NW¼, S½;
Secs. 28 through 33, all.
T. 19 N., R. 27 E.,
Sec. 26, all;
Sec. 28, NE¼NE¼, S½N½, S½;
Sec. 32, all;
Secs. 34 through 36, all.
T. 19 N., R. 28 E.,
Sec. 31, W½SW¼.
Comprising approximately 31,303.62.

The total of the areas described comprises approximately 181,323 acres in Churchill County Nevada.

The applicant agency desires that the land be withdrawn and reserved for use as a low level, high speed weapons delivery maneuvering area in connection with live ordnance drop and for other defense related uses consistent therewith. Only 640 acres will be used for actual live ordnance drop. The withdrawal is proposed for a period of 20 years.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the District Manager, Bureau of Land Management, Carson City District Office, 1050 E. William Street, Carson City, Nevada 89701 on or befor January 19, 1983.

This withdrawal will be authorized under the Act of February 28, 1958 (43 U.S.C. 155–158) and requires legislative action by Congress.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that a public hearing will be afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request to the Commanding Officer (Code 20), Western Division, Naval Facilities Engineering Command, P.O. Bos 727, San Bruno, California 94066, on or before January 19, 1983. The Naval Facilities Engineering Command, San Bruno, California will publish in the **Federal Register** and a newspaper in the general vicinity of the proposed land withdrawal a notice giving the time and place of such hearing. The notice will be published 30 days before the hearing is scheduled. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of two years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications in connection with this proposed withdrawal should be addressed to the District Manager, Bureau of Land Management, Carson City District Office, 1050 E. William St., Carson City 89701.

Wm. J. Malencik,

Chief Division of Operations.

[FR Doc. 82-28948 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis, at 202–395–7340.

- Title: Surplus Animal Permit Application, to allow the removal of certain animals from national wildlife refuges

Bureau Form Number: N/A
Frequency: On occasion
Description of Respondents: State, local and Indian Governments
Annual Responses: 100
Annual Burden Hours: 25
Service Clearance Officer: Arthur J. Ferguson, 202–653–8770

Walter R. McAllester,

Acting Associate Director—Wildlife Resources.

October 12, 1982.

[FR Doc. 82–28924 Filed 10–20–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Availability of Environmental Assessments for Pipeline Rights-of-Way; Public Notice of Completed Environmental Assessments

SUMMARY: Pursuant to 40 CFR 1506.6(b), the Gulf of Mexico Outer Continental Shelf (OCS) Regional Office has prepared Environmental Assessments (EA) and Finding No Significant Impact (FONSI) on the following 13 pipeline rights-of-way application submitted for the movement and transportation of hydrocarbons on the OCS in the Gulf of Mexico. These EA's were completed during the period January 1, 1982, through March 31, 1982.

OCS-G	Applicant	Area block	Size length	Type	Review completed
4966	Texas Gas Transmission Corp	Ship Shoal 15–26	12"/3.6/ mi	Gas	Feb. 12, 1982.
4967	Transcontinental Gas Pipe Line Corp	Galveston 393-Brazos A–1	20"/20.44 mi.	Gas	Mar. 23, 1982
4968	InterNorth, Inc.	Matagorda Island 527–526	10"/3.43 mi.	Gas	Mar. 15, 1982.
4969	Amoco Production Co.	Vermillion 60–35	6"/13.90 mi	Gas	Feb. 26, 1982.
4970	Union Oil Co. of California	Eugene Island, S.A. 299–276.	6"/6.78 mi.	Oil and gas	Mar. 19, 1982.
4972	Transcontinental Gas Pipe Line Corp	East Cameron S.A. 336–335.	12"/2.62 mi.	Gas	Mar. 23, 1982.
4973	Odeco Oil & Gas Co.	Engene Island 47–46	4½"/1.55 mi.	Oil	Feb. 19, 1982.
4974	Transcontinental Gas Pipe Line Corp	High Island, S.A. A–568–A–539.	20"/10.66 mi	Gas	Mar. 23, 1982.
4975	Transcontinental Gas Pipe Line Corp	High Island, S.A. A–567–A–552.	12"/1.85 mi.	Gas	Mar. 23, 1982.
4978	Tenneco, Inc.	West Cameron S.A. 493–498.	8"/2.48 mi.	Gas	Mar. 23, 1982.
5118	Texas Eastern Transmission Corp	South Pass, S. & EA 89-West Delta 26.	20"/39.40 mi.	Gas	Apr. 30, 1982.
5119	Pennzoil Co.	High Island, S.A. A–499–A–489.	6"/4.39 mi.	Gas	Mar. 9, 1982.
5120	Exxon Corp	South Timbalier 171-Ship Shoal 208.	6"/18.86 mi.	Oil	Apr. 27, 1982.

The above noted EA's are on file and available for public review at the Minerals Management Service (MMS), Gulf of Mexico OCS Region, 3301 N. Causeway Boulevard, Metairie, Louisiana 70010, between the hours of 7:45 a.m. and 4:15 p.m.

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EA's and FONSI's for proposals which relate to exploration for the development/production of oil and gas resources on the Gulf of Mexico OCS.

The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA's.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

FOR FURTHER INFORMATION CONTACT: Minerals Manager, Minerals Management Service, Gulf of Mexico OCS Region, 3301 N. Causeway Boulevard, Metairie, Louisiana 70010, telephone (504) 837–4720.

Date: October 7, 1982.

Robert L. Rioux,

Associate Director for Offshore Minerals Management.

[FR Doc. 82–28893 Filed 10–20–82; 8:45 am]

BILLING CODE 4310–MR–M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS Mineral Pipeline Rights-of-Way Applications and Sale No. 69 Tracts on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following oil and gas pipeline rights-of-way applications and Sale No. 69 Tracts proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity/ operator	Location	FONSI date
Tenneco Inc., OCS–G 5122.	Ship Shoal Area, Block 295 to Eugene Island Area, S.A., Block 322 (2.73 miles of 6" gas).	July 23, 1982.
The Texas Pipe Line Company OCS–G 5124.	Vermilion Area, S.A., Block 397 to Block 350 (14.19 miles of 6" oil).	Aug. 2, 1982.
Marathon Pipe Line Company, OCS–G 5126.	West Delta Area, Block 86 to Block 87 (2.70 miles of 8" oil).	July 15, 1982.
Southern Natural Gas Company, OCS–G 5129.	Eugene Island Area, Block 107 to Block 118 (1.36 miles of 6" gas).	July 1, 1982.

Activity/ operator	Location	FONSI date
Trunkline Gas Company, OCS–G 5131.	High Island Area, S.A., Block A–542 to Block A–526 (5.13 miles of 8" gas).	July 23, 1982.
Texas Eastern Transmission Corporation, OCS–G 5133.	West Cameron Area, S.A., Block 464 to Block 478 (4.56 miles of 10" gas).	July 15, 1982.
Shell Offshore Inc., OCS–G 5134.	South Timbalier Area, S.A. Block 300 to Ship Shoal Area, Block 208 (38.47 miles of 12" oil and gas).	July 16, 1982.
Tenneco Inc., OCS–G 5135.	West Cameron Area, Block 66 to Block 65 (1.30 miles of 8" gas).	Do.
Quivira Gas Company, OCS–G 5136.	Eugene Island Area, Block 24 to Block 11 (2.44 miles of 12" gas).	Do.
Tenneco Inc., OCS–G 5137.	Eugene Island Area, S.A., Block 300 to Block 299 (2.93 miles of 6" gas).	Aug. 2, 1982.
Michigan Wisconsin Pipe Line Company, OCS–G 5138.	High Island Area, E.A., S.E., Block 315 to Block 316 (3.51 miles of 10" gas).	July 23, 1982.
Transcontinental Gas Pipe Line Corporation, OCS–G 5139.	Eugene Island Area, Block 10 to Block 107 (28.26 miles of 20" gas).	Aug. 5, 1982.
Transcontinental Gas Pipe Line Corporation, OCS–G 5140.	South Timbalier Area, Block 185 to Block 179 (5.07 miles of 12" gas).	Aug. 2, 1982.
Conoco Inc., OCS–G 5141.	South Marsh Island Area, S.A., Block 106 to Block 99 (2.53 miles of 8" gas).	July 23, 1982.
ODECO Oil & Gas Company, OCS–G 5142.	Eugene Island Area, Block 24 to Block 23 (1.58 miles of 6" oil).	Aug. 2, 1982.
Transco Exploration Company, OCS–G 5143.	Eugene Island Area, Block 10 to Block 23 (2.71 miles of 4" oil).	Aug. 5, 1982.
Atlantic Richfield Company, OCS–G 5146.	Ship Shoal Area, Block 91 to South Pelto Area, Block 11 (4.42 miles of 6" oil).	Sept. 16, 1982.
Tract No. 69–248.	High Island Area, Block 20.	Sept. 17, 1982.
Tract No. 69–249.	High Island Area, Block A–565.	Do.
Tract No. 69–251.	Vermilion Area, Block 17.	Do.
Tract No. 69–252.	Vermilion Area, Block 145.	Do.
Tract No. 69–253.	Vermilion Area, Block 158.	Do.
Tract No. 69–254.	South Marsh Island Area, S.A., Block 77.	Do.
Tract No. 69–256.	Eugene Island Area, Block 28.	Do.
Tract No. 69–257.	Ship Shoal Area, Block 38.	Do.
Tract No. 69–259.	South Timbalier Area, S.A., Block 225.	Do.
Tract No. 69–260.	South Timbalier Area, S.A., Block 314.	Do.
Tract No. 69–271.	Mobile Area, Block 819	Do.
Tract No. 69–272.	Mobile Area, Block 820	Do.
Tract No. 69–263.	Mobile Area, Block 826	Do.
Tract No. 69–264.	Mobile Area, Block 828	Do.
Tract No. 69–265.	Mobile Area, Block 905	Do.
Tract No. 69–266.	Viosca Knoll Area, Block 825.	Do.
Tract No. 69–267.	Viosca Knoll Area, Block 826.	Do.
Tract No. 69–268.	Viosca Knoll Area, Block 869.	Do.
Tract No. 69–269.	Viosca Knoll Area, Block 870.	Do.
Tract No. 69–270.	Green Canyon Area, Block 143.	Do.
Tract No. 69–250.	West Cameron Area, W.A., Block 289.	Do.
Tract No. 69–255.	South Marsh Island Area, S.A., Block 176.	Do.
Tract No. 69–261.	West Delta Area, Block 78.	Do.
Tract No. 69–258.	Ship Shoal Area, S.A., Block 277.	Do.
Tract No. 69–262.	Main Pass Area, Block 138.	Do.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Deputy Minerals Manager, Offshore Operations Support, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Phone 504/837–4720.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to exploration for and the development/ production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA & 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 13, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–28922 Filed 10–20–82; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Shell Offshore Inc., Unit Operator of the South Pass Block 27 reservoir unit Block 28 Federal Unit Agreement No. 14–08–0001–16939, submitted on October 6, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Pass Block 27 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 14, 1982.

John L. Rankin

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–28918 Filed 10–20–82; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company (UDA) has submitted a Development and

Production Plan describing the activities it proposes to conduct on Lease OCS 0780, Block 33, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 15, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-28921 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ANR Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3469, Block 504, Brazos Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 15, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-28920 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 40 Field Unit Block BS 55 Federal Unit Agreement No. 14–08–001–3847, submitted on October 5, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Main Pass Block 40 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 14, 1982.

John L Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-28919 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Grand Isle/CATCO Field Federal Unit Agreement No. 14–08–0001–2021, submitted on October 7, 1982, a proposed annual plan of development describing the activities it proposes to conduct on the Grand Isle/CATCO Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 14, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-28923 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Gulf Islands National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gulf Islands National Seashore Advisory Commission will be held at 1:00 p.m. on December 6, 1982, at the Royal D'Iberville, Biloxi, Mississippi to be followed by a tour of the new Davis Bayou facilities at 9:00 a.m. on December 7, 1982.

The purpose of the Gulf Islands National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and development of Gulf Islands National Seashore.

The members of the Advisory Commission are as follows:

Paul A. Daniel, Chairman (Florida)
Gordon D. Allen (Mississippi)
Margaret Allen (Mississippi)
Sherman Barnes (Florida)
Courtney Blossman (Mississippi)
J. Earle Bowden (Florida)
George Byars (Mississippi)
Lloyd J. Caillavet (Mississippi)
Bill Davis (Mississippi)
Paul Delcambre (Mississippi)
Donal Edwards (Mississippi)
Betty Gerrity (Florida)
Lee Hodges (Mississippi)
R. K. Hollister (Mississippi)
M. G. Kennedy (Florida)
Charles Liberis (Florida)
Sara Megehee (Mississippi)
Michael Mitchell (Florida)
Grady Don Pope (Florida)
Diana Rittenhouse (Florida)
Richard Schmidt (Mississippi)
Vince Whibbs (Florida)
Erica Woolley (Florida)

The matters to be discussed at this meeting will include: (1) Seashore Operations; (2) Planning and Development; and (3) Davis Bayou Dedication.

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited and it is expected that not more than 40 persons will be able to attend. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Members of the public may attend the tour of the Davis Bayou facilities if they provide their own transportation.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact Franklin D. Pridemore, Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Florida 32561, telephone (904) 932-6316. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: October 8, 1982.

Neal G. Guse, Jr.,

Acting Regional Director, Southeast Region.

[FR Doc. 82-28946 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Public Meeting on the Proposed South Lease Mine Kaiser Steel Corp., Emery County, Utah

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

ACTION: Notice of public meeting.

SUMMARY: The Office of Surface Mining (OSM) is in receipt of an application for an underground coal mine permit submitted by Kaiser Steel Corporation for their South Lease mine. The project would be located in Emery County, Utah, approximately 25 miles southwest of Price, and 30 miles northeast of Green River. The property is adjacent to U.S. Steel's Geneva mine and 9 miles south of the existing Kaiser Steel Corporation Sunnyside mine.

The Kaiser leases, as well as all other existing leases, were incorporated in the Central Utah Regional Environmental Impact Statement (EIS), prepared in 1979 by the Geological Survey. Since no detailed plans were available at that time the Kaiser mine was not covered site specifically.

To aid OSM in making their decision on the necessity for a site-specific EIS on the proposed South Lease mine, a public meeting has been scheduled. The purpose of this meeting will be to obtain public, county, and State input as to the need for an EIS and also to serve as the basis for determining scope, if an EIS is subsequently determined to be necessary. See "DATES" for specifics on the meeting.

DATES: A public meeting will be held starting at 7 p.m. on November 3, 1982, at the Carbon County Courthouse in Price, Utah. All interested parties are invited to attend this meeting and to present their comments and concerns about the proposed project.

FOR FURTHER INFORMATION CONTACT: Charles M. Albrecht (telephone: (303) 837-5656) Office of Surface Mining, Western Technical Center, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

SUPPLEMENTARY INFORMATION: Annual production from the proposed mine will be 2 MTY over the mine's 40-year life. The proposed access to the South Lease mine is via a new road on the southern boundary to the lease, connecting the project to U.S. Route 6. Coal will be trucked to an existing loadout facility. In year 3, Kaiser intends to begin constructing a rail spur paralleling this access road to connect with the Denver Rio Grande mainline. Kaiser also intends to construct a loadout facility for the rail spur and a preparation plant after the 5-year permit term. Both of these facilities would be located within the permit area; however, no details are available as to methods of construction, design, operation date, exact location, etc. Peak employment at the mine would be approximately 475 people. Direct South Lease mining employment could result in a peak population growth of 2,494 people by 1999.

Continuous miners will be developing room and pillars during the first 5 years, with longwall panels utilized in year 6+.

Dated: October 18, 1982.

Dean Hunt,

Assistant Director, Technical Services and Research.

[FR Doc. 82-28990 Filed 10-20-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by the Office of Management and Budget Small Carrier Transfer Application

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, D.C. 20423 and to Donald Arbuckle, Office of Management and Budget, Room 3228 NEOB, Washington, DC. 20503, (202) 395-7313.

Type of Clearance: Extension, No change
Bureau/Office: Office of Proceedings
Title of Form: Small Carrier Transfer Application
OMB Form N.: 3120–0025
Agency Form No.: OP–FC–1
Frequency: On Occasion
Respondents: Regulated M/C of Property
No. of Respondents: 700
Total Burden Hours: 2800

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–28905 Filed 10–20–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

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 ro 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 ICC 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 construed 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 CFR 1100.241. 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, in accordance with 49 CFR 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.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed 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.

Dated: October 18, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

MC–F–14948, filed September 15, 1982. YUMA COUNTY TRANSPORTATION CO. (Yuma) (2128 E. Highway 30, P.O. Box 488, Grand Island, NE)—Purchase (POR)—ECKLEY TRUCKING, INC., (Eckley) (P.O. Box 156, Mead, NE 68041). Applicants; representatives: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501–0279 and A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103. Yuma is a common carrier operating pursuant to Certificate No. MC–96877 and subnumbers thereunder. It seeks to purchase a portion of Eckley's authority in Certificate No. MC–5227 authorizing transportation in (A) lead certificate, *contractors' equipment, machinery and supplies,* between points in NE, on the one hand, and, on the other, points in CO, KS, and IA; (B) Sub-No. 78 (part 1) *building materials and buildings,* between points in NE, on the one hand, and, on the other, points in the U.S.; (C) Sub-No. 89X (part 1) *construction materials,* between Whiting and Hammond, IN, on the one hand, and, on the other, points in IA, and (D) Sub-No. 89X (part 4) *construction materials,* between points in Finney County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Impediment: A question of purchaser's fitness has been raised in the proceeding in MC–96877 (Sub-No. 10), Yuma County Transportation Co., Extension–General Commodities From Four States. The matter involves applicants' ability to comply with the orders of the Commission. This proceeding is being consolidated with the proceeding in MC–96877 (Sub-No. 10) and will be set for oral hearing.

Note.—Yuma has filed an application for temporary lease of the authority sought for purchase; however, that application shall be held in abeyance, pending resolution of the fitness issue discussed below.

MC–F–14964, filed October 4, 1982. MILLIS TRANSFER, INC. (Millis) (P.O. Box 352, Black River Falls, WI 54615)—Purchase—JWI TRUCKING, INC. (JWI) (8100 N. Teutonia Ave., Milwaukee, WI 53209). Representative: Wayne W. Wilson, 150 E. Gilman St., Suite 1000, Madison, WI 53703. Millis seeks authority to purchase the interstate operating rights and property of JWI. Richard D. Millis and Beverly A. Millis, stockholders and persons in control of Millis, seek authority to acquire control of said rights and property through this transaction. The interstate operating rights to be purchased by Millis are contained in JWI's Certificate No. MC–149457 (Sub-No. 3), and Permit Nos. MC–145437 and MC–145347 (Sub-Nos. 1, 5, 7, 10, 11, and 14 through 21), which authorize the transportation (A) as a common carrier, of *such commodities* as are dealt in or used by department stores, between points in the U.S. (except AK and HI); and (B) as a contract carrier, of (1) *wearing apparel and footwear,* and *materials, equipment and supplies* used in the manufacture and distribution of wearing apparel and footwear, under contracts with Hart Schaffner & Marx Clothes; U.S. Specialty Retailing, Inc., a division of U.S. Shoe Corporation; Munsingwear, Inc.; Vassarette, a division of Munsingwear, Inc.; Jack Winter Apparel, Inc.; Mary Lester Fashion Fabrics, Inc.; Jockey International, Inc.; Junior House, Inc.; Rainfair, Inc., a subsidiary of Koracorp; Lakeland Manufacturing Company; Jockey International, Inc.; and

Weyenberg Shoe Manufacturing Company; (2) *such commodities* as are dealt in by retail department stores and *materials, equipment and supplies* used in the manufacture, sale or distribution of said commodities, under contract with Rich's Department Stores, a division of Federated Department Stores, Inc.; and (3) *meters,* and *materials, equipment and supplies* used in the manufacture and distribution of meters, under contract with Badger Meter, Inc.

Notes.—TA has been filed. Transferee holds authority under MC–111310 and sub-numbers thereunder.

[FR Doc. 82–28910 Filed 10–20–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–80050. By decision of October 12, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Michael C. Holveck, Partner and Thomas R. and Sharon K. Buresh, dba the Burtin Company, Partner, dba Kingman Transfer and Warehouse Company, 2055 N. Towne Lane, NE, Cedar Rapids, IA 52402, of Certificate No. MC–44729 issued to Kenwood Transfer, Inc., P.O. Box 757, Cedar Rapids, IA 52406 authorizing (a) Household goods radially between points in IA, and points in IA, MO, MN, IL, NE, VA, WI, KY, OH, PA, SD, MI, KS, IN, NY, OK, ND, TX, and DC; and (b) new furniture and office equipment, radially between Cedar Rapids, IA, and points in KS, IL, MO, WI, MN, OK, and SD. TA lease is not sought. Transferee is not a carrier.

Note.—The Burtin Company is a partnership consisting of Thomas Buresh and Sharon Buresh.

MC–FC–80062. By decision of October 6, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to ROBERT STEVENS, DBA AZUSA TRUCKING, of Azusa, CA of Permit No. MC–148357 Sub 8 and Certificate No. MC–148357 Sub 7X issued to AZUSA TRANSPORTATION, INC., of Azusa, CA, authorizing: in Sub-No. 8 (1) *plastic materials* (except commodities in bulk), from points in TX, to points in CA, under continuing contract(s) with Bolcof Plastics, Inc., (2) *insecticides, fastners tape, ties fertilizers carts, grass catchers, pruning shears, wooden plants stakes, sprayers and steel shelving,* from the facilities of Dexol Industries, at Torrance, CA, to the facilities of Dexol Industries at Dallas TX, and points in AZ, CO, ID, IA, KS, MT, NE, NV, NM, OR, UT, WA, and WY, under continuing contract(s) with Dexol Industries, of Torrance, CA, and (3) *clothing* from the facilities of Petrie Stores Corporation at Dallas, TX, to Los Angeles, Oakland, and San Francisco, CA, under continuing contract(s) with Petrie Stores, of Secaucus, NJ in Sub-No. 7X general commodities (except classes A and B explosives and household goods, as defined by the Commission), (a) between points in WA, OR, ID, NV, UT, AZ, CA, CO, NM, and TX, on the one hand, and, on the other, points in MN, IA, MO, AR, LA, MI, IN, KT, TN, MS, AL, FL, GA, NC, SC, VA, WV, OH, MD, PA, NY, NJ, MA, CT, DE, RI, WI, IL, OK, KS, and DC; and (b) between Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). TA lease is sought. Transferee is not a carrier. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633.

MC–FC–80063. By decision of September 30, 1982 issued under 49 U.S.C. 10926 and the transfer rules at C.F.R. 1132, Review Board Number 3 approved the transfer to BIG SKY LINE INC., of Black Eagle, MT of Certificate No. MC–29477 issued March 1, 1978 to MOTOR LEASING CO., of Great Falls, MT authorizing the transportation as summarized: (1) Over regular routes, passengers and their baggage, and express and mail in the same vehicle with passengers (a) between Great Falls, MT, and Choteau, MT, (b) between Browning, MT, and Glacier Park, MT, (c) between Choteau, MT and Browning, MT, (d) between junction U.S. Highway 89 and Montana Highway 219, and Pendroy, MT, (e) between Browning, MT, and Kalispell, MT, serving specified intermediate points and (2) over irregular routes, passengers and their baggage in the same vehicle with passengers, in special and charter operations, beginning and ending at points on the four routes described next above, and extending to points in the United States (including Alaska, but excluding Hawaii). Applicants' representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403.

Note.—Transferee holds no authority.

MC–FC–80078. By decision of October 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to J. A. CORDELL, an individual, of Certificate Nos. MC–57808 (Sub-Nos. 1 and 4), issued to JABSCO, INC., of White Oak, TX, which authorize the transportation of *mercer commodities,* between points in AZ, AR, CO, KS, LA, MS, MT, NV, NM, OK, TX, UT, and WY. Applicant's representative: Charles E. Munson, P.O. Box 1945, Austin, TX 78767.

Note.—Transferee is not a carrier.

MC–FC–80085. By decision of October 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TRI-STATE TRAILWAYS OF

TENNESSEE, INC., of Memphis, TN, of that portion of Certificate No. MC-144307 (Sub-No. 1) issued to RIVER BUS LINES, INC., of Jackson, MS, which authorizes the transportation of (A) over regular routes, *passengers and their baggage*, and *express and newspapers*, in the same vehicle with passengers, between Memphis, TN, and Helena, AR, serving all intermediate points: From Memphis over Interstate Hwy 40 (also over U.S. Hwy 70) to Lehi, AR, then over U.S. Hwy 79 to Marianna, AT, then over AR Hwy 1 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Helena, and return over the same route; and (B) over irregular routes, transporting *passengers and their baggage*, in one-way and round-trip charter operations, from points on the routes described in (A) above, except Memphis, TN, and points in its commercial zone located in TN and MS, to points in the U.S. (including AK, but excluding HI), and return. NOTE: Transferor is retaining that portion of the Sub-No. 1 certificate which authorizes the transportation of passengers and their baggage, in one-way and round-trip charter operations, form Memphis, TN, and points in its commercial zone located in TN and MS, to points in the U.S. (including AK, but excluding HI), and return. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902.

Notes.—Transferee holds authority in MC-111118.

MC-FC-80091. By decision of October 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Kaplan Industries, Inc., of Bartow, FL, of Permit No. MC-154143 (Sub-No. 1) issued November 30, 1981, and MC-154143 (Sub-No. 2) issued March 22, 1982, to Kaplan Transportation Company, Inc., of Bartow, FL, authorizing: (1) *food and related products*, under continuing contracts with Freezer Queen Foods, Inc., of Buffalo, NY, (2) *pulp, paper and related products*, under continuing contract with Brenner Paper Products, of Glendale, NY, (3) *rubber and plastic products and chemicals and related products*, under continuing contract with (a) Mars Cup Company, of Jacksonville, FL, and (b) Master Containers, Inc., of Mulberry, FL, between points in the U.S.; and (4) *dairy products*, between points in the U.S. (except Alaska and Hawaii) under continuing contract with Friendship Dairies, Inc., of Friendship, NY, subject to coincidental cancellation of Permit No. MC-154143 issued September 11, 1981. Applicant's representative: Michael F. Morrone, 1150 17th Street, N.W., Suite 100, Washington, DC 20036. Phone: 457-1100.

Note.—TA lease is not sought. Transferee is not a carrier.

MC-FC-80102. By decision of October 12, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ELIZABETH HALL JOHNSON, D/B/A HALL'S CHARTER SERVICE, of Glen Burnie, MD, of Certificate No. MC-147408 (Sub-No. 2), issued to ISADORE HALL, D/B/A I. HALL CHARTER SERVICE, also of Glen Burnie, MD, which authorizes the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in the Baltimore, MD, commercial zone and in Anne Arundel County, MD, and extending to points in AL, AR, CT, DC, DE, FL, GA, IA, IL, IN, KY, LA, MA, ME, MI, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, WI, and WV. Representative: Walter T. Evans, 4304 East-West Highway, Bethesda, MD 20814.

Note.—Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-28911 Filed 10-20-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 304]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: October 14, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 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 application of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 34027 (Sub-27)X, filed: September 24, 1982. Applicant: GREETINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Sub-No. 23X certificate: (1) Remove, in authorizing paragraphs 1, 6(b), 7, 8(c), and 9, restrictions and conditions imposed on service, as follows: (a) The service to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of, rail service for The Chicago Rock Island and Pacific Railway Company (The Railway), (b) said carrier shall not service or interchange traffic at any point not a station on the rail line of The Railway, (c) no shipments shall be transported by said carrier as a common carrier by motor vehicle between any of the following points, or through or to, or from more than one of said points: Chicago and Joliet, IL, (d) all contractual arrangements between said carrier and The Railway shall be reported to the Commission and shall be subject to revision, if and as the Commission finds necessary in order that such arrangements shall be fair and equitable to the parties, (e) such further specific conditions as the Commission in the future, may find it necessary to impose in order to restrict said carrier's operations to service which is auxiliary to, or supplemental of, rail service, and/or (f) subject to the same conditions, limitations, and restrictions, if any, contained in said carrier's present operating authority with respect to service to and from Des Moines; (2) broaden off-route points which are stations on the rail line of The Railway situated (a) between Silvis and Joliet, IL, and (b) between Depue and Peoria, IL, to countywide authority as follows: "Will, Kendall, Grundy, La Salle, Bureau, Henry and Rock Island Counties, IL" and "Bureau, Putnam, Marshall and Peoria Counties, IL."

Note.—Applicant is not a rail-affiliated carrier. Sub-No. 23X certificate relates to authority in superseded Sub-No. 231.

acquired by applicant in MC–FC–78858. This application does not involve authority which authorizes substitution of service for abandoned rail service.

MC 111274 (Sub-90)X, filed October 5, 1982. Applicant: SCHMIDGALL TRANSFER, INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). Sub 44F permit: broaden the territorial description to "between points in the United States" under continuing contract(s) with named shipper.

[FR Doc. 82–28913 Filed 10–20–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanment 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** 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 a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later 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 application 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 carrier authority are those where service is for a named shipper "under contract".

For the following, please direct status inquiries to Team 1 at 202–275–7992.

Volume No. OP1–183

Decided: October 14, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 164120, filed October 6, 1982. Applicant: JAMES M. WENTWORTH d.b.a. WENTWORTH TRUCKING, 17 Rosewood Ave., Billerica, MA 01821. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, (617)–657–6071. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle between points in the U.S. (except AK and HI).

MC 164130, filed October 5, 1982. Applicant: ROBERT C. AND KATHLEEN M. SMITH, a Partnership d.b.a. R. C. SMITH TRUCKING, P.O. Box 135, Darwin, MN 55324. Representative: Kathleen M. Smith (same address as applicant), (612) 286–5120. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–003

Decided: October 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 163026, filed September 10, 1982. Applicant: SANTA CLARA FOREST PRODUCTS, INC., P.O. Box 2351, Eugene, OR 97402. Representative: Robert B. Taylor, 882 Van Buren St., Eugene, OR 97402, (503) 345–8138. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163996, filed September 24, 1982. Applicant: RICHARD D. CASEY, Rt. 2, Box 21A, Yamhill, OR 97148. Representative: Richard D. Casey (same address as applicant), (503) 662–3212. Transporting *food and other edible products and by-products, intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164066, filed October 1, 1982. Applicant: TED AND JANE STEWART, d.b.a., STEWART TRUCKING, P.O. Box 393, Amorita, OK 73719. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 164086, filed October 4, 1982. Applicant: VERN'S TRUCKING, INC., 6721 S. 85th St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–3992. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less if* transported in a motor vehicle in which no one package exceeds 100 pounds, (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor

vehicle in such vehicle, and (4) *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–217

Decided: October 14, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 133589 (Sub-7), filed October 5, 1982. Applicant: BCT, INC., P.O. Box 7219, Boise, ID 83707. Representative: James R. Daly (same address as applicant), (208) 384–7230. 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. (except AK and HI).

MC 163999, filed September 27, 1982. Applicant: ENVIRONMENTAL CLEANING SPECIALISTS, INC., 361 Wyoming Avenue, Kingston, PA 18704. Representative: James F. Geddes, Jr., 1400 United Penn Bank Bldg., Wilkes-Barre, PA 18701, (717) 823–5181. 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. (except AK and HI).

MC 164089, filed October 4, 1982. Applicant: BARBARA J. KENNERLY-YOUNG, 2500 Sheridan Ave., Granite City, IL 62040. Representative: James S. Goode, 2055 Castle Drive, Edwardsville, IL 62025, (618) 656–1597. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-29814 Filed 10-20-82; 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 a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–259

Decided: October 13, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 44913 (Sub-23) filed October 1, 1982. Applicant: KOSKI TRUCKING, INC., P.O. Box 116, Secretary, MD 21664. Representative: Walter T. Evans, 4304 East-West Hwy. Bethesda, MD 20814, (301) 657–2636. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Applicant seeks to convert its contract carrier authority to common carrier authority. Upon issuance of the authority above, MC–44913 Subs 21 and 22, issued October 7, 1981, and February 25, 1982, are revoked.

MC 144053 (Sub-3), filed September 28, 1982. Applicant: DON MUMMA TRUCKING, INC., RT. 2 Box 143M, Spokane, WA 99207. Representative: James E. Wallingford, POB 2647, Spokane, WA 99220, 509–534–5665. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA, OR, ID, and MT, on the one hand, and on the other, points in AL, AK, AR, AZ, CA, CO, FL, GA, ID, MO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MD, MT, NE, NV, NJ, NM, NY, ND, OH, WV, OK, OR, PA, SD, TN, TX, UT, WA, WI, and WY.

MC 145723 (Sub-3), filed October 5, 1982. Applicant: H. & M. TRUCKING CO., Clinton, IL 61727. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *cottonseed and vegetable oils and blends*, between points in Champaign and Macon Counties, IL, Clinton County, IN, Polk County, IA, on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MO, OH, TN and WI.

MC 149522 (Sub-4), filed September 23, 1982. Applicant: LARRY MUNGER ENTERPRISES, INC., P.O. Box 25831, Salt Lake City, UT, 84125. Representative: Larry Munger (same address as applicant), 801–262–9962. Transporting (1) *metal products and machinery*, between points in NV, CO, CA, ND, KS, NE, TN, IA, OK, WA, UT, VA, and OH, on the one hand, and, on the other, points in WA, OR, CA, NV, AZ, UT, ID, WY, MT, CO, NM, TX, AL,TN, AR, IA, MN, MO, KS, NE, IA, SD, IL, IN, OH, WI, and MI; (2) *building materials*, between points in CA, on the one hand, and, on the other, points in

CA, NV, ID, UT, AZ, WY, CO, and TX; (3) *lumber and wood products,* and *forest products,* between points in OR, WA, ID, MT, WY, UT, NV, CA, AZ, MN, CO, and NE; and (4) *mining and oilfield supplies,* between points in CA, NU, and UT, on the one hand, and, on the other, points in WA, UT, OR, CA, NV, AZ, WY, MT, CO, NM, OK, TX, LA, MO, IL, ID, ND, SD, IA, NE, and KS.

MC 152622 (Sub-4), filed October 1, 1982. Applicant: DARYL THOMASON TRUCKING, INC., P.O. Box 1087, Broken Bow, OK 74728. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *building materials, lumber and wood products, and forest products,* between points in the U.S. (except AK and HI), under continuing contract(s) with West Memphis Plywood Corporation, of West Memphis, AR.

MC 156313 (Sub-6), filed October 7, 1982. Applicant: FALCON, INC., R.D. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 421–281–9494. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with The Crosby Company, of Buffalo, NY.

MC 156313 (Sub-7), filed October 7, 1982. Applicant: FALCON, INC, R.D. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Custom Wrought Iron, Inc., of Greentown, Pa.

MC 156313 (Sub-8), filed October 7, 1982. Applicant: FALCON, INC., R.D. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Tampa International Forest Products, Inc., of Tampa, FL.

MC 163702, filed October 5, 1982. Applicant: LARRY R. BEHMER, d.b.a. RAVEN EXPRESS, 517 14th St., West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *salt,* between points in Tooele County, UT, on the one hand, and, on the other, West Des Moines, IA.

MC 164092, filed October 4, 1982. Applicant: EASTERN FUEL TRANSPORT, INC., P.O. Box 31, Ahoskie, NC 27910. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, 919–635–4711. Transporting *petroleum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Britton Oil Company, Inc., of Murfreesboro, NC, (b) Bounds Oil Co., Inc., of Weldon, NC, (c) Windsor Oil Company, of Windsor, NC, (d) Plymouth Oil Company of Washington County, NC, of Plymouth, NC, (e) Coastal Oil Co. of Belhaven, Inc., of Belhaven, NC, and (f) Eastern Fuels, Inc., of Ahoskie, NC.

MC 164153, filed October 7, 1982. Applicant: R & R XPRESS, INC., West 14th St., Falls City, NE 68355. Representative: Steven R. Hollens (same address as applicant), (402) 245–3311. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in Washington, Douglas, Sarpy, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties, NE; Marshall, Nemaha, Brown, Doniphan, Jackson, Atchison, Jefferson, and Leavenworth Counties, KS, and Pottawattamie County, IA.

For the following, please direct status inquiries to Team 1, at 202–275–7992.

Volume No. OP1–184

Decided: October 14, 1982.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

MC 85621 (Sub-14), filed October 7, 1982. Applicant: VANN EXPRESS, INC., 620 Line Street, Attalla, AL 35954. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, GA, TN, FL and MS.

MC 124141 (Sub-57), filed October 7, 1982. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Timothy C. Miller, Suite 301, 1307 Dolly Madison Blvd., McLean, VA 22101, (703) 893–4924. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 142310 (Sub-41), filed October 1, 1982. Applicant: H. O. WOLDING, INC., P.O. Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703, (608) 256–7444. Transporting (1) *pulp, paper and related products, (2) rubber and plastic products, (3) non-wovens and non-woven articles, and (4) metal products,* between points in the U.S. (except AK and HI).

MC 146940 (Sub-4), filed September 30, 1982. Applicant: LUMBEE TRUCKING COMPANY, INC., Route 2, Box 139, Maxton, NC 28364. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204, (704) 372–6730. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of foodstuffs, between points in the U.S., under continuing contract(s) with Campbell Soup Company, of Maxton, NC.

MC 147400 (Sub-11), filed October 4, 1982. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53405. Representative: Thomas M. O'Brien, Suite 1700, 180 N. Michigan Ave., Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Gilson Brothers Company, of Plymouth, WI.

MC 148791 (Sub-30), filed October 1, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Owens-Corning Fiberglas Corporation, of Toledo, OH.

MC 148791 (Sub-31), filed October 1, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801)–531–1777. Transporting *alcoholic beverages and liquid and dry beverage mixers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Foremost-McKesson, Inc., of San Francisco, CA.

MC 151380 (Sub-2), filed October 6, 1982. Applicant: RICLYN ENTERPRISES, INC., 4300 S.W. 6th St., Plantation, FL 33317. Representative: Gerald J. Donovan, 4791 S.W. 82nd Ave., Davie, FL 33328, (305)–434–7621. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL.

MC 158381 (Sub-5), filed October 7, 1982. Applicant: YELLOW LAKE, INC., P.O. Box 1364, Auburndale, FL 33823. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701–

1378, (305)–869–5936. Transporting (1) *food and related products;* (2) *metal products;* (3) *drugs and toilet articles;* (4) *such commodities* as are dealt in and distributed by retail and wholesale grocery stores; (5) *such* commodities as are dealt in by grocery, department and drug stores; and (6) *such commodities* as are dealt in or used in the manufacture, distribution and installation of air filtration products, between points in the U.S. (except AK and HI). Condition: The issuance of this certificate is conditioned upon prior or coincidental cancellation at applicant's written request of the permits held in Docket No. MC–158381 and Sub-Nos. 1, 2, 3 and 4.

Note.—The purpose of this application is to convert applicant's existing contract carrier authority to common carrier authority.

MC 164071, filed October 4, 1982. Applicant: ORVILLE B. GRIFFIN, d.b.a. SNOWBIRD TRANSPORTATION, 848 S. 175 W., Bountiful, UT 84010. Representative: Orville B. Griffin (same address as applicant), (801) 292–5424. Transporting *building materials, metal products, lumber and wood products, and chemicals and related products,* between points in AZ, AR, CA, CO, ID, IL, IA, KS, LA, MN, MO, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA and WY.

MC 164080, filed October 4, 1982. Applicant: WILLIAM L. MARTIN, d.b.a. WILMAR AND COMPANY, 13401 N.E. 28th Street No. 407, Vancouver, WA 98662. Representative: William L. Martin, (same address as applicant), (206) 892–7870. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points CA, NV, OR, and WA.

MC 164140, filed October 6, 1982. Applicant: KIRK'S SINEATH MOTOR CO., INC., 305 W. Lee St., Greensboro, NC 27406. Representative: Phillip W. Moore, (same address as applicant), (919)–272–1574. Transporting *new and used motor vehicles,* between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundry of Itasca County, MN, then northward along the western boundries of Itasca and Koochiching Counties, MN, to the International boundry line between the U.S. and Canada.

For the following, please direct status inquiries to Team 5 (202) 275–7289.

Volume No. OP5–216

Decided: October 14, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 60709 (Sub-11) filed October 1, 1982. Applicant: G&P TRUCKING COMPANY, INC., 3330 Charleston Highway, West Columbia, SC 29169. Representative: John H. Caldwell, 888 Sixteenth St., NW, Suite 700, Washington, DC 20006, (202) 835–8000. Transporting *general commodities* (except household goods and classes A and B explosives), between points in VA, NC, GA, FL, AL, and TN.

MC 114028 (Sub-49), filed October 1, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA, 52001, (319) 557–1320. Transporting *paper and paper products,* between points in the U.S. (except AK and HI), under continuing contract (s) with Bradner Smith & Company, of Chicago, IL.

MC 114098 Sub 63, filed October 1, 1982. Applicant: LOWTHER TRUCKING COMPANY, INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29731–3117. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, 703–751–2441. Transporting *lumber and wood products,* between points in GA and SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142559 (Sub-171), filed October 4, 1982. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Weyerhaeuser Company of Plymouth, NC.

MC 146419 (Sub-5), filed October 5, 1982. Applicant: TIMEPIECE, INC., Box 342C R.R. 3, Mauston, WI 53948. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting *food and related products,* between points in Dane, Eau Claire, and Winnebago Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148319 (Sub-4), filed October 1, 1982. Applicant: ELLIS B. STOFLE, d.b.a. STOFLE TRUCKING, P.O. Box 42, Tioga, TX 76271. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, 817–332–4718. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 150099 (Sub-4), filed October 5, 1982. Applicant: ALL STATE TRUCKING CO., INC., 3400 Mesa Road, Houston, TX 77103. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting *metal products* between points in the U.S. (except AK and HI).

MC 152509 (Sub-28), filed September 24, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., P.O. Box 5856, Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Commercial Transportation Management Service, Inc., of Parma, OH.

MC 152509 (Sub-29), filed September 28, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., P.O. Box 5856, Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (16)(566–2677. Transporting *general commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK, an HI), under continuing contract(s) with National Automotive & Rubber Marketing, Inc. of Huntington Woods, MI.

MC 152509 (Sub-31), filed September 27, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., P.O. Box 5856, Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566–2677. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Co., of Fort Wayne, IN.

MC 153918 (Sub-2), filed October 1, 1982. Applicant: TRANSPORTATION & CONSOLIDATION CENTERS, INC., P.O. Box 1524, Harrisburg, PA 17105. Representative: Peter Wolff, 722 Pittston Avenue, Scranton, PA 18505, (717) 342–7595. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), (1) between points in MD, NY, and PA, and (2) between points in (1) on the one hand, and, on the other, points in IL, IN, MO, and OH.

MC 156328, filed October 4, 1982. Applicant: U.S. TRANSPORTATION LTD., 334 N.W. Greenwood, Ankeny, IA 50021. Representative: James R. Snyder (same address as applicant), (515) 964–

4652. Transporting *pneumatic tires*, between points in Polk County, IA, on the one hand, and, on the other, points in the U.S., under continuing contract[s] with Ruan Tire Sales and Service of Des Moines, IA.

MC 158839 (Sub-3), filed September 30, 1982. Applicant: SHAMROCK TRUCKING, INC., 5258 Springdale Rd., Forest Park, GA 30050. Representative: Archie B. Culbreth, 2200 Century Pkwy, Suite 570, Atlanta, GA 30345, 404–321–1765. Transporting (1) *such commodities* as are used or dealt in by manufacturers or distributors of paints, paint remover and thinner, gum turpentine, linseed oil, caulking compounds, spackle and driveway coatings, between Atlanta, GA; Chicago, IL; Charlotte, NC; Memphis, TN; Houston, TX; Indianapolis, IN; Los Angeles, CA; and points in Sumter County, SC and St. Tammany Parish, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *such commodities* as are used or dealt in by manufacturers or distributors of paint brushes, wire brushes, putty knives, scrapers, drop cloths, paint applicators, and pans, between Chicago, IL; Jersey City; and Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (3) *such commodities* as are used or dealt in by manufacturers or distributors of traffic control products, between points in Cobb County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160488 (Sub-2), filed October 1, 1982. Applicant: BADGER TRANSPORT, INC., Route 2, Box 269, Clintonville, WI 54929. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting (1) *lumber and wood products*, (2) *metal products* (3) *machinery*, and (4) *transportation equipment*, between points in WI and the Upper Peninsula of MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162589 (Sub-1), filed September 27, 1982. Applicant: EXECULINE, INC., 997 Brook Rd. Lakewood, NJ 08701. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting (1) over regular routes, *passengers and their baggage, express and newspapers*, in the same vehicle with passengers, between Toms River, NJ, and New York, NY, (a) from junction Main and Water Streets in Toms River over Water St., to junction Garden State Parkway, then over Garden State Parkway to junction exit 90, then over Chambers Bridge Road to junction NJ Hwy 70, then over Chambers Bridge Road to junction Lanes Mill Road, then over Lanes Mill Road to junction Burnt Tavern Road, then over Burnt Tavern Road to junction Barr Ave., then back over Burnt Tavern Road to junction Garden State Parkway, then over Garden State Parkway to junction Interstate Hwy 95 (NJ Turnpike), then over NJ Turnpike to NJ Turnpike Extension to the Holland Tunnel, then through the Holland Tunnel to New York, NY, and return over the same route; (b) from junction Main and Water Streets over Water Street to junction Garden State Parkway, then over Garden State Parkway to junction exit 90, then over Chambers Bridge Road to junction NJ Hwy 70, then over Chambers Bridge Road to junction Lanes Mill Road, then over Lanes Mill Road to junction Burnt Tavern Road, then over Burnt Tavern Road to junction Barr Avenue, then back over Burnt Tavern Road to junction Garden State Parkway, then over Garden State Parkway to junction Interstate Hwy 95 (NJ Turnpike), then over NJ Turnpike to junction Interstate Hwy 495, then over Interstate Hwy 495 to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY, and return over the same route, serving all intermediate points on routes (a) and (b); and (2) over irregular routes, *passenges and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in NJ and NY and extending to points in the U.S. (except AK and HI), all of the above service being limited to the transportation of not more than 21 passengers in any one vehicle, not including the driver.

MC 164078, filed October 4, 1982. Applicant: EXECUTIVE COACH, INC., P.O. Box 88, Belford, NJ 077818. Representative: Owen B. Katzman, 1828 L Street, NW., Suite 1111, Washington, D.C. 20036, (202) 822–8200. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in NY, NJ, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–28915 Filed 10–20–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30020]

Rail Carriers; the Baltimore & Ohio Railroad Co.—Abandonment Exemption—in Baltimore, MD

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from regulation the abandonment by the Baltimore & Ohio Railroad Company of 0.62 miles of track in Baltimore, MD.

DATE: This exemption is effective on November 22, 1982. Petitions for reconsideration must be filed by November 10, 1982, and petitions for stay by November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

ADDRSSES: Send petitions to:

(1) Section of Finance, Room 5349
Interstate Commerce Commission
Washington, D.C.20423
and

Petitioner's representative: Peter J. Schudtz, P.O. Box 6419, Cleveland, OH 44101.

Pleadings should refer to F. D. No. 30020.

SUPPLEMENTARY INFORMATION: The decision served by the Commission contains further information. To purchase a copy of the full decision, contact T. S. InfoSystems, Inc., Interstate Commerce Commission, Room 2227, Washington, D.C. 20423 or call 289–4357 in the D.C. Metropolitan Area or toll free (800) 424–5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–28907 Filed 10–20–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30044]

Rail Carriers; the Denver and Rio Grande Western Railroad Co.—Construction and Operation—in Carbon and Emery Counties, UT; Correction

The above captioned proceeding published at 47 FR 44894 on October 12, 1982, showed the filing date of the application to be September 29, 1982. However, this is incorrect as the application was filed on September 28, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–28906 Filed 10–20–82; 8:45 am]

BILLING CODE 7035–01–M

Rail Carriers Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

October 15, 1982.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43979, Southwestern Freight Bureau (No. B–165), reduced rates on iron or steel pipe and related articles from Western and Southern Origins to Brookshire and Katy, TX, in Supplement 396 to its tariff ICC SWFB 4853, effective November 5, 1982. Grounds for Relief—Destination Rate Relationship.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–28912 Filed 10–20–82; 8:45 am]

BILLING CODE 7035–01–M

[No. 38896]

Product Distribution Co.—Petition for Relief From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Product Distribution Company, a motor contract carrier, is provisionally granted an exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762.

DATES: Comments are due November 5, 1982. The sought relief will become effective November 22, 1982, unless, in response to adverse comments filed, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 5340, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway (202) 275–7278
or
Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION:

Petitioner was granted motor contract carrier authority to serve General Electric Company in No. MC–161523 on July 19, 1982. The authority is for the nationwide transportation of commodities that are used or sold by manufacturers of electrical equipment, electrical products, energy systems, and plastic items.

Section 10702(b) of the Interstate Commerce Act requires contract carriers to file actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff being on file with the Commission, and section 10762 set forth general tariff requirements including contract carrier authority to file only minimum rates in certain instances. Each of these sections authorizes the Commission to grant relief to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. Although the order petitioner formally seeks would relieve it only from the requirements of section 10761(a), exemption from all three provisions appears to be more appropriate. We have considered the petition accordingly.

Petitioner is a wholly-owned subsidiary of General Electric and operates as a contract carrier only for its parent corporation. It would be able to provide service for GE outside of the scope of this Commission's jurisdiction by following the provisions in 49 U.S.C. 10524(b) regarding notices of intent to engage in compensated intercorporate hauling. It argues that, given those realities, little—if any—purpose would be served by requiring it to follow the formal tariff filing procedures. The shipper is petitioner's parent and needs no regulatory protection. Moreover, because of shipper's constantly changing distribution patterns, petitioner will have to make frequent rate adjustments, and refusal to waive the tariff requirements would impose undue delays and costly burdens.

Granting petitioner's request appears to be fully warranted. We see no reason to deny both the carrier and its parent shipper the savings to be realized from a tariff filing exemption. Relief appears to be in the public interest and consistent with the transportation policies of 49 U.S.C. 10101.

We therefore provisionally grant the sought exemption. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this tentative approval ought to be made final.

This decision would not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may also be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b) and 10762(f))

Decided: October 14, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–28908 Filed 10–20–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–200 (Preliminary)]

Automated Fare Collection Equipment and Parts Thereof From France

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigation and scheduling of a public conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of an investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France of certain automated fare collection equipment and parts thereof provided for in item Nos. 676.15, 676.25, 676.30, 676.52, 678.40, and 678.50 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of France.

EFFECTIVE DATE: October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Leahy, Office of Investigations, U.S. International Trade Commission; telephone 202–523–1369.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed October 12, 1982, on behalf of Cubic Western Data, Inc., San Diego, California. A copy of this petition is available for public inspection in the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by November 26, 1982 (19 CFR 207.17). Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission not later than seven (7) days after the publication of this notice in the **Federal Register** (19 CFR 201.11). Any entry of appearance filed after this date will be referrred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice. This investigation will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 47 FR 6189,

February 10, 1982), particularly subpart B thereof).

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting documents in connection with the investigation shall, in addition to complying with § 201.8 of the Commission rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submission

Any person may submit to the Commission on or before November 4, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen (14) copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., on November 2, 1982, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. James McClure, telephone 202/523-0439, not later than October 28, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 6182, February 10, 1982, and 47 FR 33682, August 4, 1982) and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6182, February 10, 1982, 47 FR 13791, April 1,, 1982, and 47 FR 33682, August 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. McClure.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

Issued: October 18, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-28985 Filed 10-20-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-122]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

SUPPLEMENTARY INFORMATION: On the basis of a complaint filed on April 23, 1982, the Commission on May 19, 1982, published in the **Federal Register** (47 FR 21638) a notice of institution of an investigation pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission's investigation covered alleged unfair methods of competition and unfair acts in the unauthorized importation and sale of certain miniature, battery-operated, all-terrain, wheeled vehicles alleged to infringe certain claims of U.S. Letters Patent 4,306,375 and to involve a false designation of origin.

On October 7, 1982, the Commission determined that there was no violation of section 337 in investigation No. 337-TA-122 in the importation or sale of the miniature, battery-operated, all-terrain, wheeled vehicles in question.

Copies of the Commission's Action and Order, the Commissioners' opinions, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0480.

By order of the Commission.

Issued: October 15, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-28900 Filed 10-20-82; 8:45 am]

BILLING CODE 7020-02-M

JOINT BOARD FOR THE ENROLLMMENT OF ACTUARIES

Advisory Committee on Actuarial Examination; Meeting

Notice is hereby given that the Advisory Committee On Actuarial Examinations will meet in Room 4121, Department of the Treasury, 15th Street and Pennsylvania Avenue, Washington, D.C. on November 17, 1982 beginning at 10:00 a.m.

The principal purpose of the meeting is to discuss the examination program of the Joint Board for the Enrollment of Actuaries (Joint Board). As a result of the discussion which took place at an Advisory Committee meeting held on June 23, 1982, the Joint Board wishes to hear the views of the Advisory Committee and others relative to a possible restructure of the examination program. Among the issues relative thereto is an expansion of the pension actuarial examination to include areas relating both to pension law and to pension mathematics.

Members of the public are encouraged to attend the meeting. To the extent time permits, members of the public also will be given an opportunity to offer oral comments. Such comments will be restricted to ten minutes in length. It is requested that those who wish to participate at the meeting advise the Committee Management Officer by November 12, 1982 and provide at least a written outline of the proposed remarks. In addition, the Joint Board invites anyone who desires to submit a written statement relative to the subject to do so by December 1, 1982. All notifications, outlines and statements should be sent to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, D.C. 20220. (Telephone: 202-634-5135)

Dated: October 18, 1982.

Leslie S. Shapiro,

Advisory Committee Managment Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 82-28996 Filed 10-20-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Antitrust Division

All Coast Fishermen's Marketing Association, Inc. et al.; Final Judgement

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 ([B)–(h)), the Antitrust Division publishes, below, a comment and its response thereto on the proposed Final Judgment filed in the case of *United States v. All Coast Fishermen's Marketing Association, Inc.*, Civil No. 82–233 (D. Oregon).

Joseph H. Widmar,

Director of Operations.

August 10, 1982.

Re: United States v. All Coast Fishermen's Marketing Association Inc. Civil No. 82–233 (D. Oregon).

Mr. Anthony E. Desmond,

Chief, San Francisco Field Office, Antitrust Division, United States Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102.

Dear Mr. Desmond: This is in response to the Notice published pursuant to 15 U.S.C. 16[b]–[h] inviting comments on the proposed Final Judgment and Competitive Impact Statement in the above matter. My interest arises from the fact that I represent a number of agricultural cooperatives which operate under the limited antitrust exemptions provided by the Capper-Volstead Act, 7 U.S.C. 291–292, the language and purpose of which are similar to the Fishermen's Collective Marketing Act of 1934 ("FCMA") 15 U.S.C. 521–522.

Paragraph IV of the proposed Consent Judgment would enjoin the defendant Association from:

(A) Participating in any discussion, communication, or agreement with any non-member commercial fishermen regarding:

(1) The ex-vessel price or negotiations about the ex-vessel price that the defendants will offer processors;

(2) Any terms and conditions to be offered for the sale of seafood.

(3) * * *

(B) Requesting * * * nonmember commercial fishermen to:

(1) * * *

(2) Sell fish to processors at ACFMA's * * * price or under terms and conditions set by AFCMA.

The apparent basis for the above relief sought by the United States, as explained in the Section II of the Competitive Impact Statement, is the Government's assertion that the "joint activities" permitted to commercial fishermen by the FCMA "are exempt from the antitrust laws as long as only members [of the Association] participate in such activities. The exemption does not apply where nonmembers engaged in joint marketing and pricing actions with members."

That statement finds no support in the FCMA and is contrary to the holdings of several cases that have considered the scope of the antitrust exemption under the Capper-Volstead Act and § 6 of the Clayton Act. *United States* v. *Borden*, 308 U.S. 188, 204–205 (1939); *Allen Bradley Co.* v. *Local 3 IBEW*, 325 U.S. 797, 808–809 (1945). A farmer's [or fishermen's] cooperative may lose its antitrust exemption by combining or conspiring with "other persons" who are *non-producers* or *non-fishermen;* not, however, by entering into pricing arrangements with other producers or fishermen. *Treasure Valley Potato Bargaining Association* v. *Ore–Ida Foods, Inc.*, 497 F. 2d 203, 214–216 (9th Cir.) *cert. denied*, 419 U.S. 999 (1974). The "other persons" rule of *United States* v. *Borden, supra* is not a rule that prohibits an association of producers from combining with "non-members" to fix prices. The association lost its Capper-Volstead exemption in the Borden case because it combined with *non-producer* entities such as milk processors and labor unions.

If two separate and independently acting producer associations may lawfully price in tandem, as the Ninth Circuit held in the *Treasure Valley* case, there is no principled basis for prohibiting a producer's or fishermen's association from entering into similar agreements with individual "non-member" producers or fishermen. There is no logical or rational basis for treating price agreements among independent producers and an association of producers in a different manner than agreements between separate associations. *See*, 1 Areeda & Turner, *Antitrust Law*, § 228 at 188, fn. 44. Nothing of antitrust significance turns on the formality of "membership," or the presence or absence of a formally designated "common marketing agent." *Treasure Valley* case; *Northern Calif. Supermarkets, Inc.* v. *Central Calif. Lettuce Prod. Cooperative*, 413 F. Supp. 984 (N.D. Cal. 1976) *affm'd per curiam* 580 F. 2d 369 (9th Cir.) *cert. denied* 99 S. Ct. 873 (1979).

In my view, it comports neither with substantial justice nor the public interest to require the Fishermen's Association to refrain from engaging with other fishermen in the kind of joint pricing activities contemplated by Congress when it enacted the FCMA. All that the Government has a right to require is that the Fishermen's Association be enjoined from engaging in prohibited activities in combination " 'with any person, firm or corporation which is a non-[fisherman] group.' Without such a limitation, the injunction as [proposed] runs directly counter to the [FCMA]." *Allen Bradley, supra* at 812.

Sincerely,

Sydney Berde.

cc: Mr. Richard E. Goche,
President, ACFMA.

Mr. Mel Fitzhugh,
Del Norte Fishermen's Marketing Association, Crescent City, California.

U.S. Department of Justice, Antitrust Division; San Francisco Ofice

September 30, 1982.

Re: United States v. All Coast Fishermen's Marketing Association, Inc., Civil No. 82–233 (D. Oregon).

Mr. Sydney Berde,

Berde & Hagstrom, P.A., Suite 2602, American National Bank Building, Saint Paul, Minnesota 55101.

Dear Mr. Berde: I am writing in response to your letter of August 10, 1982, in which you commented on the consent decree entered into between the United States and the All Coast Fishermen's Marketing Association. Your letter expresseds the opinion that fihermen's marketing associations may enter into agreements and engage in joint marketing activities with nonmember fishermen. In our view neither the language of the statute nor the case law supports such an interpretation.

The Fishermen's Collective Marketing Act (FCMA) [15 U.S.C. 521, 522) reads in part:

Persons enagaged in the fishery industry, as fishermen, catching, collecting, or cultivating aquatic products, or as planters of aquatic products on public or private beds, *may act together in associations*, corporate or otherwise, with or without capital stock, in collectively catching, producing, preparing for market, processing, handling, and marketing in interstate and foreign commerce, such products of said persons so engaged * * * Such associations may have marketing agencies in common and *such associations and their members* may make the necessary contracts and agreements to afect such purposes: * * * 15 U.S.C. 521. (Emphasis added.)

The language of the statute plainly states that the exemption is granted only to those fishermen who have formed associations and that joint marketing activities are immunized from the antitrust laws only when engaged in by members of the association. Basic statutory construction requires that the exemption be read narrowly. *Case-Swayne Co.* v. *Sunkist Growers*, 389 U.S. 384, 393 (1967); *United States* v. *Borden*, 308 U.S. 158 (1930); and *Maryland & Virginia Milk Producers* v. *United States*, 362 U.S. 458 (1960). If Congress intended to confer a blanket antitrust exemption on all fishermen, Congress would not have required fishermen to form associations in order to comply with the Act. Furthermore, the Supreme Court has consistently held that exemptions from the Sherman Act are to be narrowly construed and that repeals of the antitrust laws by implication are disfavored. *United States* v. *Borden, supra; United States* v. *McKesson & Robbins, Inc.*, 351 U.S. 305 (1956); and *IMC* v. *Seatrain Lines, Inc.* 411 U.S. 726 (1973).

The cases you rely on do not support the proposition that fishermen may jointly market their catch irrespective of whether or not they belong to a fishermen's marketing association. Neither *United States* v. *Borden, supra*, nor *Allen Bradley Co.* v. *Local 3 IBEW*, 325 U.S. 797 (1945) deal with the problem of association fishermen (or agricultural producers) conspiring with nonassociation fishermen. In *Borden*, the Court found that the Association had improperly conspired with nonagricultural producers. In *Allen Bradley*, the Court found that an agreement between a labor union,

employers and other nonlabor entities to restrain trade was not immune from the antitrust laws. In neither of those decisions did the Court discuss association agreements with nonmember producers. *Treasure Valley Potato Bargaining Assoc.* v. *Ore-Ida Foods,* 497 F. 2d 203 (9th Cir.), *cert. denied,* 419 U.S. 999 (1974) holds that two *properly formed* associations may act together. Again, that decision does not express an opinion on associations acting jointly with nonassociation producers.

It is the Division's position that justice and the public interest require that association fishermen be prohibited from acting jointly with independent fishermen. Independent fishermen have made a deliberate choice to market their product without help or interference from association fishermen. That means that independent fishermen bargain with processors separately, each on his own behalf. Nonassociation fishermen represent a procompetitive influence in the marketplace. This competition benefits the public because it tends to keep prices down. More importantly, the provisions of the consent decree referred to in your letter assure nonmembers that they will be able to maintain them independence without pressure from their peers who are members of an association. Those provisions make it clear that an association has no right to control the prices of fishermen who have exercised their right to remain independent.

Very truly yours,

Anthony E. Desmond,

Chief, San Francisco Office Antitrust Division.

cc: Mr. Richard D. Goche, *President, All Coast Fishermen's Marketing Ass'n, 410 Grinnell, Coos Bay, Oregon 97420.*

Phillip M. Schafer, Esq., *888 4th Street, Crescent City, California 95531.*

[FR Doc. 82-28925 Filed 10-20-82; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-62]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Energy Technology.

DATE AND TIME: November 11, 1982, 10:00 a.m. to 5:00 p.m., November 12, 1982, 8:30 a.m. to 12:00 p.m.

ADDRESS: National Aeronautics and Space Administration, John F. Kennedy Space Center, Headquarters Building, Room 3225, Kennedy Space Center, FL.

FOR FURTHER INFORMATION CONTACT: Mr. Donald A. Beattie, National Aeronautics and Space Administration, Code RE-1, Washington, DC 20546 (202 755-3127).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Energy Technology was established to provide advice and recommendations on the overall objectives, approach, content, structure and balance of NASA energy technology efforts. The Subcommittee, chaired by Dr. Robert L. Hirsch, is comprised of five members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

November 11, 1982

10:00 a.m.—Introductory Remarks.
10:15 a.m.—Discussion of Current NASA Policy for Reimbursable Technology Programs.
11:00 a.m.—Review of Conservation and Fossil Energy Programs.
2:00 p.m.—Review of Solar Terrestrial Energy Programs.
4:00 p.m.—Institutional Updates: Lewis Research Center and Jet Propulsion Laboratory.
5:00 p.m.—Adjourn.

November 12, 1982

8:30 a.m.—Discussion of Interagency Review of Federal Laboratory System.
9:00 a.m.—Future Energy Program Directions.
11:00 a.m.—Update on Kennedy Space Center Study of a Polygeneration Plant.
12:00 p.m.—Adjourn.

Dated: October 14, 1982.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 82-28898 Filed 10-20-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice 82-63]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Systems.

DATE AND TIME: November 15, 1982, 9 a.m. to 5 p.m.; November 16, 1982, 9 a.m. to 4 p.m.

ADDRESS: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. November 15, 1982, Executive Conference Room in Building No. 167, November 16, 1982, Conference Room (401) in Building No. 180.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley R. Sadin, National Aeronautics and Space Administration, Code RS-5, Washington, DC 20546 (202/ 755-2406).

SUPPLEMENTARY INFORMATION: This Informal Advisory Subcommittee was formed to make a technical review of the Office of Aeronautics and Space Technology (OAST) 1983 Space Systems Technology Program. The Subcommittee, chaired by Mr. Adrain O'Neal, is comprised of 8 members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

November 15, 1982

9 a.m.—Role of the Subcommittee
1 p.m.—Discussion of Space Research and Technology Program with emphasis on NASA Headquarters, Center, and Subcommittee Member Perspectives
5 p.m.—Adjourn

November 16, 1982

9 a.m.—Workshop and Agency Activities
1 p.m.—Planning Process/Technology Models and Air Force/National Aeronautics and Space Administration Interdependency.
3 p.m.—Review and Summary
4 p.m.—Adjourn

Dated: October 14, 1982.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 82-28897 Filed 10-20-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel (Chorus Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Chorus Section) to the National Council on the Arts will be held on November 8–9, 1982, from 9:00 a.m.–6:00 p.m. and on November 10, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W. Washington, D.C. 20506.

A portion of this meeting will be open to the public on November 10, from 2:00 p.m.–4:00 p.m. to discuss guidelines and policy.

The remaining sessions of this meeting on November 8–9, from 9:00 a.m.–6:00 p.m. and on November 10, from 9:00 a.m.–1:00 p.m. and 4:00 p.m.–5:30 p.m. are 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), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information 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.

October 13, 1982.

[FR Doc. 82–28950 Filed 10–20–82; 8:45 am]

BILLING CODE 7537–01–M

National Endownment for the Arts; National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, November 5, 1982, from 9:00 a.m.–5:30 p.m. and on Saturday, November 6, 1982, from 9:00 a.m.–5:30 p.m. at the Washington Hotel, 515 15th Street, NW., Washington, D.C. 20004.

A portion of this meeting will be open to the public on Friday, November 5, 1982, from 9:00 a.m.–5:30 p.m. and on Saturday, November 6, 1982, from 9:00 a.m.– 11:45 a.m. and from 4:15 p.m.–5:30 p.m. Topics for discussion will include Program Review and Guidelines for: Visual Arts Organizations, Media Arts, Design Arts, Expansion Arts, Dance, Music (Festivals, Solo Recitalists, and Jazz), Advancement Program and Local Initiative Funding; and other program and management reports.

The remaining sessions of this meeting on Saturday, November 6, 1982, from 11:45 a.m.–4:00 p.m. are for the purpose of Council 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), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information 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) 534–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 15, 1982.

[FR Doc. 82–28901 Filed 10–20–82; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL CAPITAL PARKS AND PLANNING COMMISSION

Revised Procedures for Public Participation

AGENCY: National Capital Planning Commission.

ACTION: Notice of Proposed Revised Procedures.

SUMMARY: The Commission's Revised Procedures for Citizen Participation were published in the Federal Register on September 3, 1980 (45 FR 58450). These procedures are being revised again as part of the Commission's on-going effort to facilitate public input into its deliberations. By substituting "public" for "citizen", these proposed revisions reflect a shift from a more narrow focus on citizen groups to a broader effort on the part of the Commission to solicit views and comments on proposed plans it is considering from a wide range of public and private entities. Aside from editorial changes and reorganization of the material, the only substantive change in these proposed revised procedures is in the section dealing with Federal elements of the Comprehensive Plan. The Commission's current procedures refer to preliminary staff reports and background studies developed prior to the draft of an element and solicit public comments on those early reports and studies. These proposed revisions omit a specific reference to the material developed at the pre-draft stage. The revisions represent the Commission's current practice in considering Federal elements of the Comprehensive Plan, but do not preclude public input in the pre-draft stage.

DATE: Comments must be submitted on or before November 22, 1982.

ADDRESS: Send comments to Daniel H. Shear, Secretary to the Commission, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C. 20576.

FOR FURTHER INFORMATION CONTACT: Samuel K. Frazier, Jr., Public Affairs Officer, National Capital Planning Commission, 1325 G Street, NW., Washington, D.C. 20576 Telephone 202/724–0174.

Revised Procedures for Public Participation

The following procedures are designed to help members of the public make their views known to the National Capital Planning Commission on planning and related matters which come before it.

With what matters does the Commission deal?

The Commission is the central planning agency for the Federal Government in the National Capital Region, which includes the District of Columbia; Montgomery and Prince George's Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities within the geographic area bounded by such counties. It reviews and acts upon development plans and programs submitted by Federal agencies, the District of Columbia Government and, in some cases, regional agencies and local governments in the Washington suburbs. It also acts on plans and programs prepared by its staff. For the sake of simplicity, these procedures use the word "plan" to cover

all matters reviewed and acted upon by the Commission.

How would you know when the Commission will consider a plan in which you are interested?

The Secretary to the Commission (telephone: 202/724–0206) provides scheduling information regarding items on the Commission's agenda. The office of the Secretary can tell you when a particular plan will be considered by the Commission and, upon request, will provide an annual schedule of Commission meeting dates. Each month, approximately three weeks before a Commission meeting, the Secretary issues a notice called "Tentative Agenda Items" (TAI). It lists items the Commission is tentatively scheduled to act upon at one of its next several meetings. There is no charge for the TAI. Those wishing to be placed on the mailing list should contact the Public Affairs Officer (telephone: 202/724–0174).

What documents are available?

Many plans are accompanied by supporting documents, including environmental information in the form of an assessment or impact statement. An environmental assessment contains a brief discussion of the plan, of alternatives, and of the environmental impacts of the proposed plan and alternatives. An environmental impact statement covers in more detail the items specified for an environmental assessment. The public may review these documents at the Commission's offices and may obtain copies in accordance with its Freedom of Information Act regulations. Each agenda item before the Commission for action is accompanied by a written recommendation by the Commission's Executive Director. The document, called an Executive Director's Recommendation or EDR, includes the rationale for the recommendation, a description of the plan, and a summary of environmental information. The EDR is ordinarily available from the Public Affairs Officer on the Monday before each Commission meeting.

Other helpful documents are located in the Commission's Central Files. They may be obtained from the Commission's Records Management Officer by requesting materials by file number as shown on the TAI.

How do you express your views to the Commission?

Approximately two weeks after the TAI is published, the Executive Director's Recommendation (EDR) is prepared for each item scheduled for action at the next Commission meeting. All written comments received in a timely fashion will be considered by the Executive Director in the preparation of the EDR.

Anyone who wishes to speak at a Commission meeting must notify the Public Affairs Officer prior to the date specified in the TAI. Agenda items on which no member of the public has asked to speak and the Executive Director has recommended Commission approval may be placed on the "Consent Calendar" and acted upon without presentation or discussion at the Commission meeting. Registering to speak prior to the deadline in the TAI insures that the Commission will hear oral presentations and that registrants will be notified if an item has been removed from the agenda for a particular meeting.

What if you wish to express your views on an item but cannot attend the meeting at which it will be discussed?

Submission of written views on any item is welcomed up to the time of its consideration by the Commission. However, the Secretary to the Commission can insure that copies of written statements will be reproduced and distributed to each member of the Commission only if such statements are received by noon of the day preceding the day of the meeting.

What should your statement contain?

A wide variety of plans come before the Commission. Members of the public can effectively make their views known to the Commission if they understand the scope of the Commission's authority and direct their comments accordingly. Therefore, the following is a brief description of the Commission's major functions and, for each function, the type of review the Commission will give the item.

(a) *Comprehensive Plan for the National Capital.* The Comprehensive Plan for the National Capital consists of (1) "Federal elements" prepared and adopted by the Commission, and (2) "District elements" prepared by the Mayor, adopted by the Council of the District of Columbia, and reviewed by the Commission.

(1) *Federal Elements and Amendments Thereto.* Federal elements deal with Federal activities and interests in the development of the National Capital. When a draft element or amendment is prepared, the Commission authorizes its circulation for review and comment to Federal, District, regional, and local agencies and those organizations and individuals who have expressed an interest in the element. Public comments, written and oral, are welcome at this stage.

(2) *District Elements and Amendments Thereto.* District elements deal with land use, transportation, public works, and other issues related to the development of the District of Columbia. Following adoption by the Council of the District of Columbia, District elements are reviewed by the Commission to determine their effect on Federal activities and interests in the National Capital Region.

The Commission will entertain comments from the public only on the impact a District element or amendment would have on Federal interests or functions. Comments on other aspects of such elements or amendments should be presented to the Mayor and/or the Council during the District's preparation and adoption of such elements or amendments.

(b) *Federal Capital Improvements Program.* Each year the Commission prepares and adopts a Federal Capital Improvements Program which contains the Commission's recommended capital program for Federal agencies in the National Capital Region over the next five years. Members of the public are invited to make planning-related comments, either orally or in writing, during the circulation and adoption stages.

(c) *Federal and District of Columbia and Other Local Plans.* (1) *Federal Plans.* Federal agencies are urged to develop a process for public participation where there is a potential for the Federal plans to have an impact on adjacent communities. Where appropriate and as requested by the sponsoring agency, Commission staff may be involved in such a process. In addition, members of the public may express their views before the Commission when it reviews the agency submisstion.

(2) *District Plans.* Various plans are submitted by the District to the Commission for recommendation or approval. Consistent with the objectives of the District of Columbia Self-Government and Governmental Reorganization Act (the "Home Rule" Act), the Commission limits its review of most District plans to a "Federal interest" review. Accordingly, public comments on such plans should be correspondingly limited. There is, however, no such limitation on plans for District public buildings in the central area of the District of Columbia.

The Commission may participate in zoning cases either at the Zoning Commission prehearing or public hearing stage or after the hearing, when proposed Zoning Commission action has been referred to the Commission as required by law. The Commission may also participate in cases before the Board of Zoning Adjustment.

Commission review of zoning matters is limited to (1) the effect of the proposed zoning on Federal activities and interests in the National Capital and (2) the consistency of the proposed zoning with adopted elements of the Comprehensive Plan for the National Capital. Written or oral comments within these limits are welcomed.

(3) *Other Local Plans in the Maryland and Virginia Portions of the Region.* On occasion the Commission reviews plans prepared by local jurisdictions in the Region and proposed zoning actions where there may be an impact on Federal facilities or interests. Its role is to make recommendations only. Comments by members of the public should be limited to the effect of the plan or proposed zoning on the Federal Establishment or other Federal interests in the National Capital Region. The Commission has approval powers over plans for certain parklands purchased with Federal grant-in-aid funds. If such a plan is before the Commission for approval, comments from members of the public are not so limited.

Dated: October 13, 1982.

Daniel H. Shear,

Secretary to the Commission.

[FR Doc. 82-28827 Filed 10-20-82; 8:45 am]

BILLING CODE 7520-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published September 22, 1982 (47 FR 41889). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the November 1982 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Extreme External Phenomena,* October 21 and 22, 1982, Santa Monica, CA. The Subcommittee will review the issues associated with the flooding and seismic hazards at Systematic Evaluation Program (SEP) plants, the NRC Staff's proposed solutions for plants which do not meet the requirements of the Standard Review Plan (SRP), the site-specific development of design basis tornado windspeeds, and the recent ACRS recommendations on the evaluation of seismic design margins. Notice of this meeting was published October 4.

**Anticipated Transients Without Scram (ATWS),* October 22, 1982, Washington, DC. The Subcommittee will discuss the proposed plan and schedule of the NRC Task Force on ATWS for resolution of this issue. Notice of this meeting was published September 29.

**Clinch River Breeder Reactor (CRBR) Thermal Hydraulic Design,* October 26, 1982, Washington, DC. The Subcommittee will review the thermal hydraulic aspects of the CRBR plant design. Notice of this meeting was published October 6.

**Systematic Evaluation Program (SEP),* October 26 and 27, 1982, Washington, DC. The Subcommittee will review the completion of Integrated Plant Safety Assessment/Systematic Evaluation for Oyster Creek, and to the extent possible, for Dresden 2 and Millstone 1. Notice of this meeting was published October 6.

**Clinch River Breeder Reactor (CRBR),* October 27, 1982, Washington, DC. The Subcommittee will discuss plant design criteria for CRBR, security and safeguard considerations, and PSAR Chapter 15, Accident Analyses. Notice of his meeting was published October 6.

**Human Factors,* October 28, 1982, Washington, DC. The Subcommittee will discuss the proposed rule on Licensed Operator Staffing at Nuclear Power Units and other related staffing issues. In addition, the Subcommittee members and consultants will exchange comments on the NRC Staff Integrated Human Factors Program Plan.

**Procedures,* November 3, 1982 (Tentative), Washington, DC. The Subcommittee will review activities of ACRS Members regarding (a) activities of ACRS members including participation on Working Groups, attendance at ACRS meetings and comments by members as individuals prior to ACRS consideration of a matter, (b) review and distribution of ACRS documents, (c) working relations with NRC Regional and Headquarter Offices, and (d) basis for appointment of ACRS members.

**Reliability and Probabilistic Assessment,* November 3, 1982 (Tentative), Washington, DC. The Subcommittee will discuss the Limerick and Indian Point Probabilistic Risk Assessments.

**Waterford Station Unit 3,* November 9, 1982, New Orleans, LA. The Subcommittee will review the Operator Training Program with the Licensee, the Region IV Office, and the cognizant NRR Staff members.

**Reactor Radiological Effects and Site Evaluation,* November 12 and 13, 1982, Washington, DC. The Subcommittees will (1) review and comment on Federal Emergency Management Agency's (FEMA) draft national plan on the use of potassium iodide (KI) as a thyroid blocking agent in the event of a radiation accident; (2) discuss consideration of seismic events in nuclear power plant emergency planning; (3) review and comment on NRC proposed revision to 10 CFR Part 20 (Standards for Protection Against Radiation); (4) be briefed by the Environmental Protection Agency (EPA) on proposed Federal Radiation Protection Guidance for Occupational Exposure; (5) be briefed by the Department of Energy (DOE) on its comments on NRC's proposed revision to Part 20; (6) review and comment on NRC proposed amendment to 10 CFR Part 50 (ALARA Rule for Nuclear Power Plants); and (7) review and comment on NRC proposed 10 CFR Part 140 (Criteria for Extraordinary Nuclear Occurrences).

**Clinch River Breeder Reactor (CRBR) Structures and Materials,* November 18, 1982, Washington, DC. The Working Group will continue its review of the CRBR structures and materials to include "leak before break", inservice inspection, weldments, and structural seismic margins.

**Reactor Radiological Effects,* November 18 and 19, 1982, Washington, DC. The Subcommittee will (1) review NRC's proposed FY 1984-1985 research programs and budget on radiation safety

and waste management; (2) review research needs regarding control room habitability and occupational radiation exposures; (3) be briefed by the Department of Energy (DOE) on DOE's radiation safety research programs; and (4) review and comment on DOE's Dose Reduction Working Group draft recommendations (established in response to PL 96–567).

**Clinch River Breeder Reactor (CRBR),* November 19, 1982, Washington, DC. The Subcommittee will continue the review of the Hypothetical Core Disruptive Accident energetics for CRBR.

**Metal Components and Three Mile Island Unit 1,* December 1, 1982, Washington, DC. The Subcommittee will review the Steam Generator Generic Recommendation Report and TMI–1 steam generator problems and corrective actions.

**Metal Components,* December 2, 1982, Washington, DC. The Subcommittee will review the NRC Staff's Research Program for FY 1984–1985.

**Emergency Core Cooling Systems (ECCS),* December 2 and 3, 1982, San Jose, CA. The Subcommittee will discuss revision of the General Electric's SAFER/GESTER Code and plans for revision of Appendix K of 10 CFR 50, ECCS Evaluation Models.

**Safety Research Program,* December 8, 1982, Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for FY 1984 and 1985 and also Draft 1 of the ACRS Report to the Congress on this matter.

**Class 9 Accidents,* Date to be determined (mid-December), Washington, DC. The Subcommittee will meet with representatives of the Industry Degraded Core Rulemaking (IDCOR) Group and cognizant NRC Staff personnel to review current severe accident research results.

**Metal Components,* Date to be determined (December, Tentative), Washington, DC. The Subcommittee will review the NRC action plan on integrity of bolts.

**Safety Research Program,* January 5, 1983, Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for FY 1984 and 1985 and also Draft 2 of the ACRS Report to the Congress on this matter.

**Metal Components,* Date to be determined (January, Tentative), Washington, DC. The Subcommittee will review the elimination of the double-ended pipe break criteria for pipe whip supports.

**Combination of Dynamic Loads,* Date to be determined (February, Tentative), Washington, DC. The Subcommittee will discuss the status report on work being done on the combination of dynamic loads.

ACRS Full Committee Meeting

November 4–6, 1982: Items are *tentatively* scheduled.

*A. *Oyster Creek Nuclear Power Plant No. 1*—Systematic Evaluation Program

*B. *Dresden Nuclear Power Station Unit 2*—Systematic Evaluation Program (SEP) review (partial evaluation).

*C. *Millstone Nuclear Power Station Unit No. 2*—Systematic Evaluation Program review (partial evaluation).

*D. *Human Factors Program Plan*—Proposed NRC Integrated Human Factors Program Plan.

*E. *ACRS Subcommittee Activities*—Reports of designated ACRS Subcommittees regarding assigned activities including consideration of extreme environmental phenomena in safety evaluations; the Systematic Evaluation Program, Phase III program; and ACRS participation in NRC rulemaking.

*F. *NRC Regulatory Requirements*—Discuss reports of designated ACRS Subcommittee Chairmen and members regarding proposed changes in NRC regulations and regulatory guides including 10 CFR Part 21, Reporting of Defects and Non-Compliance and 10 CFR Part 140 (Criteria for Extraordinary Nuclear Occurrences).

*G. *Future ACRS Activities*—Discuss proposed and anticipated ACRS activities including anticipated subcommittee activities, review of the CRBR, and proposed Committee activities.

December 9–11, 1982: Agenda to be announced.

January 6–8, 1983: Agenda to be announced.

Dated: October 15, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–29007 Filed 10–20–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on November 3, 1982, Room 1046, at 1717 H Street, NW., Washington, D.C. The Subcommittee will discuss the Limerick and Indian Point Probabilistic Risk Assessments.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance 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: *Wednesday, November 3, 1982—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, 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 the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been canceled 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 Designated Federal Employee, Dr. Richard Savior (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

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.SC. 552b(c)(4).

Dated: October 15, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–29009 Filed 10–20–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-266-0LA, 50-301-OLA, and 50-266-OLA2]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Prehearing Conference

An evidentiary hearing, related primarily to the adequacy of inservice non-destructive testing of the sleeves that Wisconsin Electric Power Company (applicant) proposes to use to repair corroded steam generator tubes, primarily in Unit 2, will be held November 17–20, 1982, from 9 am to 5 pm daily, with additional sessions if required, at: Carlton On the Lake, 1515 Memorial Drive, Two Rivers, Wisconsin 54241, Telephone: 414–793–4524.

At the close of the evidentiary hearing, a special prehearing conference will be held concerning the admissibility of contentions concerning the safety or environmental effects of a proposed steam generator tube replacement project, intended primarily for Unit 1.

Individuals wishing to make limited appearance statements concerning either or both cases may address the Board for no more than five minutes, from 8 pm to 10 pm on November 17, and may file written statements for incorporation in the record, providing that they tell the Board prior to 5 pm November 17, in writing, of their intention to appear. If a person needs more time for an appearance, they must use part of their 5 minutes to persuade the Board that they need the additional time.

Dated: October 15, 1982, Bethesda, Md.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman, Administrative Judge.

[FR Doc. 82-29009 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-454 and 50-455]

Commonwealth Edison Co., Byron Station, (Units 1 and 2); Order Extending Construction Completion Dates

Commonwealth Edison Company is the holder of Construction Permit Nos. CPPR–130 and CPPR–131 issued on December 31, 1975 by the U.S. Nuclear Regulatory Commission for construction of the Byron Station, Units 1 and 2 to be located in Ogle County, Illinois, approximately 17 miles southwest of Rockford, Illinois.

By letter, dated April 19, 1982, Commonwealth Edison Company filed a request for extension of the latest construction completion dates for the Byron Station, Units 1 and 2 Construction Permits. It was requested that Construction Permit No. CPPR–130 for Unit 1 be extended from June 1, 1982 to October 1, 1984 and Construction Permit No. CPPR–131 for Unit 2 be extended from November 1, 1983 to April 1, 1986. The reasons given for the requested extension in time were: (1) Extended construction period caused by the need to install larger quantities of material and equipment than originally contemplated as well as changes in NRC regulatory requirements some of which resulted from the Three Mile Island incident, (2) improvements in the manner of implementing NRC requirements including increased amounts of design work and installation labor required to complete installation of various components, pipes, cables, and structural members, and (3) implementation of work requirements at a pace consistent with the need to spread financial requirements evenly throughout the construction period in order to maintain annual financial requirements within the capabilities of Commonwealth Edison Company.

This action involves no significant hazards consideration, good cause has been shown for the delays, and the requested extension is for a reasonable period, the bases for which are set forth in the staff's safety evaluation for this extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The applicant's letter, dated April 19, 1982, and the NRC staff's safety evaluation supporting the Order are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

It is hereby ordered that the latest construction completion date for CPPR–130, Unit 1, be extended from June 1, 1982 to October 1, 1984 and for CPPR–131, Unit 2, be extended from November 1, 1983 to April 1, 1986.

Date of Issuance: October 12, 1982.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Acting Director, Division of Licensing.

[FR Doc. 82-28997 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-269; License No. DPR-38, EA 82-07]

Duke Power Co., Oconee Nuclear Station, (Unit 1); Order Imposing Civil Monetary Penalty

I

In the Matter of Duke Power Company, 422 South Church Street, Charlotte, North Carolina, 28242 (the "licensee") is the holder of License No. DPR–38 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes operation of the Oconee Nuclear Station Unit 1 Facility in Oconee County, South Carolina under certain specified conditions and is due to expire on November 6, 2007.

II

An inspection of the licensee's activities under the license was conducted on March 23–April 1, 1982 at the Oconee Nuclear Station Unit 1 facility in Oconee County, South Carolina. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 23, 1982. The Notice stated the nature of the violation, the provision of the license condition which the licensee had violated, and the amount of civil penalty imposed for the violation. Answers dated July 23, 1982 and September 15, 1982 to the Notice of Violation and Proposed Imposition of Civil Penalty were received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalty contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed. The Director agrees with the licensee's denial of the condition described as Item 2 in the violation in the Notice of Violation and proposed Imposition of Civil Penalty and withdraws that portion of the violation dealing with the inoperability of one of these channels of the reactor building spray initiation system.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Forty-four Thousand Dollars within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, U.S. NRC, Washington, DC 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC license conditions as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty as amended by Section III of this Order; and,

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland, this 12th day of October 1982.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

For the violation and associated civil penalty identified in the Notice of Violation and Proposed Imposition of Civil Penalty for Duke Power Company's Oconee station (Unit 1) dated June 23, 1982 the original violation is restated and the NRC's evaluation and conclusion regarding the licensee's responses (dated July 23, 1982 and September 15, 1982) is presented.

Original Statement of Noncompliance

Technical Specification 3.6.1 requires that containment integrity be maintained whenever reactor coolant system (RCS) pressure is greater than 300 psig and temperature is greater than 200°F.

Technical Specification 3.5.1 requires that all three channels of both trains of reactor building spray initiation be operable when the reactor is critical.

Technical Specification 6.4.1 requires that the plant be maintained in accordance with approved procedures. Procedure IP/O/A/310/5D was established and approved to implement 6.4.1. Step 10.2.3 of the procedure requires replacement of the cap on the ¼-inch calibration line connected to the ½-inch sensing line for reactor building pressure switch 1PS–22.

Contrary to the above, on July 9, 1981, the licensee failed to follow step 10.2.3 of procedure IP/O/A/310/5D. As a result of the failure the following conditions existed between July 9, 1981 and March 23, 1982:

1. Containment integrity of the Unit 1 reactor building was not maintained for fifty-one days while RCS pressure was greater than 300 psig and temperature was greater than 200°F.

2. For thirty-two days, one of three channels of Train A of reactor building spray initiation for Unit 1 was inoperable while the reactor was critical.

Evaluation and Conclusions

A. Violation. The licensee admitted its employees failed to follow required procedures when calibrating reactor building pressure switch 1PS–22 which is the underlying violation for which the civil penalty was proposed. The licensee further admitted that containment integrity was not maintained. However, the licensee denied that the reactor building spray initiation channel was rendered inoperable by the missing cap.

Following receipt of the Notice of Violation and Proposed Imposition of Civil Penalty, the licensee conducted a special test and determined that pressure switch 1PS–22 would actuate at approximately 22 psig which, while greater than the nominal 10 psig setting, is within the Technical Specification required value of 30 psig. Since the channel would operate within the requirements of the Technical Specification, the NRC agrees that Item 2 in the violation should be withdrawn.

B. Assessment of Severity Level. The licensee argued that the violation should have been categorized at a Severity Level IV because the potential increase in the offsite dose in the event of an accident would have been negligible. While offsite dose consequences are a factor in determining the safety significance of a violation, they are not the only factor. In this case, the safety significance lies primarily in the failure of the licensee's administrative and management controls to ensure that procedures affecting safe operation were meticulously followed for equipment important to safety which the staff believes is cause for significant regulatory concern. In the present case the failure to follow procedures resulted in a degradation of containment integrity, a violation of a limiting condition for operation (LCO) and had the potential to preclude operation of a pressure switch in the reactor building spray initiation system which would have violated yet another LCO.

The licensee argued that while Technical Specification 3.6.1 requiring containment integrity was violated, the breach in containment would not have resulted in a significant increase in the potential radiological impact on the health and safety of the public at the site boundary in the event of a design basis accident. The NRC agrees.[1] Nevertheless, in the event of an accident, the breach in containment integrity could have resulted in some additional release and this is of concern to the NRC because it could have been avoided. Furthermore, the licensee did not address the potential for increased exposure of plant personnel had entry into the penetration room been required following an accident. The NRC believes that such exposures could be significant. In addition, it was fortuitous that both the pressure switch remained functional and the size of the containment breach restricted the potential radiological impact in the event of an accident. Had failure to follow a procedure involved a larger containment penetration, the potential radiological consequences could have been large and could have resulted in the violation being characterized as a Severity Level II, in that the containment would not only have been degraded, but would have been unable to perform its intended safety function.

Therefore, the staff has concluded that the violation was properly categorized as a Severity Level III.

C. Assessment of the Civil Penalty. Notwithstanding the withdrawal of the spray initiation channel operability portion of the violation, the underlying procedural violation of Technical Specification 6.4.1 remains significant, therefore, unless mitigation were appropriate, the staff would conclude that a civil penalty should be imposed.

D. Mitigation Factors. 1. Self-Identification. The licensee asserts that it identified the problem with its procedures in January, 1982, that corrective action was taken at that time, and that mitigation on that basis is required. However, the need for independent verification had been previously identified by the NRC in NUREG–0585 and NUREG–0737, which were issued in November, 1979 and November, 1980, respectively, as a result of lessons learned from the Three Mile Island accident. Both recommended, among other things, that licensee's procedures "be reviewed and revised, as necessary, to assure an effective system of verifying the correct performance of operating activities is provided as a means of reducing human errors." Both documents specifically referred to "human verification of operations and maintenance *independent of the people performing the activity*" (Emphasis added).

These provisions have been the subject of extensive correspondence over the past two years and of a Confirmatory Order issued on July 10, 1981. Thus, we do not believe any credit should be given to the licensee for identifying the need for independent verification in January, 1982.

[1] While the staff agrees with the licensee's conclusion based on the calculations performed, the licensee should have used the maximum hypothetical accident as the basis for its analysis instead of the design basis loss of coolant accident. See Technical Information Document 14844, "Calculation of Distance Factors for Power and Test Reactor Sites."

2. Corrective Action. The licensee claims that following its identification of the potential problem with failure of procedures to require independent verification, it took prompt and appropriate corrective actions to preclude repetition by changing its procedures. Two points indicate otherwise. First, the licensee provided, as a part of the response, a copy of a memorandum from a site supervisor to his staff which required independent verification by persons other than those doing the work. This memorandum was limited in application to those supervised by the author and thus did not precipitate or ensure generic corrective actions in other groups at the Oconee site. Further, the instructions were not provided in a controlled document within the meaning of 10 CFR 50, Appendix B, Criterion VI which would assure that future employees would be informed of and understand the meaning of "independent verificaiton."

Second, it is noted that while Oconee procedures imply an independent verification by the inclusion of two sign-off spaces on data sheets, neither the body of the procedure nor any administrative control explicitly establishes the meaning or significance of this entry.

Therefore, we do not believe that action taken was unusually prompt or extensive and no mitigation based on corrective action is warranted.

3. Enforcement History, Prior Notice and Multiple Examples. These factors were not used to increase the civil penalty above the base amount and the Policy does not provide for mitigation on the basis of the absence of these factors.

Based on the above, the staff concludes that the civil penalty should not be mitigated.

[FR Doc. 82-28998 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-70-OLR/70-754-SNMR] (ASLBP No. 83-481-01 OLR)

General Electric Co. (GETR Vallecitos); Notice of Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *General Electric Company*, (GETR Vallecitos), Docket Nos. 50-70-OLR and 70-754-SNMR, is hereby reconstituted by appointing the following Administrative Judge to the Board: Mr. John H. Frye. Mr. Herbert Grossman was a member of this Board, but, because of a schedule conflict is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges: John H. Frye, Chairman; Dr. Harry Foreman; Mr. Gustave A. Linenberger.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board members is: Administrative Judge John H. Frye; Atomic Safety and Licensing Board Panel; U.S. Nuclear Regulatory Commission; Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 14th day of October 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-29004 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315, 50-316; Licenses No. DPR-45, DPR-74; EA 82-03]

Indiana and Michigan Electric Co., Donald C. Cook Nuclear Plant Units 1 and 2; Order Imposing Civil Monetary Penalties

I

Indiana and Michigan Electric Company (the "licensee") is the holder of Operating Licenses No. DPR-45 and No. DPR-74 (the "licenses") issued by the Nuclear Regulatory Commission (the "Commission"). These licenses authorize the operation of Units 1 and 2 of the Donald C. Cook Nuclear Plant near Bridgman, Michigan. These licenses were issued on October 25, 1974 and December 23, 1977.

II

As a result of inspections of the licensee's facilities by the Nuclear Regulatory Commission's Office of Inspection and Enforcement during the period June 1 through August 13, 1981, the NRC staff determined that in several instances the licensee failed to adequately implement its fire protection program. In addition, the performance of a leak rate test resulted in a breach of containment integrity for approximately 60 hours. The NRC served the licensee a written Notice of Violation and Notice of Proposed Imposition of Civil Penalties by letter dated December 30, 1981. The Notice stated the nature of the violations, the provisions of the Atomic Energy Act, the Nuclear Regulatory Commission's regulations or license conditions that were violated, and the amount of the civil penalty proposed for each violation. The licensee responded to the Notice of Violation and Notice of Proposed Imposition of Civil Penalties with a letter dated March 1, 1982.

III

Upon consideration of Indiana and Michigan Electric Company's response (March 1, 1982) and the statements of fact, explanation, and argument in denial or mitigation contained therein as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that, with the exception of Items I.A, I.B, and I.F, the violations did occur as set forth in the Notice of Violation. The proposed civil penalties for Items I.A, I.B, I.C, I.D, I.E, and I.F were based upon serious weaknesses in the management of the fire protection program. Items I.A and I.B addressed the operability of fire doors and fire detection instrumentation. After consideration of the licensee's response to Items I.A and I.B, including proposed corrective actions, Item I.A has been withdrawn and Items I.B and I.F have been revised. Therefore, in view of the significance of the remaining items and in accordance with the NRC Enforcement Policy, the proposed civil penalties for Items I.A through I.F are withdrawn. However, the status of civil penalties for all remaining violations designated in the Notice of Violation has not changed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96-295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of Fifty Two Thousand Dollars within thirty days of date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within thrity days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II above, and

(b) Whether on the basis of such violations this Order should be sustained.

Dated at Bethesda, Maryland this 14 day of October 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusions

Each item of noncompliance and associated civil penalty identified in the Notice of Violation (dated December 30, 1981), which was denied by the licensee, or for which mitigation was requested is restated below. The Office of Inspection and Enforcement's evaluation of the licensee's response is presented, followed by conclusions regarding the occurrence of the noncompliance and the proposed civil penalty.

Item I.A

Statement of Noncompliance

Technical Specification 3.7.10 for Units 1 and 2 requires that all penetration fire barriers protecting safety related areas shall be functional at all times. With one or more of the above required penetration fire barriers non-functional, a continuous fire watch shall be established within one hour.

Technical Specification 4.7.10 for Units 1 and 2 states, in part, "Each of the above required penetration fire barriers shall be verified to be functional by a visual inspection * * * at least once per 18 months * * *."

Contrary to the above:

1. As of June 4, 1981, the licensee had not verified by visual inspection that certain penetration fire barriers (fire doors and fire dampers) protecting safety related areas were functional since the requirement became effective on January 12, 1978, for Unit 1 and on December 23, 1977, for Unit 2.

2. Eighteen fire doors protecting safety related areas (including the auxiliary feedwater pump rooms and containment cabling and piping penetration areas) were not functional for the following reasons:

a. Sixteen doors did not have the required fire rating.

b. Two fire doors were obstructed from closing.

c. Six fire doors had inoperable closure and/or latching mechanisms.

3. On June 4, 1981, when the NRC inspector informed licensee management that the visual inspections were overdue, the licensee failed to implement the provisions of the action statement of Technical Specification 3.7.10 and thereby satisfy the limiting condition for operation.

This is a Severity Level III violation (Supplement I).

(Civil Penalty—$10,000.)

Evaluation of Licensee's Response

The licensee admitted that the facts are correct as stated in the Notice of Violation. The licensee contends that these facts do not represent a violation of Technical Specification 3/4.7.10 because the scope of that specification was narrowly interpreted by the licensee to include only piping and cabling penetration fire seals. The licensee provided a chronology of correspondence between the NRC staff and the licensee which preceded the issuance of Technical Specification 3/4.7.10 to support this position. Correspondence concerning the subject Technical Specification discusses only piping and cabling penetration seals. In response to this apparent violation, the licensee has committed to submit a request for a license amendment that would revise Technical Specification 3/4.7.10 to encompass all types of penetration fire barriers including fire doors and fire dampers, and pending that amendment to administratively apply Technical Specification 3/4.7.10 to these types of penetration fire barriers.

Conclusion

The information provided in the licensee's response does provide a basis for concluding that the scope of Technical Specification 3/4.7.10 could have been interpreted by the licensee to include only piping and cabling fire barrier penetration seals. Although the information in the licensee's response supports this interpretation, this interpretation represents poor fire protection engineering practice. The lack of any test or inspection program for fire doors resulted in undetected, nonfunctional fire doors which were intended to protect safety-related equipment. However, based on NRC's evaluation of the licensee's response, violation I.A will be retracted and the civil penalty for this violation will not be imposed.

Item I.B

Statement of Noncompliance

Technical Specifications 3.3.3.7 for Unit 1 and 3.3.3.8 for Unit 2 state, in part, "As a minimum, the fire detection instrumentation for each fire detection zone * * * shall be OPERABLE * * *. With the number of OPERABLE fire detection instruments less than required * * *. Within one hour, establish a fire watch patrol to inspect the zone(s) with the inoperable instrument(s) at least once per hour * * *."

Technical Specifications 4.3.3.7.2 for Unit 1 and 4.3.3.8.2 for Unit 2 state, "The NFPA Code 72D Class B supervised circuits supervision associated with the detector alarms of each of the above required fire detection instruments shall be demonstrated OPERABLE at least once per six months."

Contrary to the above:

1. As of June 3, 1981, the fire detector supervisory circuits had not been demonstrated OPERABLE since the requirements became effective on January 12, 1978, for Unit 1, and on December 23, 1977, for Unit 2.

2. Four fire detector supervisory circuits were not OPERABLE due to malfunctioning relays. This resulted in a degraded mode of operation for the fire detection instrumentation for those four zones.

3. On June 4, 1981, when the NRC inspector informed licensee management that the OPERABILITY demonstrations were overdue, the licensee failed to implement the provisions of the action statement of Technical Specification 3.3.3.7 for Unit 1 and 3.3.3.8 for Unit 2 and thereby satisfy the limiting condition for operation.

This is a Severity Level III violation (Supplement I). (Civil Penalty—$5,000.)

Evaluation of Licensee's Response

The licensee admitted that the facts are correct as stated in the Notice of Violation. The licensee's response to violation I.B has provided no new information regarding the circumstances surrounding this violation, but has focused on the definition of fire detector "operability." The licensee contends that the fire detection instrumentation technical specification was not violated by having fire detection supervisory circuits inoperable. The fire detection instrumentation technical specification requires a minimum number of detectors to be operable in each detection zone. The inoperable supervisory circuits did not affect the ability of the detection instrumentation to function properly. Consequently, under the definition of operability, the supervisory circuitry is not necessary attendant equipment which must be able to perform its function for the detection instrumentation to perform its function.

Conclusion

The NRC Staff accepts the licensee's position. Sections 2 and 3 of this violation will be retracted and the Severity Level will be reduced from III to IV. Since violation I.A has been retracted in its entirety and the severity level of violation I.B has been reduced, the civil penalty for violation I.B will not be imposed.

Item I.C

Statement of Noncompliance

Technical Specification 3.7.9.2 for Units 1 and 2 states, in part, the spray and/or sprinkler systems located in the areas shown in Table 3.7–5 shall be OPERABLE * * *. Whenever equipment in the spray/sprinkler protected areas is required to be OPERABLE * * * with one or more of the above required spray and/or sprinkler systems inoperable, establish a continuous fire watch with backup fire suppression equipment for the unprotected area(s), within one hour * * *"

Technical Specification 4.7.9.2 for Units 1 and 2 states, in part, that each of the above required spray and/or sprinkler systems shall be demonstrated to be OPERABLE at intervals of 12 months and 18 months, in accordance with specified test requirements.

Contrary to the above, until January 3, 1980, the spray and sprinkler systems listed in Technical Specification Table 3.7–5 had not been demonstrated OPERABLE since the requirement became effective on January 12, 1978, for Unit 1 and on December 23, 1977, for Unit 2.

This is an Infraction. (Civil Penalty—$4,000.)

Evaluation of Licensee's Response

The licensee admitted that the facts are correct as stated in the Notice of Violation. The licensee has provided no new information regarding the basis for or circumstances surrounding this violation. The licensee stated the civil penalty should be retracted because the violation was identified by the licensee and corrective action was promptly initiated.

This violation was identified during an internal audit on December 3–6, 1979, and formally documented in a Corrective Action Request on January 3, 1980. Temporary procedure changes were not written to correct the violation until January 29, 1980, for the charcoal filter protection systems and February 2, 1980, for the auxiliary building protection systems. The surveillance testing of these systems was not completed until February 6, 1980 and March 3, 1980, respectively. The long time period before corrective action was taken (without compensatory and remedial action) is indicative of inadequate licensee management attention to this fire protection violation as well as inadequate management control over the fire protection equipment surveillance program.

Conclusion

The violation as described above did occur as originally stated. Since violation I.A has been retracted in its entirety and the severity level of violation I.B has been reduced, the civil penalty for violation I.C will not be imposed.

Item I.F

Statement of Noncompliance

Technical Specification 6.8.1.e for Units 1 and 2 requires that written procedures shall be established, implemented and maintained covering the Emergency Plan implementation.

The Donald C. Cook Emergency Plan which is contained in Section 12.3.1 of the Final Safety Analysis Report was amended in December 1977 (Amendment No. 80) to include a requirement in Part IX.F.4 that fire brigade members participate in quarterly fire drills.

Contrary to the above, written procedures were not established to implement this requirement. Consequently, the requirement was not satisfied on four occasions as follows:

1. The Operating Shift A Fire Brigade did not participate in a fire drill in the second quarter of 1979.

2. The Operating Shift C Fire Brigade did not participate in a fire drill in the third quarter of 1979.

3. The Operating Shift B Fire Brigade did not participate in a fire drill in the third quarter of 1980.

4. The Operating Shift D Fire Brigade did not participate in a fire drill in the fourth quarter of 1980.

This is a Severity Level IV violation (Supplemental I). (Civil Penalty—$2,500.)

Evaluation of Licensee's Response

The licensee's response to violation I.F has provided new information regarding the circumstances surrounding this violation. The licensee indicates that two of the apparently missed fire drills are documented in the operations logbook. The remaining two apparently missed fire drills cannot be documented. The licensee admits that no formal procedure to hold fire drills existed from December 1977 until January 1979. The licensee contends that after January 1979, an Operations Standing Order (OSO–24) on the subject of fire drills, written by the Operations Superintendent, constituted a formal administrative plant procedure and satisfied the Technical Specification requirements. This standing order was implemented following an internal audit of the fire protection program which had previously identified this violation.

An Operations Standing Order does not constitute a formal procedure in content, documentation or review and approval as required by Technical Specification 6.8.1.e. The licensee has demonstrated that two of the apparently missed fire drills can be documented through the operations logbook. However, failure to have an appropriate procedure shows that licensee management implemented inadequate corrective action after an internal audit identified this violation two and one-half years before this inspection.

Conclusion

The NRC accepts the statements made in the licensee's response concerning documentation of two of the four apparently missed fire drills and retracts parts 1 and 4 of this violation. Since violation I.A has been retracted in its entirety and the severity level of violation I.B has been reduced, the civil penalty for the remainder of violation I.F will not be imposed.

Items I.G and I.H

Statement of Noncompliance

I.G

As part of the NRC staff review of fire protection at the D. C. Cook Nuclear Plant, Units 1 and 2, the staff requested, by letter dated September 30, 1976, that the licensee prepare a fire hazards analysis of the facility. The licensee's response dated March 31, 1977, "Fire Hazards Analysis Units 1 and 2," stated that ten specified fire zones were provided with 12 (Underwriters' Laboratories approved) Class B doors.

Contrary to section 186 of the Atomic Energy Act of 1954, the statement in the licensee's March 31, 1977 response is a material false statement. It is false in that none of the 12 specified doors had any fire resistance rating. This false statement is material, in that the staff relied upon it in reaching its conclusions regarding the acceptability of the licensee's fire protection program. (Civil Penalty—$4,000.)

I.H

The NRC staff requested by letter dated July 11, 1977, that the licensee provide information concerning unprotected openings in the auxiliary feedwater pump rooms. The licensee's response dated November 22, 1977, stated, in part, "The four feedwater pump rooms are equipped with (Underwriters' Laboratories approved) three hour rated fire doors * * *."

Contrary to section 186 of the Atomic Energy Act of 1954, the statement in the licensee's November 22, 1977 response is a material false statement. It is false, in that it was determined that none of these doors had a fire resistance rating. This false statement is material, in that the staff relied upon it in reaching its conclusions regarding the acceptability of the licensee's fire protection program. (Civil Penalty—$4,000.)

Evaluation of Licensee Response

The licensee admitted that the facts are generally correct as stated in the Notice of Violation. The licensee's response to violations I.G and I.H has provided no new information regarding the basis for or the circumstances surrounding these violations. The licensee's basis for mitigation of the civil penalty has also provided no new information regarding the criteria for imposition of a civil penalty for these violations. The licensee asserts that a civil penalty is not appropriate for these violations because they occurred in the same time frame as material false statements previously cited by the NRC and for which adequate corrective actions had been taken.

The accuracy of information provided to the NRC is of utmost importance when that information is utilized to make determinations on the adequacy of facility design to protect public health and safety. Inaccurate information could result in decisions which adversely affect the health and safety of the public. The inaccurate information cited in violations I.G and I.H concerning the capability of certain doors in the facility to resist fire propagation misrepresented the fire containment design feature of the facility fire protection program. While these violations occurred during the time frame of previous enforcement action concerning other material false statements, that enforcement action does not relieve the licensee from the responsibility for providing accurate information to the NRC, nor does it relieve the licensee from liability for other material false statements.

Conclusion

These violations did occur as originally stated. The information provided in the licensee's response does not provide a basis for modification of the enforcement action.

Item I.I

Statement of Noncompliance

The NRC staff requested by letters dated July 16 and 30, 1976, that the licensee make a comparison of the D. C. Cook Nuclear Plant fire protection program with the positions in Appendix A to Branch Technical Position APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976." One of the positions in Appendix A states, in part, "Effective administrative measures should be implemented to prohibit bulk storage of combustible materials inside or adjacent to safety related buildings or systems during operation or maintenance periods * * *." The licensee's response dated January 31, 1977, states, in part, "Administrative measures have been established to control the storage of combustible materials and to prohibit their storage in the vicinity of safety related systems."

Contrary to section 186 of the Atomic Energy Act of 1954, the statement in the licensee's January 31, 1977 response is a material false statement. It is false, in that it was determined during an NRC inspection that administrative measures had not been established at the time of the licensee's January 31, 1977 response and they were not

established until July 28, 1977. This false statement is material, in that staff relied upon it in reaching its conclusions regarding the acceptability of the licensee's fire protection program. (Civil Penalty—$4,000.)

Evaluation of Licensee's Response

The licensee's response to violation I.I has provided no new information regarding the basis for or circumstances surrounding this violation or civil penalty. The licensee contends that Plant Manager Instruction PMI–2090, Revision 1, implements administrative measures "to control the storage of combustible materials and to prohibit their storage in the vicinity of safety related systems" through a requirement that "Inspections of completed work by first line supervisors shall also include * * * removal of fire hazards and proper disposal of * * * oily rags." This contention extends the scope of this procedure beyond the instructions contained in the procedure. This procedure addresses the mechanism to control fire hazards resulting from a work activity. PMI–2090, Revision 1, did not control the general storage of combustible materials nor prohibit their storage in the vicinity of safety-related systems when the statement was made.

Conclusion

This violation as described above did occur as originally stated. The information provided in the licensee's response does not provide a basis for modification of the enforcement action.

Item II.A

Statement of Noncompliance

Technical Specification 3.6.1.1 requires that primary containment integrity be maintained during power operation, startup, hot standby and hot shutdown (modes 1, 2, 3 and 4). If primary containment integrity is lost, it is required to be restored within one hour or the plant be placed in at least hot standby within the next six hours and in cold shutdown within the following 30 hours.

Contrary to the above, primary containment integrity was not maintained from about 10:45 a.m. on May 10, 1981, to 10:30 p.m. on May 12, 1981 (a period of about 60 hours), while the Unit 2 reactor was in hot standby and hot shutdown (modes 3 and 4) in that a containment sensing line plug, removed to install a test instrument, was not replaced following completion of the Integrated Leak Rate Test. The calculated leakage rate from the sensing line with the plug removed exceeded the limits allowed by the Technical Specification.

This is a Severity Level III violation (Supplement I). (Civil Penalty—$30,000.)

Evaluation of Licensee's Response

The licensee's response admitted that the facts were correct as stated.

The licensee's contention for requesting mitigation of the civil penalty are: (1) The subject event was not similar to the event discussed during the January 13, 1981 Enforcement Conference; (2) the procedure was not inadequate since its purpose was to assure validty of the type A test required by 10 CFR 50, Appendix J; and (3) the corrective actions were taken promptly and additional control measures were promptly implemented.

The licensee contends that there is no basis for escalating the enforcement action by 25% because this event was not similar to prior violations. The civil penalty base amount for this violation was not increased based upon similarity.

The licensee's second contention is that the procedure was not supposed to assure restoration, only to conduct a successful leak rate test, and that "a technician overlooked sound maintenance practices."

Technical Specification 6.8.1, though not specifically cited, requires that procedures be established to ensure proper conduct of surveillance and test activities of safety-related equipment. To suggest that it is acceptable to rely merely on maintenance practices to ensure that containment integrity is maintained is an unacceptable premise.

The third contention for requesting mitigation of the civil penalty is that prompt corrective actions were taken.

Although it is agreed that the plug was promptly replaced when it was discovered missing, the corrective actions taken to prevent a similar occurrence were not implemented until about two months after the event (procedures dated July 9, 24, and 28, 1981).

Conclusion

As admitted by the licensee, the violation of Technical Specification 3.6.1.1 described above occurred as originally stated. The information provided in the licensee's response does not provide a basis for modification of the enforcement action.

Item II.B

Statement of Noncompliance

Technical Specification 6.9.1.8 requires that NRC be notified of certain events within 24 hours by telephone and with a written followup report within 14 days. One event that requires reporting within 24 hours is: "Personnel error or procedural inadequacy which prevents, or could prevent, by itself, the fulfillment of the functional requirements of systems required to cope with accidents analyzed in the SAR."

10 CFR 50.72 requires the notification of the NRC Operations Center as soon as possible and in all cases within one hour by telephone of the occurrence of "Personnel error or precedural inadequacy which, during normal operations, anticipated operational occurrences, or accident conditions, prevents or could prevent, by itself, the fulfillment of the safety function of those structures, systems, and components important to safety that are needed to (i) shut down the reactor safely and maintain it in a safe shutdown condition, or (ii) remove residual heat following reactor shutdown, or (iii) limit the release of radioactive material to acceptable levels or reduce the potential for such release."

Contrary to the above, telephone notification was not made of the event described above in Item II.A and a written report was not submitted within 14 days. The event was identified by the licensee of May 12, 1981, but was not reported to the NRC until July 15, 1981.

This is a Severity Level III violation (Supplement I). (Civil Panalty—$10,000.)

Evaluation of Licensee's response

The licensee points out that the violation is partially incorrect in stating that the event was not reported until July 15, 1981. The licensee is correct. The July 15, 1981 date was the date of the revised event report which was originally submitted as a 30-day report on June 10, 1981.

The basis the licensee sets forth for requesting retraction of the civil penalty is that the issue is not a failure to report but a case of misclassifying the reportability of an event and submitting an untimely report. As noted in the NRC's December 30, 1981 letter transmitting the Notice of Violation and Proposed Imposition of Civil Penalties, the failure to notify the NRC in a timely manner is the basis for this item of noncompliance.

The licensee also states that the significance of this event did not warrant immediate reporting to the NRC, and that the applicability of this reporting requirement was not considered by the NRC in its initial evaluation. When the NRC Senior Resident Inspector became aware of this event, he presented his position to plant management that it was an ENS reportable event and required prompt notification. After three-and-a-half weeks of consideration, the licensee decided to report it "promptly" (24-hour report). 10 CFR 50.72 is applicable to personnel errors which could prevent the function of the containment (limit release of radioactive material).

Conclusion

The violation of Technical Specification 6.9.1.8 and 10 CFR 50.72 did occur as stated except that the date "June 10, 1981" should be substituted for "July 15, 1981" as the date the licensee initially reported the event to NRC. The information provided in the licensee's response does not provide a basis for modification of the enforcement action.

Item III.B

Statement of Noncompliance

Technical Specification 6.5.1.6 requires that the Plant Nuclear Safety Review Committee (PNSRC) be responsible for review of all procedures required by Technical Specification 6.8 and changes thereto. Technical Specification 6.8 includes requirements to have surveillance test procedures.

Contrary to the above, Surveillance Test Procedure 12THP4030 STP.202, Revision 3, was changed in that the isolation valves for containment pressure transmitters PPA–310 and PPA–311, which were not addressed in the procedure, were closed during the Integrated Leak Rate Test without review by the PNSRC.

This is a Severity Level IV violation (Supplement I).

Evaluation of Licensee's Response

The licensee states that its position is essentially that the positioning of the containment pressure-sensing-line valves was not specified in the procedure since their positions have no bearing on the validity of

the Type A leak measurement. Therefore, any change in alignment did not require review in accordance with Technical Specification 6.5.1.6.

Since the integrated leak rate test procedures do not specify whether the transmitters and associated sensing lines should be valved out, it must be assumed that these components remain in their normal operating position.

Instruments should not be isolated from the testable volume on a Type A test as discussed in 10 CFR Part 50 Appendix J. The instrument and associated sensing lines are considered to be an extension of containment.

Conclusion

The violation of Technical Specification 6.5.1.6 did occur as originally stated. The information provided in the licensee's response does not provide a basis for modification of the enforcement action.

[FR Doc. 82-28999 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-482-OL; ASLBP 81-453-03-OL]

Kansas Gas & Electric Co., et al. (Wolf Creek, Unit 1); Notice of Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Kansas Gas & Electric Company, et al.* (Wolf Creek, Unit 1), Docket No. 50-482-OL, is hereby reconstituted by appointing the following Administrative Judge to the Board: Mr. James A. Laurenson. Mr. James P. Gleason was a member of this Board, but, because of a schedule conflict is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

James A. Laurenson, Chairman;
Dr. George C. Anderson;
Dr. Hugh C. Paxton.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board members is:

Administrative Judge James A. Laurenson, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

Issued at Bethesda, Maryland, this 14th day of October 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-29000 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-382A]

Louisiana Power & Light Co.; Notice of Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review of Waterford Unit No. 3 by the Attorney General and the Commission. The finding is as follows:

"Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change finding" to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events that have transpired since issuance of the Waterford 3 construction permit, the staffs of the Antitrust and Economic Analysis Branch, Office of Nuclear Reactor Regulation, and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff," have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the construction permit antitrust review are not of the nature to require a second antitrust review at the operating license stage of the Application.

"In reaching this conclusion, the staff considered the structure of the electric utility industry in Louisiana, the events relevant to the Waterford construction permit review and the events that have occurred subsequent to the construction permit review.

"The conclusion of the staff's analysis is as follows:

'At the time of the Waterford construction permit antitrust review, LP&L was furnishing wholesale power at system average cost to municipals and cooperatives having minimal or no self-generation. Those municipals having self-generation were looking forward to future economic base load generation from nuclear and other large generating units in which they planned to obtain access from LP&L or through coordination services supplied by LP&L. The license conditions negotiated by the parties and accepted by the ASLB contained provisions for access to nuclear generation, coordination services, and wholesale power services from LP&L.

'Following the construction permit review of Waterford 3, the municipals and cooperatives declined unit power purchases from Waterford and pursued instead interconnection and coordination arrangements with LP&L. The interconnection contracts provided for power only on a non-firm basis at LP&L's incremental cost of fossil fuel. Meanwhile the fuel situation worsened such that operation of oil fired municipal generation became uneconomical and alternatives for future generation were too distant in the future to be of immediate advantage. Therefore, many of the self-generating municipals, faced with higher fuel costs and rising labor and equipment costs required to maintain their systems, entered into agreements for immediate operation and ultimate purchase of their systems by LP&L.

'The cooperative and municipals with minimal self-generation faired better. Cajun continued to receive its power requirements at LP&L's system average cost. Vidalia, Winnfield, and Jonesboro continued to receive their full requirements at LP&L's system average cost and in addition received some credit for generation which was not running. Minden received some baseload power at LP&L's system average cost.

'Recently, LP&L has (1) withdrawn the firm wholesale power from the cooperatives and from Minden, (2) ceased to provide credit to Vidalia, Winnfield and Jonesboro for their inoperable generation, and (3) requested retroactive payments from these entities dating back to 1969. The effect of these actions was to dramatically increase the operating costs of these utilities with the resulting pressures to enter into agreements with LP&L to operate their systems.

'The above factors have made the provisions of wholesale for resale power to full and partial requirement customers of importance to their survival to a degree that did not exist during the time of the Waterford construction permit review. This is evidenced by LP&L's acquisition of several municipal systems caused in part by their high production costs as compared to direct service by LP&L.

'With respect to the purchases by LP&L, staff believes that these purchases approved by the citizenry and the Securities and Exchange Commission do not provide a basis for concluding that significant changes have occurred since the construction permit review. The staff also believes that the questions dealing with firm wholesale service at average system cost can more appropriately be resolved before the Federal Energy Regulatory Commission. Similar wholesale disputes were resolved before that agency in Docket No. EL-80-5, in combined docket Nos. ER-81-547 and EL-81-13, and in combined docket Nos. ER-78-19 (Phase 1) and ER-78-81. Further, the unavailability of firm wholesale power from LP&L has been counter-balanced since the CP antitrust review by the emergence of the Cajun Electric Power Cooperative and the Louisiana Energy and Power Authority. These joint action agencies have the potential of increasing competition in the area of bulk power supply by expanding the opportunities available to cooperatives and municipals to work together independently of LP&L in establishing economic power supplies. For these reasons, the changes that have occurred since the construction permit antitrust review are not significant in the context of 105c of the Atomic Energy Act, as amended, and do not warrant action by the Nuclear Regulatory Commission.'

"Based on the staff's analysis, it is my initial determination that an operating license

antitrust review of Waterford Unit No. 3 is not required."

Signed on October 12, 1982, by Harold R. Denton, Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by November 22, 1982.

For the Nuclear Regulatory Commission.

Argil Toalston,

Chief, Antitrust and Economic Analysis Branch, Divison of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 82-29001 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Byproduct Material License No. 13-11822-01; EA 82-94]

Midstate Testing Laboratory, Inc.; Order Revoking License

I

Midstate Testing Laboratory, Inc., (the "licensee") 7943 New Jersey Avenue, Hammond, Indiana 46323, is the holder of Byproduct Material License No. 13-11822-01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes the licensee to possess and use byproduct material in the performance of radiographic operations under conditions specified in the license and the Commission's regulations. The license has an expiration date of February 29, 1984.

II

By Order dated July 22, 1982 (47 FR 33028), the license was suspended, effective immediately, and the licensee was given an opportunity to show cause why the license should not be revoked. As described in that Order, the Commission took these actions on the basis of the licensee's apparent abandonment of its business premises and the radioactive material located therein. The licensee had made no apparent arrangements to transfer the material or ensure its safekeeping, and the Region III office was unable, despite numerous attempts, to contact the licensee's president regarding the licensee's intentions.

In accordance with the Order, the licensee was required within 5 days of the issuance of the Order to transfer or permit the transfer of all radioactive material within its possession to a person authorized to possess such material. The licensee took no action within 5 days of the issuance of the Order. Consequently, the licensed byproduct material was removed by NRC Region III representatives from the licensee's abandoned business premises with the permission of the landlord and was disposed of in an authorized manner.

The Order also provided the licensee opportunity to file a written answer thereto within 25 days of the date of the Order, and stated that, upon the licensee's failure to file an answer within the specified time, the Director, Office of Inspection and Enforcement, would issue a subsequent order, without further notice, revoking the license. Although the licensee's president indicated to NRC Region III by telephone on August 11, 1982, that he would submit a response to the Order, the licensee has not filed an answer to the Order. Because the circumstances described in the Order dated July 22, 1982, would warrant revocation of a license and the licensee has not demonstrated, though given an opportunity to do so, why its license should not be revoked, I have determined to revoke Byproduct Material License No. 13-11822-01.

III

According, pursuant to sections 81, 161(b), and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2, 30, and 34, it is hereby ordered that: Byproduct Material License No. 13-11822-01 is revoked.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of October 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-29002 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.8, Revision 2, "Preparation of Environmental Reports for Uranium Mills," identifies information needed by the NRC staff to assess the potential environmental effects of the proposed uranium mill and directly associated mining activities and establishes an acceptable format for its presentation.

Comments and suggestions in connection with (1) items for inclusion in 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 Silver Spring, Maryland this 14th day of October 1982.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-29006 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 & 50-446; Application for Operating License]

Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Assignment 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 assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this (application for operating license) proceeding:

Alan S. Rosenthal, Chairman;
Dr. W. Reed Johnson,
Thomas S. Moore.

Dated: October 12, 1982.

Co. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-29003 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-397/460-CPA; ASLBP 83-480-01 CPA]

Washington Public Power Supply System (WPPSS Nuclear Project Nos. 1 & 2); Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered:

Washington Public Power Supply System, WPPSS Nuclear Project No. 1 & 2, Construction Permit No. CPPR-134, Construction Permit No. CPPR-93.

This Board is being established pursuant to an order of the Commission dated October 8 concerning two petitions for a hearing filed by Coalition for Safe Power regarding request of the Washington Public Power Supply System for the extension of construction completion dates for units 1 and 2 being constructed at its site in Benton County, Washington.

The Board is comprised of the following Administrative Judges:

Herbert Grossman, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555;

Mr. Ernest E. Hill, Lawrence Livermore National Laboratory, University of California, P.O. Box 808, L-123, Livermore, California 94550;

Dr. Linda W. Little, President, L. W. Little Associates, 1312 Annapolis Drive, Suite 214, Raleigh, North Carolina 27608.

Issued at Bethesda, Maryland, this 14th day of October 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-29005 Filed 10-20-82; 8:45 am]

BILLING CODE 7590-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Report Forms Under OMB Review

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the Agency has made such a submission. The proposed form under review is summarized below.

DATE: Comments must be received within 14 calendar days of this notice. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESS: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: L. Jacqueline Brent, Office of Personnel and Administration, Overseas Private Investment Corporation, Room 405, 1129 20th Street, N.W., Washington, D.C. 20527; Telephone (202) 653-2818

OMB Reviewer: David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395-7231.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: New (not previously approved or expired more than 6 months ago)

Title: Construction/Export and Letter of Credit Policy Data Sheet.

Form Number: OPIC-81

Frequency of Use: Nonrecurring

Type of Respondent: Businesses or other institutions

Standard Industrial Classification Codes: All

Description of Affected Public: Business firms requesting OPIC insurance

Number of Responses: 100

Reporting Hours: 200

Federal Cost: $1,000.00

Authority for Information Collection: Section 231(k) of the Foreign Assistance Act of 1961, as amended

Abstract (Needs and Uses): Forms are sent only to entities seeking OPIC insurance and solicit only information required by OPIC to enable it to process insurance policies requested by such entities.

Dated: October 13, 1982.

Leo H. Phillips, Jr.,

Office of the General Counsel.

[FR Doc. 82-28928 Filed 10-20-82; 8:45 am]

BILLING CODE 3210-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22671; 70-6786]

Georgia Power Co.; Proposed Transactions Related to Financing Pollution Control Facilities

October 15, 1982.

In the matter of Georgia Power Company, 333 Piedmont Avenue, N.E., Atlanta, Georgia 30308 (70-6786)

Georgia Power Company ("Georgia"), an electric utility subsidiary of the Southern Company, 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(a)(5) thereunder.

The application relates to Georgia's proposal for its financing of certain pollution control facilities for use in connection with its Hatch, Yates, Wansley, and Scherer plants located, respectively, in Appling, Coweta, Heard, and Monroe Counties. Each transaction will be substantially similar. It is proposed that a Development Authority of each such county (the "Authority") will issue its revenue bonds (the "Revenue Bonds") for the purpose of making loans to Georgia to pay the costs of the acquisition, construction, installation, and equipping of certain pollution control facilities at the plant located in its county (the "Project"). It is presently estimated that the aggregate principal amount of Revenue Bonds to be issued from time to time by the four Authorities will not exceed $75,000,000. While the actual amount of Revenue Bonds to be issued by each Authority has not yet been determined, such amount will be based upon the cost of the Project(s) located in its county.

Georgia intends to enter into a separate Loan Agreement with each Authority relating to each issue of the Revenue Bonds (the "Agreement"). Under each Agreement, the Authority will loan to Georgia the proceeds of the sale of the Authority's Revenue Bonds, and Georgia will issue a non-negotiable promissory note therefor (the "Note"). Such proceeds will be deposited with a Trustee (the "Trustee") under an indenture to be entered into between the Authority and such Trustee (the "Trust Indenture"), pursuant to which such Revenue Bonds are to be issued and secured, and will be applied by Georgia to payment of the Cost of Construction (as defined in the Agreement) of the related Project.

Each Note will provide for payments thereon to be made at times and in amounts which shall correspond to the

payments with respect to the principal of, premium, if any, and interest on the Revenue Bonds whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption or declaration, or otherwise. Each Agreement will provide for the assignment to the Trustee of the Authority's interest in, and of the moneys receivable by the Authority under, the Agreement and the Note. Each Agreement will also obligate Georgia to pay the fees and charges of the Trustee and will provide that Georgia may at any time, so long as it is not in default thereunder, prepay the amount due under the Note, including interest thereon, in whole or in part, such payment to be sufficient to redeem or purchase the outstanding Revenue Bonds in the manner and to the extent provided in the Trust Indenture. The Revenue Bonds will mature from one to 30 years from the first day of the month in which they are initially issued and may, in the case of a maturity of 15 to 30 years and if it is deemed advisable for purposes of the marketability of the Revenue Bonds, be entitled to the benefit of mandatory redemption sinking funds calculated to retire a portion of the aggregate principal amount of the issue prior to maturity.

In order to obtain the benefit of ratings for the Revenue Bonds equivalent to the rating of Georgia's first mortgage bonds outstanding under the indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee (the "Indenture Trustee"), as supplemented and amended, which ratings Georgia has been advised may be thus attained, Georgia may determine to secure its obligations under each Note by delivering to the Trustee, to be held as collateral, a series of its first mortgage bonds (the "Collateral Bonds") in principal amount either (i) equal to the principal amount of the Revenue Bonds or (ii) equal to the sum of such principal amount of the Revenue Bonds plus interest payments thereon for a specified period. The obligation of Georgia to make payments with respect to the Collateral Bonds will be satisfied to the extent that payments are made under the Note sufficient to meet payments when due in respect of the related Revenue Bonds.

As an alternative to or in conjunction with Georgia's securing its obligations through the issuance of the Collateral Bonds, Georgia may cause an irrevocable Letter of Credit of a bank (the "Bank") to be delivered to the Trustee. The Letter of Credit would be an irrevocable obligation of the Bank to pay to the Trustee, upon request, up to an amount necessary to pay principal of an accrued interest on the Revenue Bonds when due. Pursuant to a separate agreement with the Bank, Georgia would agree to pay to the Bank on demand all amounts that are drawn under the Letter of Credit, as well as certain fees and expenses.

As a further alternative to or in conjunction with securing its obligations under each Agreement and Note as above described, and in order to obtain a "AAA" rating for the Revenue Bonds by Standard and Poor's Corporation, Georgia may cause an insurance company to issue separate policies of insurance guaranteeing the payment when due of the principal of and interest on each series of the Revenue Bonds. Each such insurance policy would extend for the term of the related Revenue Bonds and would be non-cancelable by the insurance company for any reason.

Under certain circumstances, Georgia may convey to each Authority a subordinated security interest in the respective Project or other property of Georgia as security for its obligations under each Note. Such subordinated security interests would be assigned by the Authorities to the Trustee.

It is contemplated that the Revenue Bonds will be sold by the Authorities pursuant to arrangements with one or more underwriters. In accordance with the laws of the State of Georgia, the interest rate to be borne by the Revenue Bonds will be fixed by the respective Boards of Directors of the Authorities and will be either a fixed rate or a rate which will fluctuate in accordance with a specified prime or base rate or rates, and, if Collateral Bonds are issued, such a fluctuating rate will not exceed a specified maximum rate or fall below a specified minimum rate. While Georgia will not be party to the underwriting arrangements for the Revenue Bonds, such arrangements will provide that the terms of the Revenue Bonds and their sale by the Authorities shall be satisfactory to Georgia.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 15, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28970 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12740; 812-5232]

Oppenheimer U.S. Government Trust; Filing of an Application

October 14, 1982.

In the matter of Oppenheimer U.S. Government Trust, 2 Broadway, New York, New York 10004 (812-5232).

Notice is hereby given that Oppenheimer U.S. Government Trust ("Applicant"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on July 2, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its price per share to the nearest one cent on a share value of one dollar. In all other respects, portfolio securities held by the Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund, organized as a Massachusetts business trust, whose investment objective is to seek high current income, preservation of capital and the maintenance of liquidity through investment in short-term debt instruments issued or guaranteed by the United States Government or its agencies or instrumentalities whether or not subject to repurchase agreements.

Applicant represents that its shareholders will use its shares for investment of temporary cash balances. Applicant states that the maintenance of a constant net asset value per share is a crucial factor in the purchase and holding of its shares. Applicant asserts that by meeting the conditions set forth below and by valuing its shares to the

nearest one cent on a share value of one dollar, it can maintain a constant value for its shareholders along with liquidity and a satisfactory yield. In addition, Applicant states that its adherence to the conditions set forth below will substantially reduce the likelihood of significant variations from a constant share price and the likelihood of any dilution of the assets and returns of incoming or outgoing shareholders.

Rule 22c–1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets at fair value as determined in good faith by the board of directors of the registered company. In Release No. IC–9786 the Commission issued an interpretation of Rule 2a–4 expressing its view that it was inconsistent with Rule 2a–4 for certain money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of one dollar because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not reflect its portfolio valuation as required by Rule 2a–4.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, 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 any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the Act.

Applicant submits that the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that shareholders who purchase its shares with the expectation of receiving high current income and presentation of principal would be unfairly treated should there be a deviation from one dollar per share. Applicant agrees that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. The Applicant's board of trustees in supervising Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will seek to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security unless it matures in twelve months or less from the date of purchase, or is subject to a repurchase agreement so maturing or has been called for redemption within twelve months; nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant's purchase of portfolio instruments, including repurchase agreements and securities called for redemption, will be limited to those instruments which are denominated in United States dollars and which the trustees of Applicant determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the trustees.

Notice is hereby given that any interested person may, not later than November 8, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in 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 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. 82-28972 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12743; 812–5303]

Sunbelt Growth Fund, Inc. et al.; Filing of Application

October 15, 1982.

In the matter of Sunbelt Growth Fund, Inc., Commerce Income Shares, Inc., Pilot Fund, Inc. and Funds, Inc. Services Corp., 333 Clay Street, Suite 4300, Houston, TX 77002 (812–5303).

Notice is hereby given that Sunbelt Growth Fund, Inc. ("Sunbelt"), Commerce Income shares, Inc. ("Commerce") and Pilot Fund, Inc. ("Pilot," collectively with Sunbelt and Commerce, the "Funds"), each registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, and Funds, Inc. Services Corp. ("Services"), principal underwriter for the Funds, (collectively with the Funds, "Applicants") filed an application on September 2, 1982, for an order: (1) pursuant to Section 11(a) of the Act, permitting Applicants to offer shares of the Funds in exchange for shares of Investment Quality Interest, Inc. ("IQI"), and shares of Current Interest, Inc. ("Current Interest"), which were acquired in exchange for shares of IQI, on a basis other than their relative net asset values per share at the time of the exchange and (2) pursuant to such offers from the provisions of Section 22(d) of the Act. 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.

Current Interest and IQI, like the Funds, are registered under the Act as diversified, open-end, management investment companies. services acts as the distributor of shares of Current Interest in certain states, without remuneration, and serves as principal underwriter for the Funds. Funds, Inc., a wholly-owned subsidiary of The Criterion Management Company, provides investment advisory services to Commerce and Pilot. The Advisory Group, Inc. ("Advisory"), also a registered investment adviser, is a subsidiary of Funds, Inc., and provides investment advisory services to Sunbelt, IQI and Current Interest. Services is a wholly-owned subsidiary of Funds, Inc. Applicants state that it is presently anticipated that Advisory will be merged into Funds, Inc., and that Funds, Inc., will succeed to Advisory's position as investment adviser to Sunbelt, IQI, and Current Interest, but in their view, the merger would not affect the availability of any order issued by the Commission on the application.

Applicants state that services as principal underwriter for the Funds and IQI, maintains a continuous public offering of the shares of those funds at their respective net asset values plus a sales load. Shares of Current Interest are sold to the public at their current net asset value per share next computed after receipt of an order to purchase shares, without imposition of a sales charge ("no load"). Each of the funds, and Current Interest permit reinvestment of dividends and capital gain distributions at net asset value per share, without the imposition of a sales charge. At present the applicable sales load for the Funds is determined in accordance with the following schedule based upon the amount invested:

Amount of single transaction	Percentage of public offering price
Less than $15,000	8.00
$15,000 but less than $25,000	7.50
$25,000 but less than $50,000	6.25
$50,000 but less than $75,000	5.50
$75,000 but less than $100,000	4.50
$100,000 but less than $150,000	4.00
$150,000 but less than $250,000	3.50
$250,000 but less than $500,000	2.00
$500,000 but less than $1,000,000	1.50
$1,000,000 but less than $2,000,000	1.00
$2,000,000 and over	.50

The sales charge for IQI is determined in accordance with the following schedule based upon the amount invested:

Amount of single transaction	Percentage of public offering price
Less than $25,000	4.50
$25,000 but less than $50,000	4.00
$50,000 but less than $100,000	3.50
$100,000 but less than $250,000	2.50
$250,000 but less than $500,000	2.00
$500,000 and over	1.00

According to the application, the reduced sales charges described in the schedules above, which apply to single purchases of specified amounts, are also available to purchases of shares made pursuant to a letter of intent and, by virtue of the "rights of accumulation" which shareholders of the Funds and IQI have, may also be applicable to subsequent investments made by shareholders. Applicants state that under the "rights of accumulation" available to shareholders, the amount of a shareholder's previous purchases of shares of one of the Funds or IQI are aggregated with the amount of a subsequent purchase of shares of the same company for purposes of determining the sales charge applicable to such subsequent purchase.

Applicants state that the following offers of exchange are currently available to shareholders, in each case on the basis of relative net asset values per share at the time of the exchange, without imposition of a sales charge:

(1) Shares of one of the Funds, including such shares acquired through reinvestment of dividends and capital gains distributions, may be exchanged for shares of any of the other Funds, IQI or Current Interest.

(2) Shares of IQI acquired or through an exchange of shares of one of the Funds, including IQI shares acquired through reinvestment of dividends and capital gain distributions, may be exchanged for shares of Current Interest.

(3) Shares of Current Interest, acquired in exchange for shares of one of the Funds or acquired through the reinvestment of dividends of capital gains distributions on shares of Current Interest may be exchanged for shares of any of the Funds or IQI.

(4) Shares of Current Interest acquired in exchange for shares of IQI may be exchanged for shares of IQI.

Applicants further state that in the case of each of the offers of exchange described above, the shares being exchanged must have a net asset value of at least the minimum initial amount required for investment in shares of the investment company whose shares are to be acquired pursuant to the exchange. With respect to each exchange, a service charge of $5.00 is deducted and retained by Services to defray clerical and other administrative expenses.

Applicants propose to permit investors to exchange shares of IQI and shares of Current Interest acquired in exchange for shares of IQI, for shares of the Funds, at their relative net asset values at the time of the exchange plus a sales load differential determined by (1) calculating the sales charge, described in the then-current prospectus of the Fund, that would normally be payable on the purchase of shares in the same dollar amount as the shares being exchanged, giving recognition to shareholders' "rights of accumulation" and (2) subtracting from the charge so determined an amount equal to the sales charge, described in the then-current prospectus of IQI that would be payable on the purchase of the dollar amount of IQI shares being exchanged (or that would have been payable upon the purchase of a dollar amount of IQI shares equal in amount to the dollar amount of the shares of Current Interest being exchanged for shares of a Fund). The sales charges payable on the proposed exchanges would be received by Services as principal underwriter for the Funds and a portion of such sales charges could be reallowed to dealers.

Applicants state that as is the case with respect to the offers of exchange presently being made, the shares being exchanged would be required to have a net asset value of at least the minimum initial amount required for investment in one of the Funds, and a $5.00 service charge would be deducted. Applicants state that in the event that a shareholder desired to exchange only a portion of his shares which could be exchanged on the basis of relative net asset values, without imposition of a sales charge, would be exchanged first and the remaining shares to be exchanged would be exchanged upon payment of the lowest additional sales charge.

Section 11(a) of the Act provides, in pertinent part, that it shall be unlawful for any registered open-end investment company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange such security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any

redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

The proposed offers of exchange would be on a basis other than relative net asset values per share because a shareholder would be required to pay a sales charge differential. For that reason, Applicants states that the making of such offers are not permissible under Section 11(a) of the Act, absent an order of the Commission. According to the application an exemption from the provisions of Section 22(d) may be required to permit the reduced sales charge that would be imposed with respect to the proposed exchanges because the reduced sales charge would result in the sale of shares of the Funds to investors at a current public offering price other than that described in the prospectuses of the Funds.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, 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 thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the proposed exchange offers are designed to permit shareholders of IQI, and shareholders of Current Interest whose shares were acquired as a result of an exchange of IQI shares, who change their investment objectives, to transfer freely their investments to another investment company without paying the full sales charge normally applicable. Applicants submit in this regard that exchanges effected on the basis of relative net asset values per share would inequitably benefit the exchanging shareholders by permitting them to pay substantially less sales charges for their acquisitions of shares of the Funds than investors who purchased shares of the Funds directly.

Applicants represent that under the terms of the exchange offer a shareholder acquiring shares of one of the Funds through an exchange of IQI shares or through an exchange of IQI shares for shares of Current Interest followed by an exchange of such Current Interest shares for shares of that Fund, would pay approximately the same overall sales charge as a proportion of net asset value (or of the public offering price) for shares of a Fund as would have been paid had such shareholder directly purchased shares of that Fund. Applicants submit therefore that the terms of the offers of exchange assure that all investors who purchase shares of the respective Funds would be treated on a fair and equitable basis regardless of whether shares were purchased directly or through an exchange. In view of the foregoing, Applicants state that the proposed offers of exchange would be fair and equitable to shareholders of the Funds, and would be beneficial to shareholders of the Funds, IQI and Current Interest. Under the circumstances, Applicants submit that the granting of the order requested herein would be 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 November.9, 1982, 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. 82-28977 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12742; 812-5323]

Sun Life Assurance Company of America, et al.; Application

October 15, 1982.

In the matter of Sun Life Assurance Company of Canada (U.S.) and Sun Life of Canada (U.S.) Variable account C, 1 Sun Life Executive Park, Wellesley Hills, Massachusetts 02181 and Clarendon Insurance Agency, Inc., 200 Berkely Street, Boston, Massachusetts 02116 (812–5323).

Notice is hereby given that Sun Life of Canada (U.S.) Variable Account C ("Variable Account C"), a unit investment trust registered under the investment Company Act of 1940 ("Act"), Sun Life Assurance Company of Canada (U.S.) ("Sun Life (U.S.)"), and Clarendon Insurance Agency, Inc. (collectively, "applicants") filed an application for an order on September 20, 1982 and amendments thereto on October 5, 1982, October 7, 1982, October 8, 1982, and October 12, 1982, pursuant to Section 6(c) of the Act for an order of the Commission exempting certain transactions from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 22(e), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the transactions described in the application and approving the terms of certain offers of exchange pursuant to Section 11 of the Act. 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 (i) Variable Account C serves as the investment medium for the variable portion of certain fixed and variable annuity contracts ("Contracts"); (ii) the assets of Variable Account C are divided into subaccounts, each of which invests exclusively in shares of one of nine specified mutual funds; (iii) an accumulation account will be established in the name of each contract owner; (iv) State Street Bank and Trust Co. ("Custodian") will hold the assets of Variable Account C; (v) a daily asset charge at an annual rate of 1.3 percent of the value of Variable Account C will be deducted for mortality and expense risks; (vi) the contract maintenance charge described below will be

deducted from a contract owner's accumulation account and upon annuitization from annuity payments; (vii) the contingent deferred sales charge described below may also be deducted from accumulation accounts; and (viii) exchanges between fixed and variable accumulation units and among variable accumulation units of the sub-accounts will be permitted in certain circumstances without the deduction of the contingent deffered sales charge.

Applicants assert that they will deduct, during the accumulation period, an annual contract maintenance charge of $25 on the contract anniversary date and upon total redemption of the contract if other than on a contract anniversary date. Additionally, if the annuity commencement date is a date other than the contract anniversary date, the contract maintenance charge will be assessed on the annuity commencement date pro rata to reflect the time elapsed between the last contract anniversary and the day before the annuity commencement date. Finally, the contract maintenance charge during the annuity period will be deducted pro rata from each annuity payment.

Applicants state that no contingent deferred sales charge is assessed against purchase payments held by Sun Life (U.S.) for more than five years and 10 percent of those payments held less than five years. However, upon full or partial withdrawal of purchase payments held less than 5 years, a contingent deferred sales charge may be imposed upon purchase payments being withdrawn. All withdrawals will be made on a first-in, first-out basis. If the sales charge is imposed, it is equal to (a) the amount withdrawn which is subject to the charge divided by 0.95 minus (b) the amount withdrawn which is subject to the charge. In no event shall the aggregate contingent deferred sales charge assessed against a contract exceed 9 percent of the aggregate purchase payments made under the contract. Finally, upon the death of the annuitant no contingent deferred sales charge is imposed upon withdrawals from the accounts by the beneficiary.

According to Applicants, the contracts allow the owner, before the annuity commencement date, to exchange fixed accumulation units for variable accumulation units and vice versa, and to transfer variable accumulation units of one sub-account into another sub-account. After the annuity commencement date, the owner may also elect to exchange variable units of one sub-account for another sub-account, subject to various conditions. An exchange may be made only at the owner's request.

Relief Requested

Applicants request an exemption from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder to the extent deemed necessary or appropriate to impose the contingent deferred sales charge.

Applicants request an exemption from Sections 26(a) and 27(c)(2) to the extent deemed necessary or appropriate to impose the contract maintenance charge and asset charge and to deduct premium taxes.

Applicants request an exemption from Sections 2(a)(32), 22(c), 26(a), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder to the extent deemed necessary or appropriate to allow Applicants to deduct the contract maintenance charge non pro rata at the time of a complete redemption on a date other than the contract anniversary date.

Applicants request approval pursuant to Sections 11(a) and 11(c) to permit Applicants to provide the exchange right in their Contracts.

To the extent that the assets of Variable Account C may be held on an open account basis, Applicants request an exemption from Sections 26(a) and 27(c)(2) to allow the Custodian to hold the assets of Variable Account C on an open account basis and not under an agreement of trust.

Texas Optional Retirement Program

Pursuant to Texas law, all Texas institutions of higher education make available to certain employees an Optional Retirement Program ("Program") funded through fixed or variable annuity contracts. As interpreted in an opinion by the Attorney General of Texas, certain 1973 amendments to the legislation establishing the Program now prohibit provisions in a fixed or variable contract issued in connection with the Program which provide for making available the redemption value of such contract prior to death, retirement or termination of employment in all institutions of higher education. Since 1973, the Program statute has been amended again. However, the new statute contains similar provisions. Applicants request an exemption from Sections 22(e), 27(c)(1), and 27(d) to the extent deemed necessary or appropriate to allow Applicants to restrict redemption of the contracts issued to participants in the Texas Optional Retirement Program consistent with the Attorney General of the State of Texas' interpretation of that program.

Applicants represent that sales representatives will be instructed to inform prospective purchasers of Contracts for which the purchaser would qualify for the Program that withdrawal rights under the Program are restricted. Applicants will review any sales literature used in conjunction with the offering of the Contracts to ensure that it discloses the restrictions on redemption. Moreover, persons who qualify under the Program and purchase Contracts will be required to sign a statement acknowledging that they are aware of the restrictions imposed by the Program. Finally, the Contracts' prospectuses describe the limitations of withdrawal rights under the Program.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than November 8, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues 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 addresses 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. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments 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. 82-28969 Filed 10-20-82; 8:45 am]

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[Release No. 19126, File Nos. SR-Amex-82-15 and SR-CBOE-82-16]

American Stock Exchange, Inc. and Chicago Board Options Exchange, Inc.; Filing and Order Approving Proposed Rule Changes

October 14, 1982.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, NY 10006, and Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604 (File Nos. SR-Amex-82-15 and SR-CBOE-82-16)

I. Introduction

Pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(2) (the "Act"), the Commission is hereby giving notice of and approving proposed rule changes filed by the American Stock Exchange ("Amex") and the Chicago Board Options Exchange, Incorporated ("CBOE"). The proposed rule changes incorporate the terms and conditions of previously filed and approved rule changes which would modify Amex and CBOE rules to provide for exchange trading of standardized options on securities issued by the United States Department of the Treasury ("Treasury options").[1]

II. Discussion

A. Treasury Options

The CBOE and the Amex initially filed with the Commission proposed rule changes to provide for the trading of Treasury options on April 17, 1980 and March 4, 1981, respectively.[2] Because of their significance, the Commission extensively solicited public comment on the proposals and extended the time period for comment.[3] Also, the views of several government agencies with regard to certain aspects of the proposals were solicited by the Commission.[4] Aside from the question of Commission jurisdiction over, and the power to permit the trading of, Treasury options,[5] the commentators generally believed that exchange trading of standardized Treasury options would serve an important economic function and would be otherwise beneficial.[6]

On December 23, 1981, the Commission approved the rule changes proposed by the CBOE and the Amex governing the listing and trading of options on U.S. Treasury securities,[7] discussing in its approval order some of the same concerns it addressed in its orders approving the listing and trading of GNMA options.[8] In the approval order, the Commission especially noted its concern with regard to such factors as the qualification of underlying Treasury securities for options trading, intermarket surveillance of manipulative practices, and the establishment of position and exercise limits.[9] The Commission also noted that certain requirements had to be met before the commencement of trading in Treasury options. After the Commission's approval order, the Chicago Board of Trade ("CBT") joined by the Chicago Mercantile Exchange, sued the Commission in the Court of Appeals for the Seventh Circuit.[10] No decision has been rendered in that case.

The Amex and CBOE have filed these proposed rule changes, and the Commission is approving these proposed rule changes at this time, because the vaildity of the Commission's earlier approval orders was called into question by the decision of the Court of Appeals for the Seventh Circuit on March 24, 1982 in *Board of Trade of the City of Chicago* v. *Securities and Exchange Commission.*[11] In that case, the Seventh Circuit invalidated the Commission order approving a CBOE rule filing relating to the listing and trading of GNMA options [12] on the ground that the Commission lacked the authority to regulate trading in GNMA options. In that decision, the Court commented on the Treasury options case, apparently indicating its belief that the *CBT I* decision would be controlling.[13] Recently, however, Congress enacted, and the President has signed, legislation that clarifies Commission authority to oversee and regulate the listing and trading on national securities exchanges of options on exempted securities including GNMA's and Treasuries.[14]

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[1] The proposed rule changes refer to and incorporate by reference previously approved rule changes. File No. SR-Amex-82-15, which was filed with the Commission on October 12, 1982, incorporates by reference SR-Amex-81-1, SR-Amex-81-25, and SR-Amex-82-1. *See* File No. SR-Amex-82-15.

File No. SR-CBOE-82-16, which was filed with the Commission on October 12, 1982, incorporates by reference all or parts of SR-CBOE-81-13, SR-CBOE-81-17, SR-CBOE-81-19, SR-CBOE-81-27, SR-CBOE-82-1. *See* File No. SR-CBOE-81-16.

[2] Both filings were subsequently amended and supplemented. For a procedural history of the filings, *see* notes 1 and 2 of Securities Exchange Act Release No. 18371 (December 23, 1981), 46 FR 63423 (December 31, 1981) (hereinafter "Treasury Options Approval Order"). For a detailed discussion of the significant features of the proposed rule changes by Amex and CBOE, *see* the Treasury Options Approval Order.

The New York Stock Exchange, Inc. ("NYSE") also filed a proposal relating to the establishment of a market for trading Treasury options. Securities Exchange Act Release No. 17631 (March 16, 1981), 46 FR 17939 (March 20, 1981). File No. SR-NYSE-81-5. *See also* Securities Exchange Act Release No. 18153 (October 6, 1981), 46 FR 50647 (October 14, 1981), wherein the NYSE filed a proposal setting forth margin rules with regard to certain securities, including GNMA and Treasury options. File No. SR-NYSE-81-18. In a separate release, the Commission is approving the NYSE's margin rules, together with the margin provisions of the Amex and CBOE. *See* Securities Exchange Act Release No. 19128, (October 14, 1982). See note 7, *infra.*

[3] Securities Exchange Act Release No. 17795 (May 11, 1981), 46 FR 27430 (May 19, 1981). Fourteen comment letters were received concerning the proposals. Copies of the comment letters have been placed in public files. *See* File Nos. SR-CBOE-81-27 and SR-Amex-81-1.

[4] Comments were solicited from the Department of the Treasury, the Commodity Futures Trading Commission, Federal Reserve Board and Federal Reserve Bank of New York. *See* notes 4 and 5 of the Treasury Options Approval Order.

[5] Five commentators raised the jurisdictional issue. *See* note 7 of the Treasury Options Approval Order.

[6] *See generally* the Treasury Options Approval Order. *See also* File Nos. SR-CBOE-81-27 and SR-Amex-81-1.

[7] *See also* Securities Exchange Act Release No. 18445 (January 27, 1982) 47 FR 4790 (February 2, 1982). File No. SR-Amex-82-1. The proposed rule filings of Amex and CBOE contained proposed margin requirements applicable to options on Treasury securities, an aspect of the filings the Commission did not approve pending further review. The Commission today is approving the proposed margin rules of Amex and CBOE, as well as of the NYSE, in a related order. *See* Securities Exchange Act Release No. 19128 (October 14, 1982). File Nos. SR-Amex-81-1, SR-CBOE-81-27, SR-NYSE-81-18.

[8] *See* note 3, *supra.*

[9] The CBOE subsequently filed a proposed rule change relating to exercise limits for Treasury options during the when-issued period. Securities Exchange Act Release No. 18534 (March 4, 1982), 47 FR 10333 (March 10, 1982). File No. SR-CBOE-82-5. The Commission today is approving the proposal in a related order. Securities Exchange Act Release No. 19132 (October 14, 1982).

On March 11, 1982, the Amex also filed a proposed rule change treating various technical aspects of its Treasury options program. The Commission today is giving notice and granting accelerated approval of the proposal in a related order. Securities Exchange Act Release No. 19129 (October 14, 1982). File No. SR-Amex-82-4.

[10] *Board of Trade of the City of Chicago* v. *Securities and Exchange Commission*, No. 82-1097.

[11] 677 F.2d 1137 (7th Cir. 1982) ("hereinafter "*CBT I* decision").

[12] Securities Exchange Act Release No. 17577 (February 26, 1981), 46 FR 15242 (March 4, 1981). File No. SR-CBOE-80-7 ("hereinafter, "CBOE-GNMA Options Approval Order").

[13] 677 F.2d 1137 at 1141.

[14] For a discussion of the *CBT I* decision and the subsequent Congressional enactment, see Securities Exchange Act Release No. 19125 (October 14, 1982). The Commission believes its original approval order with respect to Treasury options was valid, but nevertheless is reapproving in substance of the rule filings originally approved in that order. *See* Treasury Options Approval Order. For the reasons stated in Securities Exchange Act Release No.

Accordingly, the Commission finds that it has the authority to review and approve the proposed Amex and CBOE rule changes. Because of extensive prior notice and comment on the proposed changes (and the lack of substantive criticism of the proposed rule changes), the Commission does not believe it is necessary to publish the proposed rule changes for additional comment. The Commission finds that the reasons and bases for originally approving the proposed rule changes of the CBOE and Amex relating to options on Treasury securities are adequate to support reapproval. In approving the proposed rule changes, and as discussed below, the Commission understands that the pre-commencement of trading requirements discussed in the original approval order have been satisfied [15] and, therefore, concludes that trading in Treasury options may commence without further Commission action.[16]

B. *Related Orders*

In the Commission's approval of the Amex and CBOE basic Treasury options rule filings, the Commission set forth a number of conditions that would have to be satisfied before trading in Treasury options could commence. In response to these concerns, and with respect to a variety of other matters concerning Treasury options, Amex and CBOE have filed a number of additional rule proposals, several of which previously have been considered and approved by the Commission. The Commission has approved proposed rule changes by the CBOE that provide specifications for the Interest Rate Options Qualification Examination,[17] establish an Interest Rate Options Committee, specify procedures for recording interest rate options transaction information,[18] and provide procedures for the dissemination of quotations on Treasury options.[19] The Commission has also approved proposals by both the CBOE and Amex to establish plans for issuing permits to trade non-equity options.[20] Amex and CBOE have included the terms and substance of these rule filings in their new proposed rule changes, and the Commission, for the reasons set forth in the original approval orders, approves the proposed rule changes by the CBOE and Amex.

III. Findings and Conclusion

Under Section 19(b)(2) of the Act, the Commission must approve the foregoing rule changes if it determines that the proposed rule changes are consistent with the requirements of the Act and the rules thereunder applicable to registered securities exchanges. The Commission has reviewed carefully the rules proposed by CBOE and Amex to accommodate the listing and trading of options on Treasury securities, and the public comments previously submitted in connection with the proposed rule changes, and has concluded, for the reasons set forth above and in the original approval orders, that the rules provide for adequate and proper regulation of the proposed markets. Furthermore, because the terms and conditions of the proposed rule changes have previously been subject to extensive public review and comment and have been previously received and approved by the Commission, the Commission finds good cause for approving the proposals prior to thirty days notice. In addition, based on its prior review of the filings, and its current review, the Commission finds that the trading of Treasury options on national securities exchanges is in the public interest and that no further delay would be in the public interest.

Accordingly, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be, and they hereby are, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28984 Filed 10-20-82; 8:45 am]

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19125, the Commission believes it is clear it has the authority to authorize exchange trading of options on exempted securities.

[15] Most importantly, the OCC has filed a proposed rule change to facilitate the trading of options on Treasury securities on participating exchanges. Securities Exchange Act Release No. 18403 (January 11, 1982), 47 FR 2444 (January 15, 1982). File No. SR-OCC-8201. The Commission today is approving OCC's proposal in a related order. *See* Securities Exchange Act Release No. 19127 (October 14, 1982).

[16] The Amex and CBOE have represented to the Commission, in connection with their filings, that they intend to begin trading in options on Treasuries on October 22, 1982, and that they and their member firms will be prepared for trading on that date. The Commission is approving the proposed rule changes, in part, based on these representations.

[17] Securities Exchange Act Release No. 18069 (August 28, 1981), 46 FR 58388 (December 1, 1981). File No. SR-CBOE-81-17.

[18] Securities Exchange Act Release No. 18110 (September 21, 1981), 46 FR 47346 (September 25, 1981). File No. SR-CBOE-81-19.

[19] Securities Exchange Act Release No. 18520 (March 2, 1982), 47 FR 9946 (March 8, 1982). File No. SR-CBOE-82-1.

[20] Securities Exchange Act Release No. 18077 (September 3, 1981), 46 FR 45232 (September 10, 1981), File No. SR-CBOE-81-13; Securities Exchange Act Release No. 18557 (March 10, 1982), 47 FR 11348 (March 16, 1982). File No. SR-Amex-81-25.

[Release No. 19128; File Nos. SR-Amex-81-1, SR-CBOE-81-27 and SR-NYSE-81-18]

American Stock Exchange, Inc. et al.; Order Approving Proposed Rule Changes

October 14, 1982.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006, Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicage, Illinois 60604, and New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005, (File Nos. SR-Amex-81-1, SR-CBOE-81-27, and SR-NYSE-81-18).

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b-4 thereunder, the American Stock Exchange, Inc. ("Amex") and the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Commission proposed rule changes to modify their rules to accommodate the listing and trading of standardized put and call options contracts on securities issued by the United States Department of the Treasury ("Treasury options").[1]

[1] Amex's Treasury options proposal initially was filed on March 4, 1981 and amended on July 13, 1981, November 12, 1981 and December 9, 1981. Notice of the initial filing and all but the latter set of amendments thereto was given by Securities Exchange Act Release Nos. 17632 (March 16, 1981), 17944 (July 16, 1981) and 18266 (November 17, 1981), and by publication in the **Federal Register** (46 FR 17936 (March 20, 1981), 46 FR 37582 (July 21, 1981) and 46 FR 57795 (November 25, 1981)). *See* File No. SR-Amex-81-1. CBOE's initial proposal to trade options on Treasury notes and bonds was filed April 17, 1980 and amended on August 8, 1980 and August 12, 1981. Notice of the foregoing amendments to the proposed rule change was given by Securities Exchange Act Release Nos. 17325 (November 21, 1980) and 18039(August 17, 1981), and by publication in the **Federal Register** (45 FR 79612 (December 1, 1980) and 46 FR 42390 (August 20, 1981)). *See* File No. SR-CBOE-80-8. The proposal was expanded to include market basket Treasury bond options contracts by a filing submitted on August 21, 1981, on which notice was given by Securities Exchange Act Release No. 18090 (September 1981) and by publication in the **Federal Register** (46 FR 47335 (September 25, 1981)). *See* File No. SR-CBOE-81-18. The proposal was expanded to include Treasury bill options contracts by a filing submitted on November 20, 1981, on which notice was given by Securities Exchange Act Release No. 18293 (November 30, 1981) and by publication in the **Federal Register** (46 FR 59682 (December 7, 1981)). *See* File No. SR-CBOE-81-25. The foregoing filings were consolidated in the subject proposed rule change submitted on December 8, 1981. *See* File No. SR-CBOE-81-27.

Included among the packages of rules submitted were provisions governing customer margin requirements applicable to Treasury options.[2] Both proposed rule changes, with the exception of those portions concerning margin, have been approved by the Commission.[3] The margin rules proposed by the New York Stock Exchange, Inc. ("NYSE") are contained in a proposed rule change submitted separately from its package of proposed rules relating to the establishment of a market for trading Treasury options.[4]

II. Terms of the Proposed Rule Changes

The proposed rule changes as they relate to margin for Treasury options are for the most part uniform. With respect to long positions in Treasury options, current exchange rules applicable to options on equity securities are unaltered. Specifically, no put or call option carried in a customer account is permitted to have loan value for the purpose of calculating margin, thereby requiring that the purchase price of an options contract be paid in full.[5]

The proposed rules provide that, for exchange-traded options on United States Government obligations (other than GNMAs) that are issued, guaranteed or carried short in a customer's account, the minimum margin shall be 100 percent of the current market value of the option, plus a specified percentage of the underlying principal amount which is based on the term to maturity of the instrument,[6] and minus the amount, if any, that the options contract is "out-of-the-money".[7] The proposed formula is subject to a minimum margin of $500 for standard-sized contracts and not less than $100 for "mini-contracts."[8]

	Percentage of principal amount
U.S. Treasury Bills:	
—95 days or less to maturity	0.35
—More than 95 days, but less than 190 days to maturity	0.50
—190 days or more to maturity	0.75
U.S. Treasury Notes:	
—2 years, but less than 5 years to maturity	2
—5 years or more to maturity	3
U.S. Treasury Bonds:	
—10 years or more to maturity	3.5

An exemption from the foregoing margin requirements would be provided for short positions that are fully covered and reduced margins would apply to partially covered positions. In the case of a call, a short options position would be considered covered if the customer held in the same account as the short position a long position in the underlying security of a matching principal amount or a long position in an options contract of the same class with an exercise price equal to or less than the exercise price of the short call. A short put position would be deemed covered if the customer held in the same account a put options contract of the same class having an exercise price equal to or greater than the exercise price of the short put.[9] If both a put and a call relating to the same principal amount of the same underlying Government security are issued, guaranteed or carried short in the same account, the amount of margin required would be the amount required on the put or the call, whichever is greater, plus the amount of any unrealized loss on the other option. Where both a long and short call (or long and short put) are carried in the same account and the short position expires on or before the expiration date for the long position, the margin required with respect to the short position would be the lesser of the amount specified by the above formula, or the amount, if any, by which the exercise price of the long call (short put) exceeds the exercise price of the short call (long put).

In addition to margin for exchange-traded options on U.S. Government securities, the Amex and NYSE proposed rule changes include margin requirements for over-the-counter put and call options on U.S. Government securities (other than GNMAs). The proposed rules would require margin on uncovered short positions equal to 5 percent of the principal amount of the underlying security plus any unrealized loss on the options contract.[10] Both exchanges have requested that the Commission not consider this aspect of their proposed rule changes at this time.[11]

III. Discussion

Regulation T provides that margin for options on exempted debt securities, including Treasury options, shall be the amount specified by the rules of the national securities exchange on which the option is traded provided that such rules have been approved by the Commission.[12] Under Section 19(b)(2) of the Act, the Commission must approve a proposed rule change if it determines that it is consistent with the requirements of the Act and the rules thereunder applicable to national

[2] The Amex filing also would establish margin rules for options on Government National Mortgage Association pass-through securities ("GNMASs"). CBOE rules governing margin for GNMA options previously were approved by the Commission. Securities Exchange Act Release Nos. 17577 (February 26, 1981), 46 FR 15242 (March 4, 1981); and 18109 (September 21, 1981), 46 FR 47335 (September 25, 1981). The GNMA margin rules proposed by Amex conform to those approved for the CBOE.

[3] Securities Exchange Act Release No. 18371 (December 23, 1981), 46 FR 63423 (December 31, 1981). Due to the uncertainty regarding the status of the Commission approval of the proposed rule changes after the decision of the Court of Appeals for the Seventh Circuit in *Board of Trade of the City of Chicago* v *Securities and Exchange Commission, ("CBT")* 677 F.2d 1137 (7th Cir. 1981), the Amex and CBOE have refiled and the Commission has approved those portions of the Amex and CBOE rule changes it approved in Release No. 18371. *See* Securities Exchanges Act Release No. 19126 (October 14, 1982).

[4] The subject proposed rule change was submitted on September 21, 1981. Notice was given by Securities Exchange Act Release No. 18153 (October 6, 1981) and by publication in the Federal Register (46 FR 50647 (October 14, 1981)). By Securities Exchange Act Release No. 18268 (November 18, 1981), 46 FR 57659 (November 24, 1981), the Commission extended the public comment period on the proposed rule change. A portion of the subject proposed rule change relating to margin for GNMA options previously has been approved by the Commission. Securities Exchange Act Release No. 18205 (October 23, 1981), 46 FR 53565 (October 29, 1981). However, to remove any uncertainty of the effectiveness of those rules after the *CBT I* decision, the Commission in this order hereby is reapproving for the reasons given in Release No. 18205 those portions of SR–NYSE–81–18 pertaining to GNMA options margin. In addition to matters relating to margin for options on Treasury securities, the NYSE has included in the subject proposed rule change modifications to its rules with respect to the extension of credit on shelf-registered, control and restricted securities. The Commission is not considering those portions of the NYSE's proposed rule change in this order.

[5] Amex Rule 462(d)(2); CBOE Rule 12.5; and NYSE Rule 431(d)(2).

[6] The specific percentages are as follows:

[7] A call options contract is "out-of-the-money" to the extent that the exercise price of the option exceeds the current market price of the underlying security. A put option is "out-of-the-money" to the extent that the current market price of the underlying security exceeds the exercise price of the option.

[8] Standard-sized contracts have the following principal amounts: 13-week Treasury bill options—$1 million; 26-week Treasury bill options—$.5 million; and Treasury note and bond options—$100,000. The exchanges also contemplate trading "mini-contracts" that are ⅛ the standard size.

[9] Amex Rule 900(b)(23); CBOE Rule 21.1(*l*); and NYSE Rule 700(b)(23). Unlike Amex and NYSE, CBOE would require that a covering long options position also have an expiration date that is the same as or subsequent to the expiration date of the short options position. Each exchange, in addition, would provide that a short call position could be covered by an escrow receipt, and CBOE provides that a short put position could be covered by a put guarantee letter. CBOE Rule 21.25(e).

[10] Amex Rule 462(d)(2)(D)(ii) and NYSE Rule 431(d)(2)(D)(iii).

[11] Letter from Howard A. Baker, Vice President, Amex, to Richard T. Chase, Assistant Director, Division of Market Regulation (March 8, 1982); letter from William S. Belcher, Assistant Vice President, NYSE, to Richard T. Chase (March 19, 1982).

[12] 12 CFR 220.8(j)(2).

securities exchanges. Among other things, the Commission must find that a proposed rule is designed to protect investors and the public interest and does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[13]

The Commission has examined carefully the margin rules submitted by the exchanges. The extension to options on Treasury securities of the prohibition against long options positions having loan value in a margin account is fully consistent with the original application of the prohibition to options on equity securities. In particular, because an option represents a contractual right of a limited duration, an options contract constitutes a wasting asset whose value diminishes as the expiration date approaches. In addition, because of the leverage involved, the prices of options, and therefore their intrinsic value, is subject to significant volatility. These features, which dictated a proscription against the purchase of equity options on margin as well as rendered such options unsuitable as collateral for the purchase of other securities, are equally applicable to options on government securities.

For margin on uncovered short positions the exchanges have developed a formula which they believe will yield margin deposits that will provide adequate credit protection for member firms. The exchanges have reached this conclusion by comparing the margin levels calculated pursuant to the proposed formula, to the historic volatility of the various underlying Treasury securities over seven day periods.[14] While, in some cases, the proposed margin formula yields an amount that covers less than 100 percent of the historic seven day price movements examined by the exchanges,[15] the exchanges have contended that the formula nevertheless is appropriate. In particular, the exchanges have stated that a formula designed to produce margin levels sufficient to cover 100 percent of historic price movements is both excessive and unnecessary. In support of this contention, the exchanges indicate that in periods of significant price volatility, member firms can, and in fact would, require that margin deficiencies be eliminated in periods of less than seven days, and in response to a customer's failure to do so, can liquidate the customer's options position. Moreover, the exchanges point to existing margin rules or currently proposed modifications to their margin rules which would enable an exchange at any time to impose higher margin requirements than are prescribed by their rules when they deem that such higher margin requirements are appropriate.[16]

In light of these considerations, the Commission believes that the proposed margin formula for uncovered short positions is appropriate. Given the degree of financial leverage made possible by the proposed margin formula, however, the Commission remains concerned that unsophisticated and under-capitalized investors not be subjected to unreasonable risks of loss through transactions in Treasury options. In this regard, the Commission wishes to emphasize to both the exchanges and their member firms the need for rigorous application of exchange rules governing opening of accounts[17] and suitability[18] to ensure that market participants understand and are financially able to bear the risks of Treasury options trading.[19]

IV. Findings and Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes, with the exception of those portions of the NYSE's proposed rule change previously referred to,[20] be, and hereby are, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28966 Filed 10-20-82; 8:45 am]

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[13] In connection with the proposed rule changes, the Commission received three comment letters. Letters received from the National Association of Securities Dealers, Inc. ("NASD") and from the Public Securities Association ("PSA") were addressed to those portions of the Amex and NYSE rules relating to margin for over-the-counter options and expressed the view that the level of margin proposed may be anti-competitive. Letters to George A. Fitzsimmons, Secretary, SEC, from Frank J. Wilson, Executive Vice President, NASD (December 23, 1981); and Arthur J. Kalita, PSA (December 11, 1981) ("PSA letter"). As indicated above, Amex and NYSE have requested that the Commission not consider those portions of their rule filings at this time.

In addition, the PSA letter questioned whether a securities exchange had authority under the Act to regulate transactions involving options on exempted securities. In this regard, Sections 6(b) of the Act prohibits a national securities exchange from regulating by virtue of any authority conferred by [the Act] matters not related to the purposes of [the Act] or the administration of the exchange. In the Commission's view the establishement by an exchange of margin requirements for options on Treasury securities applicable to member firms is consistent with the purposes of the Act.

Finally, counsel for the Chicago Board of Trade ("CBT") has contended that the Commission lacks jurisdiction over options on Treasury securities and, accordingly, does not have authority to approve proposed rule changes relating to such options. With the recent encatment of amendments to the Securities Exchange Act, the Commission believes its authority to approve the proposed rule changes is clear. *See* Securities Exchange Act, Release No. 19125 (October 14, 1982) approving CBOE and Amex rules to provide for exchange-trading of GNMA and Treasury options.

[14] Seven days is the maximum period of time permitted a customer under Reg. T to satisfy a deficiency in a margin account. 12 CFR 220.3(e). Member firms or an exchange, of course, are free to prescribe a shorter period of time.

[15] Studies completed by the exchanges indicate that, based on recent price volatility, the proposed margin formula would cover approximately 90 percent of the 7-day price movements for the Treasury securities underlying the proposed options contracts.

[16] Proposed Amex Rule 462(d)(2)(K); CBOE Rule 12.3(d); and Proposed NYSE Rule 431(d)(2)(K).

[17] Amex Rule 921; CBOE Rules 21.19A and 21.20; and NYSE Rule 712.

[18] Amex Rule 923; CBOE Rule 9.9; and NYSE Rule 723.

[19] The proposed modifications to exchange rules with respect to the margining of spreads and straddle positions in Treasury options generally consist of changes necessary to extend existing equity options rules to Treasury options.

[20] *See* footnote 11, *supra.*

[Release No. 19129; SR-Amex-82-4]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

October 14, 1982.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006 (SR-Amex-82-4).

The American Stock Exchange, Inc. ("Amex") submitted on March 11, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ("Act") and Rule 19b-4 thereunder, to amend its rules with respect to Treasury options. On May 24, 1982, the Amex submitted an amendment to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change, as amended, would amend Amex's rules with respect to Treasury options to conform to rules of the Chicago Board Options Exchange, Incorporated, the Options Clearing Corporation, and the United States Department of the Treasury. Specifically, the proposed rule

change would (i) establish the Amex's hours of trading for debt options as 9:00 a.m. to 3:00 p.m. on days the exchange is open; (2) allow member firms to allocate Treasury exercise notices to customers depending upon whether the customer's position is of block size or non-block size; (3) provide for delivery upon settlement of Treasury bills with a remaining term to maturity of less than 13-weeks or 26-weeks; and (4) establish exercise limits during the "when-issued" period.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Reference should be made to File No. SR–Amex–82–4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.[1]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule changes are essentially technical amendments or are designed to conform Amex rules with the rules of other self-regulatory organizations.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–28982 Filed 10–20–82; 8:45 am]

BILLING CODE 8010–01–M

[1] With the enactment of the recent amendments to the securities laws, the Commission believes its authority to approve proposed rule changes of national securities exchanges to accommodate the listing and trading of Treasury options is clear. *See* Securities Exchange Act Release No. 19125 (October 14, 1982).

[Release No. 19141; SR–BSE–82–5]

Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 14, 1982.

In the matter of Boston Stock Exchange, Inc., One Boston Place, Boston, MA 02108 (SR–BSE–82–5)

I. Introduction

The Boston Stock Exchange, Inc. ("BSE") submitted on August 31, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder that would amend Chapter II, Section 33 of the BSE rules to increase from 599 to 1,099 shares the size of orders to be executed under BSE's Guaranteed Execution System.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19030, September 1, 1982) and by publication in the **Federal Register** (47 FR 39774, September 9, 1982).

II. Summary of Comments

The Commission received three comment letters in response to the notice of the proposed rule change. One comment letter was submitted by five BSE specialists opposing the proposed rule change on several grounds.[2] First, the submission states that BSE's Guaranteed Execution System allows two prints on the consolidated tape of what amounts to one transaction. The second allegedly duplicative print results, according to this submission, when a BSE specialist retransfers through ITS the shares he has just acquired on the BSE under his guarantee obligation or acquires through ITS shares he has sold on BSE. The submission states that this also results in a charge of double fees to the BSE specialist, who must pay the usual exchange charges on the first transaction as well as BSE's ITS user's fees on any subsequent off-setting transaction through ITS. Finally, the Mermelstein submission asserts that BSE members' ability to obtain guaranteed execution for their pre-opening orders against the opening price on the primary exchange may in certain situations allow BSE members to be unjustly enriched at the expense of the public customers trading at the opening on the primary exchange.[3] It is not alleged that any of these concerns result from the increase in the size of orders for which execution is to be guaranteed under BSE's proposal.

Charles J. Mohr, Chairman and Chief Executive Officer of the BSE, submitted a letter in support of the proposed rule change. Mr. Mohr states that the proposed rule change is an attempt to enhance BSE's Guaranteed Execution System prior to rather than in response to innovations in this area by other exchanges.[4] Mr. Mohr states that this will help the Exchange be competitive and is another essential step in the Exchange's rebuilding mission. In response to the Mermelstein submission, Mr. Mohr suggests that it would be contrary to a specialist's market-making responsibilities to use the ITS regularly to off-set positions acquired in the performance of these responsibilities and that, therefore, the concerns expressed about "double prints" ignore the specialist's obligations. Mr. Mohr also states that the guarantee against opening price serves to provide a better execution for the BSE specialist's

[1] The Commission approved BSE's implementtion of its Guaranteed Execution System on a permanent basis on July 8, 1980 (Securities Exchange Release Act No. 16970, July 8, 1980; 45 FR 47286, July 14, 1980). On April 13, 1982 the Commission approved an increase in the size of orders to be guaranteed under this system from 399 to 599. (Securities Exchange Release No. 18640, April 15, 1982; 47 FR 16922, April 20, 1982).

[2] See Letter to Judith Axe, Division of Market Regulation, from Stephen E. Mermelstein, dated September 23, 1982. Appended to Mr. Mermelstein's letter was a submission signed by Mr. Mermelstein and four other BSE spoecialists (the "Mermelstein submission"). The Mermelstein submission indicated that the five specialists concurred "in part or in whole" with the comments made therein. It did not, however, indicate with which of the specific comments these individuals did or did not concur.

[3] The submission sets forth this situation: A BSE member anticipates that, because of a pre-opening imbalance in buy and sell orders at the primary market, the stock will open away from the previous day's closing price. The BSE member will send a pre-opening "agency" order through another BSE member to the BSE specialist. When the stock opens at the primary exchange, the imbalance will remain (despite the presence of the BSE member's order that was not sent to the primary market), the opening price will reflect that imbalance and the BSE member who obtained guaranteed execution against that opening price will be unjustly enriched at the expense of the public customer trading at the opening at the primary exchange.

[4] The maximum size order for which execution is guaranteed under each of the guaranteed small order execution systems of the other stock exchanges is 599 shares. These systems are the Midwest Stock Exchange's MAX; the Pacific Stock Exchange's SCOREX; and Philadelphia Stock Exchange's PACE.

customer and may even encourage BSE specialists to be the first to open a stock at a competitive price. He adds that BSE's definition of agency orders, which allows BSE members to take advantage of certain pre-opening opportunities by entering pre-opening "agency" orders through other BSE members, is consistent with the definition used throughout the industry. Finally, Mr. Mohr notes that the proposed rule change has been in effect on a voluntary basis for over a month, and during that time the Exchange has realized an increase in specialist capital and order flow.

One additional comment letter was received from twenty-two floor members of the BSE who favored the proposed rule change. These commentators state that the proposed rule change will make the BSE more competitive by attracting more order flow and, thus, is in the best interests of the Exchange.

III. Discussion and Findings

The proposed increase in the number of shares for which guaranteed execution is to be provided under BSE's Guaranteed Execution System is designed to enable the exchange to compete more effectively for small order business, attract order flow and enhance the depth and liquidity of the BSE markets. Thus, consistent with Sections 6(b)(5) and 6(b)(8) of the Act the proposed rule change has the potential to increase competition among markets (and their members) and, by providing public investors an opportunity to have larger securities transactions executed at competitive prices, to serve the public interest.

None of the adverse comments raise any issues directly related to this proposed revision to BSE's Guaranteed Execution System. Rather, these comments appear to relate to deficiencies the commentators perceive in BSE's current Guaranteed Execution System that the commentators apparently feel would be exacerbated by the increase in the size of orders to be guaranteed from 599 to 1,099 shares. Thus, a "double print" of the sort the commentators describe can occur under BSE's system even without implementation of the proposal, and indeed can occur in any markets where a specialist of market maker seeks to lay-off a position in another market. The second print, however, in the situation the commentators describe, will not be truly duplicative of the first, for once the BSE's specialist acquires shares under his guarantee obligation he holds those shares subject to market risks.[5] Thus, there is some question as to the significance of the alleged "double print" problem.

The alleged double fees described in the Mermelstein submission also occur under BSE's current system, and are a result of BSE's ITS user's fee,[6] not of the proposed increase in the size of orders to be guaranteed. If the proposed rule change does result in increased order flow to BSE, it apparently is the view of some BSE specialists, as implied in the Mermelstein letter, that this could result in an increase in their use of ITS and thus an increase in their total ITS fees. There is no necesary connection, however, between increased order flow to BSE and increased use of ITS by BSE specialists.[7]

Similarly, BSE members are currently able to obtain guarantees against opening prices, and, thus, the proposed rule change does not create the pre-opening opportunity of which the commentators complain. In this regard, it would appear that the specialist concerns with respect to a pre-opening application flow from the operation of ITS pre-opening application procedure. Because that procedure does not allow for regional specialists to participate in a primary market opening which is less than ⅛ point away from the previous day's close, in these situations the BSE specialist would be required to honor the pre-opening guarantee without recourse to sending a portion of the order to the primary market.

BSE specialists are already required to guarantee execution of 599 shares, so that the proposed change would not result in a new kind of risk for BSE specialists. The chief direct result, then, of this proposal would be an increase in the size of positions BSE specialists would be required to take in their stocks and a concomitant increase in the degree of market risk to which BSE specialists are exposed. This increased degree of BSE specialist risk is a necessary consequence of BSE's attempt to make itself more competitive through enhancements to its guaranteed execution system; and for the reasons described above, we believe it also is the public interest.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6, and in particular Sections 6(b)5 and 6(b)(8) of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

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[5] Indeed, the BSE in Mr. Mohr's comments suggests that the Exchange believes that a specialist's market-making responsibilities require him to assume market risks in acquiring positions under the guarantee obligation.

[6] The Commission approved on January 12, 1982, BSE's imposition of a temporary usage charge of ½ cent per share on all trades through ITS in market centers other than Boston, effective for the period January 4, 1982 through December 31, 1982 (Securities Exchange Act Release No. 18414, January 12, 1982; 47 FR 3246, January 22, 1982).

[7] Indeed, as described above, the BSE expects its specialists to accept a certain degree of market risk in acquiring shares under the guarantee. Thus, any increase in the amount of ITS user's fees paid by BSE specialists and the concomitant competitive burden that may result from the proposed rule change are to some extent conjectural. In any event, the Commission finds that any potential increased costs are outweighed by the competitive benefits the proposed rule change offers the Exchange and its members (including its specialist members), as well as the benefits described above to public investors.

[Release No. 19132; SR-CBOE-82-5]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

October 14, 1982.

In the matter of Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604 (SR-CBOE-82-5).

The Chicago Board Options Exchange, Incorporated ("CBOE") submitted on February 22, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend its rules with respect to Treasury options.

The proposed rule change, among other things, would specifically provide that the exercise limits governing options on Treasury bonds and notes would apply to the duration of the "when-issued" period for the underlying securities, *i.e.*, the period between the auction and issuance of the underlying securities. The current CBOE exercise

limits prescribe the maximum number of Treasury options contracts that can be exercised over any consecutive five business day period. The proposed rule change also would provide that the exercise limits could not be exceeded during the when-issued period, which generally exceeds five business days.

The proposed rule change also would revise the Government securities option margin rule and the related definition of "covered" so that "mini-series" options may offset and may be offset by, standardized options on the same underlying Government security. The statutory basis or the proposed rule change is Section 6(b)(5) of the Act in that the change will assist in the implementation and operation of the Exchange's Government securities options markets and protect investors and the public interest.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18534, March 4, 1982) and by publication in the **Federal Register** (47 FR 10333, March 10, 1982). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.[1]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

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[1] With the enactment of the recent amendments to the securities laws, the Commission believes its authority to approve proposed rule changes of national securities exchanges to accommodate the listing and trading of options on exempted securities is clear. *See* Securities Exchange Act Release No. 19125 (October 14, 1982).

[Release No. 19125, File Nos. SR-CBOE-82-15 and SR-OCC-82-21]

Chicago Board Options Exchange Inc. and Options Clearing Corp.; Filing and Order Approving Proposed Rule Changes

October 14, 1982.

In the matter of Chicago Board Options Exchange, Incorporated, LaSalle At Jackson, Chicago, Illinois 60604 and Options Clearing Corportion, 200 South Wacker Drive, Chicago, Illinois 60606 (File Nos. SR-CBOE-82-15 and SR-OCC-82-21).

I. Introduction

Pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(2), (the "Act"), the Commission is hereby giving notice of and approving proposed rule changes filed by the Chicago Board Options Exchange, Incorporated ("CBOE") and the Options Clearing Corporation ("OCC"). The proposed rule changes incorporate the terms and conditions of previously filed and approved rule changes which would modify CBOE and OCC rules to enable the CBOE to provide for exchange trading of standardized options on mortgage pass-through certificates guaranteed by the Government National Mortgage Association ("GNMA options").[1]

The CBOE and OCC filed these rule changes and the Commission is approving these proposed rule changes because the Court of Appeals for the Seventh Circuit on March 24, 1982, in *Board of Trade of the City of Chicago* v. *Securities and Exchange Commission,*[2] invalidated the Commission order approving the CBOE rule filing relating to the listing and trading of GNMA options.[3] Recently, however, Congress enacted, and the President has signed, legislation that clarifies Commission authority to oversee and regulate the listing and trading on national securities exchanges of options on exempted securities, including GNMAs and Treasuries.[4] In related orders, being issued today, the Commission is approving other rule changes by the CBOE, Amex, NYSE and OCC with respect to options on exempted securities.[5]

II. Jurisdiction

In *CBT I,* the Seventh Circuit found three grounds for invalidating the Commission's CBOE-GNMA Options Approval Order. First, the court held that the Commission lacked authority to regulate options on GNMA's because exchange-traded "offset" options were not "securities" as defined in Section 3(a)(10) of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act") and because Section 9(f) of the Exchange Act, which grants the Commission plenary authority over exchange-traded options on securities, does not apply to options on exempted securities, such as GNMAs. Second, the Seventh Circuit held that, regardless of the status of GNMA options under the federal securities laws, trading in GNMA options is subject to the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC") under Section 2(a)(1) of the Commodity Exchange Act ("CEA").[6] Third, because GNMA options are "commodity options," the court determined that they are subject to the Congressionally imposed commodity options ban contained in Section 4c(c) of the CEA until the CFTC affirmatively takes action under that section to permit their trading.[7]

Prior to the Seventh Circuit's decision in *CBT I,* the Commission and the CFTC announced that the two agencies had agreed to clarify their respective

[1] The proposed rule changes refer to and incorporate previously-approved rule changes. SR-CBOE-82-15, which was filed with the Commission on October 12, 1982, incorporates by reference all or parts of SR-CBOE-80-7, SR-CBOE-81-2, SR-CBOE-81-6, SR-CBOE-81-7, SR-CBOE-81-12, SR-CBOE-81-13, SR-CBOE-81-15, SR-CBOE-81-17, SR-CBOE-81-19, SR-CBOE-81-20, SR-CBOE-81-23. *See* File No. SR-CBOE-82-15.

SR-OCC-82-21, which was filed with the Commission on October 12, 1982, incorporates by reference all or parts of SR-OCC-81-2, SR-OCC-81-10, SR-OCC-82-2, SR-OCC-82-5, and SR-OCC-82-20. *See* File No. SR-OCC-82-21.

[2] 677 F.2d 1137 (7th Cir. 1982) (hereinafter, *"CBT I"* decision). For a discussion of the grounds upon which the court invalidated the Commission order, *see* Part II, *infra.*

[3] Securities Exchange Act Release No. 17577 (February 26, 1981), 46 FR 15242 (March 4, 1981). File No. SR-CBOE-80-7 (hereinafter, "CBOE-GNMA Options Approval Order").

The Court also issued an unpublished slip opinion that same day invalidating the Commission order approving the OCC's rule changes with respect to the issuance, clearance and settlement of GNMA options. *Board of Trade of the City of Chicago* v. *Securities and Exchange Commission, et al.,* No. 81-2587 (hereinafter, *"CBT II"* decision) (March 24, 1982), which invalidated Securities Exchange Act Release No. 18015 (August 6, 1981), 46 FR 40849 (August 12, 1981). File No. SR-OCC-81-2 (hereinafter, "OCC-GNMA Options Approval Order").

[4] *See* Part II, infra, for a discussion of the salient aspects of the legislation.

[5] *See* Securities Exchange Act Release Nos. 19126-19132 (October 14, 1982).

[6] 677 F.2d at 1146-50. The Court concluded that, because GNMAs are "commodities" (by virtue of there being futures traded on them) and because GNMA options "involve contracts of sale of a commodity for future delivery" under the grant of exclusive jurisdiction to the CFTC in Section 2(a)(1) of the CEA, the Commission lacked authority to regulate GNMA options.

[7] 677 F.2d at 1155-61.

regulatory responsibilities and would seek to codify that agreement formally. Among other things, the agreement on jurisdiction ("SEC/CFTC Jurisdictional Accord") clarified that the Commission has jurisdiction over put and call options on exempt and nonexempt securities, certificates of deposit, groups or indices of securities, and, when traded on a national securities exchange, foreign currency. It also clarified that the CFTC has jurisdiction over futures contracts on exempt securities, certificates of deposit and broad-based indices of securities, as well as over options on futures and options on foreign currencies traded on a commodities exchange.

The SEC/CFTC Jurisdictional Accord was introduced in Congress as two separate pieces of legislation: the amendments to the securities laws were contained in H.R. 6156 and S. 2260, while the amendments to the CEA were coupled with CFTC reauthorization and contained in H.R. 5447 and S. 2109. The Securities Acts Amendments of 1982 were passed by the House on September 23, 1982 and by the Senate on October 1, 1982,[8] and signed by the President on October 13, 1982.[9] The House and Senate, however, passed differing versions of the CEA amendments, and accordingly, those bills must await resolution by Congress.[10]

The SEC/CFTC Jurisdictional Accord would legislatively overrule the *CBT I* decision by amendments to both the federal securities laws and the CEA. As noted above, however, although the Accord was introduced in Congress as two separate sets of legislation, only the securities portion of the Accord has been enacted into law.

The Securities Acts Amendments of 1982 (1) amend the definition of "security" in Section 3(a)(10) of the Exchange Act to clarify that options on securities are separate securities,[11] (2) amend Section 9 of the Exchange Act to provide explicitly that the Commission has the authority to regulate trading of options on any security, certificate of deposit, group or index of securities or, when traded on a national securities exchange, options on foreign currency "[n]otwithstanding any other provision of law,"[12] and (3) amend Section 28 of the Exchange Act to pre-empt all state laws prohibiting wagering or gaming contracts, or the operation of "bucket shops," with respect to activity incidental to the trading of any instrument by a self-regulatory organization.[13]

In the Commission's view, the Securities Acts Amendments of 1982 remove the basis for the Seventh Circuit's invalidation of the Commission's CBOE–GNMA Options Approval Order. First, by amending the definition of security to include options "on any security," the legislation specifically overrules the first basis of the *CBT I* decision that the Commission lacked jurisdiction under the Exchange Act to approve the CBOE proposed rule change.

Second, the legislation overrides the court's determination that the CFTC's grant of exclusive jurisdiction in Section 2(a)(1) of the CEA removes Commission jurisdiction over options on securities that also are the subject of futures trading (and hence "commodities"). New Section 9(g) of the Exchange Act provides that,

> Notwithstanding any other provision of law, the Commission shall have the authority to regulate the trading of any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency * * *.

It is a well-recognized canon of statutory construction that "[a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant * * *."[14] Accordingly, the phrase, "[n]otwithstanding any other provision of law" must serve a purpose. Literally interpreted, the phrase suggests that the authority conveyed in the section exists irrespective of *any* other provision of law.

This construction of Section 9(g) conflicts with the Seventh Circuit's view that Section 2(a)(1) of the CEA vests in the CFTC exclusive jurisdiction over options instruments that are the subject of futures trading, such as options on GNMAs, Treasury securities and foreign currency. It is also a recognized principle of statutory construction, however, that when "there is any irreconcilable conflict between the new provision and a prior statute relating to the same subject matter, the new provision will control as it is the later expression of statutory intent."[15] At the same time, the Supreme Court has noted that "repeals by implication are not favored,"[16] and that the Court would decline to read statutes "as being in irreconcilable conflict without seeking to ascertain the actual intent of Congress."[17]

In seeking to understand the intent of Congress, it should be noted that the Senate sponsor of the securities portion of the Accord, Senator D'Amato, has indicated that Section 9(g) was intended to grant the Commission the authority to regulate the instruments enumerated in the section.[18] The Chairman of the

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[8] S. 2260 was never enacted. Rather, Senator D'Amato, the Senate sponsor of the legislation introduced H.R. 6156 on the floor of the Senate, and the Senate accepted and passed the House bill.

[9] H.R. 6156 indicates that it is an Act "to clarify the jurisdiction of the [SEC] and the definition of security, and for other purposes." For ease of reference, it is identified below as the Securities Acts Amendments of 1982.

[10] Among other things, the two bills differ on the level of SEC review of CFTC designation of stock index futures contracts and the length of the CFTC's reauthorization.

[11] Section 3(a)(10), as amended, reads as follows: The term "security" means any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit, for a security, *any put, call straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency*, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing; but shall not include currency or any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited. (New language italic.)

[12] In addition, Section 9(f) of the Exchange Act is amended to clarify that the Commission's authority to regulate options on securities under Section 9 is not limited to options on non-exempt securities.

[13] The definitions of security in the Securities Act of 1933, the Investment Company Act of 1940, the Investment Advisers Act of 1940, and the Securities Investor Protection Act of 1970 are amended in a manner similar to the revised definition of security in the Exchange Act.

[14] *American Radio Relay League* v. *FCC*, 617 F.2d 875, 879 (D.C. Cir. 1980), *citing* 2A Sutherland, *Statutes and Statutory Construction*, § 46.06, at 63 (4th ed. C. Sands 1973).

[15] 2A Sutherland, *Statutes and Statutory Construction*, § 51.02, at 274, cited with approval in *Watt* v. *Alaska*, 451 U.S. 259, 266 (1981). See also *Travelers Ins. Co.* v. *Panama-Williams, Inc.*, 597 F.2d 702 (10th Cir. 1979); *Univ. of Texas* v. *United States*, 577 F.2d 483 (5th Cir. 1977).

[16] *Morton* v. *Mancari*, 417 U.S. 535, 549 (1974), *citing Posadas* v. *National City Bank*, 296 U.S. 497, 509 (1936).

[17] *Watt* v. *Alaska*, 451 U.S. 259, 266 (1981). The Court noted that, if possible, statutes should be read "to give effect to each" if such a result can be accomplished "while preserving their sense and purpose." *Id.* at 267.

[18] Statement of Senator D'Amato, 128 Cng. Rec. S. 13112 (October 1, 1982) ("* * * H.R. 6156 would amend Section 9 of the Securities Exchange Act to make it clear that the SEC has plenary authority to regulate the trading of such options, notwithstanding any other provision of law. This means that the SEC's authority to regulate such options would not be diminished or affected in any way by the provisions of the [CEA] or any other law." *See also* Report of the House Committee on Energy and Commerce to Accompany H.R. 6156, H. Rep. No. 626, Part I, 97th Cong., 2nd Sess. 8 (1982)

Senate Committee on Banking, Housing and Urban Affairs, Senator Garn, also indicated that, with the enactment of the securities legislation, the SEC will have the "clear authority" to authorize trading in options on exempted securities such as GNMA and U.S. Treasury securities.[19]

In contrast to these clear statments of intent stands a statement by Senator Huddleston inserted for the record during the floor debate immediately preceding passage by the Senatae of H.R. 6156:

> [S]ince the seventh circuit decision rests on independent holdings under the [CEA] and Federal securities laws, I believe that it is generally agreed that both H.R. 6156 and S. 2109 must be enacted to remove any legal barriers that exist which prohibit the legal trading of [options on exempted securities].[20]

In addition, in the Senate deliberations on S. 2109 (the amendments to the CEA), Senator Helms stated:

> Since S. 2109 would amend the [CEA], while H.R. 6156 amends the Federal Securities laws, enactment of S. 2109 is essential in overturning the seventh circuit's decision and authorizing the SEC to regulate these options.[21]

In the Commission's veiw, the Seventh Circuit's determination that Section 2(a)(1) of the CEA gives the CFTC exclusive jurisdiction over options on GNMA securities or other securities, or options on certificates of desposit or foreign currency, is not reconcilable with Section 9(g). The language of Section 9(g), as well as the legislative history, clearly indicates that Congress intended to clarify that the Commission has at least some authority to regulate the instruments enumerated therein. This intention is confirmed by the amendments to the definition of "security" to encompass the same instruments, which make it clear that the Commission's authority over "securities" is also to extend to such instruments. The only way to reconcile the CFTC's exclusive jurisdiction with the authority conveyed to the Commission under Section 9(g), and at the same time preserve the "sense and purpose" underlying those provisions, is to interpret Section 9(g) as an exception to Section 2(a)(1) of the CEA with respect to options on securities, certificates of deposit and foreign currrency. To the extent these provisions nevertheless are considered irreconcilable, Section 9(g), as the later enacted provision, is controlling.[22]

The legislation also overrides the third basis of the Seventh Circuit holding in *CBT I* that the Commission was precluded from approving trading in GNMA options because of the so-called commodity options ban in Section 4c(c) of the CEA. For the reasons discussed above with respect to Section 2(a)(1) of the CEA, the Division believes that Section 9(g) precludes an interpretation that the commodity options ban prohibits the Commission from taking action with respect to options on securities (or the other instruments enumerated in Section 9(g)).

In addition, the Commission believes that Section 9(g), as well as the modifications to the definition of security, removes the application of the commodity options ban to trading in options on securities that are also commodities.[23] Analytically, it makes no sense for Congress to grant the Commission jurisdiction over options on debt securities if it cannot exercise that jurisdiction because of an options ban in the CEA under which it is powerless to act. Indeed, the Seventh Circuit decision raises doubt as to whether the CFTC could even exercise its authority under the CEA to remove the commodity options ban with respect to options regulated by the Commission since the ban, in the court's view, requires the CFTC to deocument that the CFTC, and not another entity such as the Commission, has the ability adequately to regulate such options.[24] Thus, Section 9(g) can only be given its intended effect if it is read, at a minimum, to override the options ban with respect to options regulated by the Commission.

Furthermore, a provision known as the "SEC savings clause" in Section 2(a)(1) of the CEA [25] supports the proposition that, despite the commodity options ban, Section 9(g) grants to the Commission the authority to regulate options on the instruments enumerated in that section. In determining the applicability of the CEA to GNMA options, the Seventh Circuit was required to address the "SEC savings clause." In this regard, the court stated:

> * * * We interpret the savings clause so that an expanded definition of commodity does not divest the SEC of jurisdiction via the [commodity] options ban or otherwise, except where SEC jurisdiction is divested by the CFTC's exclusive jurisdiction clause.[26]

The Court went on to hold that the CFTC had exclusive jurisdiction over trading in GNMA options and that the SEC savings clause was thus inapplicable. However, as noted above, with the enactment of Section 9(g) of the Exchange Act, Commission jurisdiction with respect to options on CNMs or other securities cannot be deemed to be divested by the CFTC's exclusive jurisdiction clause.

The analysis above addresses only the effect of the legislation on the *CBT I* decision. The Commission believes that analysis is equally valid with respect to the *CBT II* decision, and thus believes the legislation also makes clear its authority to act on the OCC's GNMA options filing.[27]

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[19] Statement of Senator Garn, 128 Cong. Rec. S. 13113 (October 1, 1982). There are suggestions, in fact, that Section 9(g) was intended to give the Commission exclusive jurisdiction over trading in options on securities and the other enumerated instruments. Statement of Senator D'Amato, 128 Cong. Rec. 13112 (October 1, 1982) (Section 9(g) is added "to confirm the SEC's exclusive jurisdiction over those instruments").

[20] 128 Cong. Rec. S. 13114 (October 1, 1982).

[21] 128 Cong. Rec. S. 13103 (October 1, 1982). In this regard, it should be noted that, the courts traditionally have given substantial deference to the views of sponsoring legislators. *Federal Energy Administration* v. *Algonquin SNG, Inc.*, 426 U.S. 548 (1976). By contrast, the views of other congressmen, while considered probative, generally are not accorded substantial weight. *Castaneda-Gonzalez* v. *Immigration and Naturalization Service*, 564 F.2d 417 (D.C. Cir. 1977). Thus, in discerning Congressional intent, the unambiguous statements of Senators D'Amato and Garn should be deemed controlling over any inconsistent views expressed by Senators Huddleston and Helms.

[22] Amendments to the CEA would make it clear that the CEA does not apply to options on the instruments enumerated in Section 9(g). Thus, enactment of the commodities portion of the Accord would eliminate any appearance of inconsistency between the CEA and the federal securities laws. The Commission does not believe, however, that such action is necessary to give effect to the clear meaning of Section 9(g).

[23] The Commission, of course, will continue to work with the CFTC in developing programs for the cooperative surveillance of the markets for securities and related futures and options contracts.

[24] 677 F.2d at 1144, n. 13.

[25] The SEC "savings clause" provides that "except as hereinafter provided, nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any state, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws."

[26] 677 F.2d at 1146.

[27] In the past week, the Commission has received letters from counsel for the CBT and several congressmen with respect to its authority to act on the proposed rule changes. Counsel for CBT acknowledges that the adoption of the Securities Acts Amendments of 1982 overturns the holding in *CBT I* with respect to the Commission's authority under the federal securities laws to regulate the trading of GNMA and Treasury options. It asserts, however, that those instruments are within the CFTC's exclusive jurisdiction under Section 4c(c) of the CEA, notwithstanding the new legislation, because the proposed amendments to the CEA have not yet been adopted. Letter from John H. Stassen, Kirkland and Ellis, and Mahlon M. Frankhauser, Barrett Smith Schapiro Simon & Armstrong (counsel for the CBT), to George A. Fitzsimmons, Secretary, SEC, dated October 12, 1982. The Chairman and Ranking Minority Member of the House Agriculture Committee submitted a joint letter asserting that Commission regulation of options on exempted

III. Discussion

A. GNMA Options

The CBOE filed with the Commission its original proposed rule change to provide for the trading of GNMA options on April 17, 1980.[28]

Subsequently, on July 24, 1980, the Commission published a release extending the time for the submission of public comments responding to the proposal.[29] Also, comments were specifically solicited from several government agencies concerning their respective interests and views regarding the development of an exchange-based GNMA options market.[30] Except for a comment by the Chicago Board of Trade questioning the Commission's jurisdiction over, and authority to permit the trading, of, GNMA options,[31] all commentators were essentially supportive of CBOE's proposal for exchange-based trading of standardized GNMA options.[32] On December 19, 1980, the CBOE filed several amendments to its proposal in order to treat various technical and procedural matters necessary to the implementation of the GNMA options program.[33]

On February 20, 1981, the OCC filed with the Commission its proposed rule change to facilitate the trading of GNMA options on participating exchanges.[34] Specifically, the proposal empowers the OCC to issue GNMA options and to provide for the clearance and settlement of GNMA options. On May 8, 1981, the OCC filed various technical clarifying amendments.[35] Two comment letters were received by the Commission in response to its published notice of the proposed rule change, both setting forth the argument that the Commission lacked jurisdiction to regulate the issuance, clearance and settlement of GNMA options.[36]

On February 26, 1981, the Commission approved CBOE's proposal relating to GNMA options, finding it consistent with the requirements of the Act and the rules and regulations thereunder applicable to the CBOE.[37] In its approval order, the Commission addressed such concerns as contract design, sales practice requirements, margin standards, pricing considerations, surveillance and multiple trading, and listed several requirements that the CBOE had to satisfy with respect to these concerns before the commencement of trading in GNMA options.[38] On August 6, 1981, the Commission similarly approved OCC's proposed rule change relating to GNMA options.[39] In the OCC–GNMA Options Approval Order, the Commission discussed such concerns and pre-commencement of trading conditions such as qualification of OCC's clearing members, satisfactory net capital and margin requirements, separate clearing fund deposits for debt options, and discrete settlement processes for the exercise of GNMA options.

Based on the enactment of amendments to the federal securities laws clarifying the Commission's authority to regulate trading of options on exempted securities, including GNMA's, the Commission has concluded that it has the authority to review and take action on the proposed rule changes which incorporate the terms and substance of these previously-approved rule changes concerning GNMA options. Moreover, the Commission has reviewed these proposals in light of the *CBT I* and *II* decisions and the recent legislation implementing the Securities Acts portion of the Jurisdictional Accord and finds that the reasons and bases for originally approving the proposals are an appropriate basis for approval of the new rule filings. Because of extensive prior notice and comment on the original proposed rule changes, (and the lack of substantive criticism of the proposed

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securities would not comply with the CEA until the Futures Trading Act of 1982 (H.R. 5447) has been enacted into law. Letter from the Honorable E. (Kika) de la Garza and William C. Wampler to John S. R. Shad, Chairman, SEC, dated October 7, 1982.

The Commission also received a joint letter from the Chairman of the House Energy and Commerce Committee, and the Ranking Minority Member of the Telecommunications, Consumer Protection and Finance Subcommittee, the committees with jurisdiction over H.R. 6156. The letter states that:

H.R. 6156 amended the definition of "security" under the federal securities statutes expressly to include options on securities, options on certificates of deposit, options on securities indices or groups, and, when traded on a national securities exchange, options on foreign currency. Congress, in enacting this legislation, expressed the view that these instruments do not fall within the exclusive jurisdiction of the CFTC and stated its desire that trading in these instruments be allowed to commence. Nonetheless, certain Members of the Agriculture Committee contend that the expanded definition of "commodity" which is incorporated in Sections 4c(b) and 4c(c) of the CEA still gives the CFTC the power to ban trading in these options on a national securities exchange. We believe that this contention is inconsistent with Congressional intent, the legislative history of H.R. 6156 and the plain language of the statutes involved.

Letter from the Honorable John D. Dingell and James M. Collins to John S. R. Shad, dated October 13, 1982.

Finally, the Commission received a letter from the Honorable Timothy E. Wirth, Chairman of the Subcommittee on Telecommunications, Consumer Protection and Finance of the House Committee on Energy and Commerce and sponsor of H.R. 6156. In his letter, Mr. Wirth states:

I introduced H.R. 6156 on April 22, 1982, for the purpose of removing the cloud over the SEC's jurisdiction to regulate options on securities that were the subject of CFTC-approved futures contracts. * * * As our report on the legislation makes clear, it was the Committee's intent that H.R. 6156, by itself, would sufficiently clarify the SEC's jurisdiction so as to permit it to approve proposals of certain national securities exchanges to trade options on government debt securities as well as options on other instruments listed in the bill. Nothing in the report speaks to the need for H.R. 6156 to work in tandem with amendments to the [CEA] in order to accomplish the purpose of the legislation. * * *

We were very aware of the fact that H.R. 5447 was a far more complicated bill, because it contained not only jurisdictional provisions but also provided for the reauthorization of the CFTC, with numerous amendments to the Commodity Exchange Act. I can assure you that one of our purposes in maintaining separate bills was to ensure that if H.R. 5447 were delayed, for whatever reason, any cloud over the SEC's jurisdiction would be removed at the earliest possible time by the passage of H.R. 6156.

Letter from Timothy E. Wirth to John S. R. Shad dated October 14, 1982.

The Commission has reviewed these letters and, for the reasons set forth above, remains of the view that the Securities Acts Amendments of 1982 effectively overturn the *CBT I* decision and that the Commission possesses the authority to regulate trading of options on GNMA securities (as well as the other instruments enumerated in Section 9(g)(1)).

[28] Notice of the proposed rule change was given by Securities Exchange Act Release No. 16801 (May 12, 1980), 45 FR 32458 (May 16, 1980).

The NYSE also filed a proposal to provide for the listing and trading of GNMA options. Securities Exchange Act Release No. 17578 (February 26, 1981), 46 FR 15245 (March 4, 1981). File No. SR–NYSE–81–4. The Commission is taking no action on that proposal today.

[29] Securities Exchange Act Release No. 17005 (July 24, 1980), 45 FR 51016 (July 31, 1980). The Commission received 85 comment letters concerning CBOE's proposal. Copies of the comment letters have been placed in a public file. *See* File No. SR–CBOE–80–7.

[30] Comments were solicited from the GNMA, the Department of the Treasury, the CFTC, the Federal Reserve Board ("FRB"), and the Federal Reserve Bank of New York ("FRB–NY"). *See* note 17 of the CBOE–GNMA Options Approval Order.

[31] *See* note 13 of the CBOE–GNMA Options Approval Order.

[32] *See* File No. SR–CBOE–80–7.

[33] Securities Exchange Act Release No. 17413 (January 5, 1981), 46 FR 2439 (January 9, 1981). For a detailed discussion of the significant features of CBOE's proposal, *see* the CBOE–GNMA Options Approval Order.

[34] Securities Exchange Act Release No. 17598 (March 4, 1981), 46 FR 16103 (March 12, 1981).

[35] For a detailed discussion of the significant features of OCC's proposal, *see* the OCC–GNMA Options Approval Order.

[36] *See* note 2 of the OCC–GNMA Options Approval Order.

[37] *See* note 3, *supra*.

[38] *See* CBOE–GNMA Options Approval Order. The CBOE subsequently filed proposed rule changes amending its margin rules relating to GNMA and Treasury options. Notice of the proposed rule changes was given by Securities Exchange Act Release Nos. 18256 (November 12, 1981), 46 FR 57209, (November 20, 1981) and 18535 (March 4, 1982), 47 FR 10334 (March 10, 1982). *See* File Nos. SR–CBOE–81–24 and SR–CBOE–82–4. The Commission today is approving these proposals in related orders. Securities Exchange Act Release Nos. 19130 and 19131 (October 14, 1982).

[39] *See* note 3, *supra*.

rule changes), the Commission does not believe it is necessary to publish the new proposed rules for additional comment. In reapproving the CBOE and the OCC proposed rule changes relating to GNMA options, the Commission understands that the pre-commencement of trading requirements discussed in the original approval order have been satisfied and therefore concludes that trading in GNMA options may commence without further Commission action.[40]

B. Related Orders Regarding GNMA's

In response to the Commission's original approval of the CBOE's and OCC's proposed rule changes to provide for the development of an exchange-based GNMA options market, the CBOE and OCC have filed with the Commission proposed rule changes to accommodate the conditions and concerns addressed in the original approval orders.[41] Several of these proposed rule changes were previously approved by the Commission. For example, regarding implementation of the GNMA options program, the Commission has approved rule changes of CBOE governing supervision and testing of sales personnel, separate account approval and surveillance of corporate affiliates of GNMA options market makers [42] as well as rules governing the GNMA pools from which eligible underlying securities for GNMA options could be drawn.[43] Also, in connection with GNMA options, the Commission has approved proposals by the CBOE relating to application and acceptance fees for permit applicants,[44] transaction fees,[45] delivery responsibilities of member firms,[46] position and exercise limits,[47] and margin requirements.[48]

The Commission has approved proposed rule changes by the CBOE that provide specifications for the Interest Rate Options Qualification Examination,[49] establish an Interest Rate Options Committee, and specify procedures for recording interest rate options transaction information.[50] The Commission also approved a proposal by the CBOE to establish a plan for issuing permits to trade non-equity options.[51] Finally, the commission recently has approved proposed rule changes by the OCC that amend its GNMA options rules respecting aggregate exercise price and buy-in procedures,[52] that amend its good delivery requirements for GNMA's delivered in settlement of GNMA options contracts,[53] that permit the OCC, in certain circumstances, to release margin deposited with it by clearing members,[54] and that amend the OCC's fee structure regarding clearing services for non-equity options.[55] Because the Commission's authority to take action on these proposed rule changes has been clarified, and for the reasons set forth in the original approval orders, the Commission hereby approves that portion of the new proposed rule changes relating to these previously filed and approved rule changes by the CBOE and OCC.

IV. Findings and Conclusion

Under Section 19(b)(2) of the Act, the Commission must approve the foregoing rule changes if it determines that the proposed rule changes are consistent with the requirements of the Act and the rules thereunder applicable to registered securities exchanges and registered clearing agencies. The Commission has reviewed carefully the rules proposed by CBOE and OCC to accommodate the listing, trading, issuance and clearance trading of options on GNMAs, and the comments previously submitted in connection with the proposed rule change, and has concluded, for the reasons set forth above and in the original approval orders, that the rules provide for adequate and proper regulation of the proposed markets. Furthermore, because the terms and substance of the foregoing proposed rule changes have previously been subject to extensive public review and comment and have been previously reviewed and approved by the Commission, the Commission finds good cause for approving the proposals prior to thirty days notice. In addition, based upon its prior review of the filings, and its current review, the Commission finds that the trading of GNMA options on a national securities exchange is in the public interest, and believes that no further delay would be in the public interest. Accordingly, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 and 17A of the Act and the rules and regulations thereunder.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 450 Fifth Street, Washington, D.C. 20549. Reference should be made to File Nos. SR–CBOE–82–15 and SR–OCC–82–21.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be, and they hereby are, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

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[40] The CBOE has stated to the Commission that, pursuant to another order being issued today, it intends to commence trading in Treasury bond options on October 22, 1982. The CBOE has indicated that it does not intend to commence GNMA options trading until its Treasury options market is established. The Commission finds this manner of proceeding to be orderly and sound, and approves the CBOE–GNMA options rule filing on that basis.

[41] Proposed rule changes SR–CBOE–82–15 and SR–OCC–82–22 incorporate by reference only those rule filings that have been previously approved by the Commission. The rule filings that had been deferred by the Commission following the *CBT I* and *II* decisions and pending legislative enactment of the securities acts provisions of the Jurisdictional Accord are treated as approved orders. *See* note 5, *supra.*

[42] Securities Exchange Act Release No. 17787 (May 8, 1981), 46 FR [illegible] (May 15, 1981). File No. SR–CBOE–81–2.

[43] Securities Exchange Act Release No. 17760 (April 29, 1981), 46 FR [illegible] (May 7, 1981). File No. SR–CBOE–81–6.

[44] Securities Exchange Act Release No. 17958 (July 22, 1981), 46 FR 38796 (July 29, 1981). File No. SR–CBOE–81–12.

[45] Securities Exchange Act Release No. 18238 (November 4, 1981), 46 FR 55819 (November 12, 1981). File No. SR–CBOE–81–23.

[46] Securities Exchange Act Release No. 18138 (October 1, 1981), 46 FR 58389 (December 1, 1981). File No. SR–CBOE–81–20.

[47] Securities Exchange Act Release No. 18129 (September 29, 1981), 46 FR 49029 (October 5, 1981). File No. SR–CBOE–81–7.

[48] Securities Exchange Act Release No. 18109 (September 21, 1981), 46 FR 47335 (September 25, 1981). File No. SR–CBOE–81–15.

[49] Securities Exchange Act Release No. 18069 (August 28, 1981), 46 FR 58388 (December 1, 1981). File No. SR–CBOE–81–17.

[50] Securities Exchange Act Release No. 18110 (September 21, 1981), 46 FR 47346 (September 25, 1981). File No. SR–CBOE–81–19.

[51] Securities Exchange Act Release No. 18077 (September 3, 1981), 46 FR 45232 (September 10, 1981). File No. SR–CBOE–81–13.

[52] Securities Exchange Act Release No. 18174 (October 16, 1981), 46 FR 52266 (October 26, 1981). File No. OCC–81–10.

[53] Securities Exchange Act Release No. 18505 (February 23, 1982), 47 FR 8443 (February 26, 1982). File No. SR–OCC–82–2.

[54] Securities Exchange Act Release No. 18922 (July 26, 1982), 47 FR 33351 (August 2, 1982). File No. SR–OCC–82–5.

[55] File No. SR–OCC–82–20 was filed with the Commission on October 8, 1982.

[Release No. 19130; SR-CBOE-81-24]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

October 14, 1982.

In the matter of Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604 (SR-CBOE-81-24).

The Chicago Board Options Exchange, Incorporated ("CBOE") submitted on November 3, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend its margin rules. The proposed rule change would define the term "covered" for the purposes of call or put writing, establish initial margin requirements for options writers, and establish the terms and conditions under which custodial receipt and letters of guarantee issued by banks may be used in fulfillment of margin requirements.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18256, November 12, 1981) and by publication in the **Federal Register** (46 FR 57209, January 20, 1982). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.[1]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

[1] With the enactment of the recent amendments to the securities laws, the Commission believes its authority to approve proposed rule changes of national securities exchanges to accommodate the listing and trading of options on exempted securities is clear. *See* Securities Exchange Act Release No. 19125 (October 14, 1982).

By the Commission.

George A. Fitzsimmons,

Secretary.

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[Release No. 19138; File No. SR-DTC-82-5]

Filing and Immediate Effectiveness of Proposed Rule Change by Depository Trust Co.

October 14, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 17, 1982, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would provide for an extended reclamation procedure for participants receiving greatly over-valued securities deliveries. The existing reclamation procedure allows participants noting an irregularity in a DTC delivery to reclaim (return) the delivery by 12:30 p.m. on the day of delivery. The new procedure will extend by three hours the period for reclamation, but only for greatly over-valued securities deliveries. (The over-valuation must be both (i) more than $100,000 greater than the market value of the securities being delivered and (ii) at a price more than 50% greater than the market price of the securities being delivered.) DTC will inform the deliverer of the reclamation, but reserves the right not to complete the delivery without the consent of the deliverer, who will be required to settle with DTC on that day based on a net settlement amount adjusted to reflect the non-delivery. A special charge of $25.00 will be imposed on all participants using the new procedure, and DTC may impose a fine of $150.00 on, or take other appropriate measures against, deliverers of greatly over-valued securities.

The proposed rule change is a response to concern expressed recently by DTC Participants that some deliverers of securities have been significantly over-valuing the money payments due them from receivers. DTC believes the proposed rule change is in accordance with Section 17A(b)(3)(F) of the Act and the applicable rules thereunder in that it is consistent with the safeguarding of securities and funds in DTC's custody or control or for which DTC is responsible.

Three comment letters were received by DTC regarding the proposed rule change. Two commentators, while generally favoring the extended reclamation period, expressed a desire for a slightly earlier cut-off period to afford participants additional time to prepare for money settlement. Two of the commentators objected to the $25.00 special charge for using the new procedure. One commentator argued that the $25.00 charge represents a penalty assessed against the party receiving an over-valued delivery; the other argued that this charge should be assessed only in the event the over-valued delivery is reversed. One of these commentators also objected to the $150.00 fine to deliverers of over-valued securities, particularly because, in the commentator's view, many over-valued deliveries result from clerical errors.

In its filing, DTC responded to these comments by stating, among other things, that a participant receiving an over-valued delivery may, "of course, use the normal reclamation period, and the related processing charge is intended to serve as a disincentive to receivers who could reclaim such items during the normal reclamation period." The Commission's staff has requested DTC to review the comment letters and reconsider the appropriateness of the deadline for extended reclamations as specified in the new procedure.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraphs (e) (2) and (4) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-DTC-82-5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission

and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28876 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19119; File No. SR-OCC-82-19]

Self-Regulatory Organizations; Proposed Rule Change by Options Clearing Corp., Relating to Issuance of Index Options, Clearance and Settlement of Transactions Therein, and Processing and Settlement of Exercises Thereof

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 4, 1982, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The proposed rule change would provide for the issuance and settlement of options covering groups of securities whose inclusion and relative representation in the group is determined by the inclusion and relative representation of their current market prices in a securities index. (Such options are hereafter referred to as "index options.") The proposed rules provide for the clearance and settlement of index options transactions and the processing and settlement of index options exercises. In general, the OCC rules applicable to stock options will apply to index options as well, with such exceptions as are specified in the proposed rule change. The format of the proposed index options rules is similar to that of OCC's proposed rules pertaining to other non-equity option products.

The proposed rule change would establish definitions applicable to index options, specify margin requirements for index options, and establish procedures for the settlement of index option exercises.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the trading of index options as heretofore proposed by the American Stock Exchange and the New York Stock Exchange. The exercise of an index option will be settled through payment of a settlement amount based upon the difference between the exercise price of the option and the value of the index at the close of trading on the day of exercise. The basic rules pertaining to margin on other non-equity options and the Non-Equity Clearing Fund, are also applicable to index options.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 because it would apply to index options substantially the same procedures and safeguards that have been used successfully by OCC in connection with stock options.

(B) Burden on Competition

OCC does not believe that the proposed rule change would have any material impact on competition.

(C) Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and no written comments have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 12, 1982

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28974 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19139; SR-OCC-82-1]

Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change

October 14, 1982.

On January 7, 1982, OCC filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that would authorize OCC to increase for debt securities clearing members the initial, minimum, and maintenance contribution levels to the

debt securities clearing fund ("DSCF") from $10,000 to $100,000.[1]

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of a Commission Release (Securities Exchange Act Release No. 18425 (January 18, 1982)) and by publication in the **Federal Register** (47 FR 3248 (January 22, 1982)). No letters of comment were received by the Commission.

OCC's proposed rule change states that OCC believes increases in the contribution levels to the DSCF are necessary because the financial exposure to OCC for each debt securities option contract is expected to be significantly higher than for each stock option contract. OCC believes that this heightened exposure is due to the anticipated higher premium per contract (*i.e.*, the higher price of the contract) and the greater value of each outstanding debt securities options trading unit. Accordingly, OCC believes that the increased exposure to OCC should be accompanied by incrementally higher DSCF deposit requirements to the DSCF.

The Commission agrees with OCC's determination for several reasons. Section 17A(b)(3)(F) of the Act provides that a clearing agency may not be registered unless its rules, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency, or for which it is responsible. Accordingly, the Commission believes that it should encourage the efforts of OCC reasonably to protect its participants and itself from any realistic potential financial exposure inherent in non-equity securities options trading.

The Commission recognizes that increases to the DSCF's initial, minimum, and maintenance contribution levels from $10,000 to $100,000 are substantial and may affect some broker-dealers' decisions to become debt securities clearing members. The Commission, however, does not believe that the proposal represents a significant barrier to participation in OCC. Persons unwilling to meet the higher requirements may arrange correspondent relationships with debt securities clearing members. Insofar as OCC's proposal could impair competition among broker-dealers to act as debt securities clearing members, the Commission believes that any such effect is speculative and is greatly outweighed by the value of providing reasonable additional protection to investors and by the enhancements of OCC's ability to safeguard funds and securities in its possession or control or for which it is responsible. Accordingly, the Commission finds that the proposed rule change will further the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions pursuant to Section 17A(a)(2) of the Act and is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28971 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[1] Congress recently enacted, and the President signed into law, amendments to the Securities Exchange Act of 1934 that, in the Commission's view, clearly authorize the Commission to regulate the trading on a national securities exchange of options on exempt securities and the issuance, clearance and settlement of those options by a registered clearing agency, such as OCC. Pursuant to that authority, the Commission, in Securities Exchange Act Release No. 19125 (October 14, 1982), approved, among other things, File No. SR-OCC-82-21, which incorporated by reference a previously approved proposed rule change submitted to the Commission by OCC (File No. SR-OCC-81-2). Securities Exchange Act Release No. 18015 (August 6, 1982), 46 FR 40849 (August 12, 1981). That proposed rule change authorized OCC to issue, clear and settle options on Government National Mortgage Association ("GNMA") pass-through securities. That proposal also created a separate clearing fund for options on non-equity securities. OCC refers to options contracts on government securities as "debt" securities.

[Release No. 19127; File No. SR-OCC-81-12]

Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change

October 14, 1982.

Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, OCC, on December 31, 1981, submitted a proposed rule change that would enable OCC (i) to issue options on bonds, notes and bills issued by the United States Treasury (collectively, "Treasury options") and (ii) to process and settle transactions in such options and exercise notices thereon. The Commission published notice of the proposal in the **Federal Register** on January 15, 1982, and invited interested persons to comment.[1] The Commission received one letter of comment.[2] OCC filed various clarifying and correcting amendments to its proposal on March 16, 1982.

Background—The Treasury Options Trading Proposals

Pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, the American Stock Exchange, Inc. ("Amex"), the Chicago Board Options Exchange, Incorporated ("CBOE") and the New York Stock Exchange, Inc. ("NYSE") filed with the Commission proposed rule changes modifying their rules to accommodate the listing and trading of standardized put and call Treasury options contracts.[3] In addition to approval of one or more of the exchange rule filings, several other steps must be completed before trading can commence on Treasury options. Approval of OCC's rule proposal respecting issuance, clearance and settlement of Treasury options is one such step.

Description of the Proposed Rule Change

In proposing rules that would provide for the issuance, clearance and settlement of Treasury option exercises, OCC has, to the greatest extent possible, duplicated its existing procedures for processing equity options. In addition, the proposed OCC rules for Treasury options are substantially parallel to the OCC's GNMA option rules approved by the Commission on August 6, 1981[4] and reauthorized today after the legislative enactment of the SEC/CFTC accord. Where OCC has varied from its systems for processing equity and GNMA options, it has done so to accommodate the unique features of Treasury options

[1] Securities Exchange Act Release No. 18403 (January 11, 1982), 46 FR 2444 (January 15, 1982).

[2] Letter dated January 25, 1982 from Mahlon M. Frankhauser, Kirkland and Ellis, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, incorporating comments contained in a letter dated June 30, 1981 from Robert J. Wilmouth, President, Chicago Board of Trade to George A. Fitzsimmons, Secretary, Securities and Exchange Commission. Those letters questioned the Commission's jurisdiction to regulate exchange-traded options on Treasury securities. The jurisdictional issues have been resolved by legislative amendments to the Securities Exchange Act. *See* Securities Exchange Act Release No. 19125 (October 14, 1982).

[3] See File Nos. SR-Amex-81-1, SR-CBOE-81-27 and SR-NYSE-81-5. The Commission approved the AMEX and CBOE Treasury rules on December 21, 1981. Securities Exchange Act Release No. 18371 (December 23, 1981), 46 FR 63423 (December 31, 1981). The Amex and CBOE proposed rules were reapproved today.

[4] Securities Exchange Act Release No. 18015, 46 FR 40849 (August 12, 1981).

and current industry practices in the Treasury cash and futures markets.

1. *Treasury Option Contracts.* The proposed rule change provides for OCC's issuance of uncertificated options [5] on Treasury notes and bonds having a specified coupon rate and maturity date and Treasury bills covering either thirteen-week or twenty-six-week Treasury bills. [6]

The principal amount to be covered by a single option contract in a "regular series" of Treasury options will be $100,000 in the case of Treasury bond or Treasury note options, $100,000,000 in the case of 13-week Treasury bill options, and $500,000 in the case of 26-week Treasury bill options. The proposed rules also provide for "mini-series" options covering a principal amount that is ⅕ of the principal amount covered by a regular series option contract covering the same underlying securities. [7]

2. *Treasury Securities Clearing Members.* In addition to meeting the financial and other requirements associated with membership in OCC, clearing members will have to receive special authorization from OCC to maintain positions at OCC in Treasury options. Consistent with the rules for becoming a GNMA clearing member, to become a Treasury securities clearing member, at least two key employees will be required to attend OCC readiness review sessions and successfully complete OCC's operational and financial examinations relating to debt securities options. OCC believes that such special training is necessary because the processing of debt securities differs in key respects from the system used for stock options.

3. *Processing of Treasury Securities Options.* OCC will process purchases and sales of Treasury options as well as option exercises. The processing of purhcases and sales of Treasury options will entail receiving compared transactions from the exchanges, issuing and (in the case of closing transactions) cancelling the appropriate contracts and effecting the corresponding money settlement. OCC will make and maintain book entires in clearing members' accounts representing the long and short positions in each account.

Under the proposed rule change OCC will process exercises of Treasury options in much the same manner as the Commission approved for processing exercises of GNMA options. Exercise notices submitted to OCC by option holders will be assigned randomly to members with short positions in the exercised contracts. [8] OCC will net settlement obligations insofar as a clearing member is both a receiving and delivering clearing member with respect to Treasury options covering the same issue and unit of trading and having the same exercise price and settlement date. [9] OCC has, in keeping with industry efforts to achieve efficient securities processing procedures, proposed this system of netting settlement obligations to minimize the number of separate settlements required to be made by each clearing member. [10]

To the extent that settlement obligations do not net out, a clearing member with a delivery obligation will have to deliver securities in book entry form [11] to the account of the receiving clearing member at a correspondent bank which the receiving clearing member has designated for that purpose. [12] If such delivery involves a transfer of book-entry securities from one bank to another, the rules contemplate that the Federal Reserve wire will be used for such transfer. [13]

In the event that clearing members fail to meet their exercise settlement obligations, OCC's proposed rules provide for "buy-ins" and "sell-outs." The proposed rules were modeled after the buy-in and sell-out rules adopted for GNMA options and are similar to the close-out procedures used with respect to equity options. The proposed rule provides that if a delivering clearing member fails to deliver the underlying Treasury securities by a specific time, [14] the clearing member due to receive must buy the Treasury securities in the cash market, holding the defaulting party liable for any loss resulting from any adverse price movement plus the close-out transaction costs. Similarly, if the receiving clearing member refuses to accept the tender of the underlying Treasury securities on settlement date or refuses to pay for such delivery, the delivering clearing member must sell those securities in the cash market, and hold the defaulting party responsible for any loss. [15] These provisions are intended to discourage fails, to provide uniform remedies for non-failing clearing members and to impose a fixed deadline by which settlement must be made, either in the normal fashion or through buy-ins or sell-outs.

4. *Alternative Settlement Procedures in the Event of a Shortage in the Supply of the Underlying Treasury Security.* In recognition of the possibility that the supply of a particular issue of Treasury securities may become insufficient to permit assigned writers of Treasury call options to meet their delivery obligations, OCC has proposed

[5] OCC recently eliminated non-negotiable certificates representing equity options. In addition, OCC does not propose to issue certificates evidencing non-equity options. That initiative was approved by the Commission, pursuant to delegated authority, on september 20, 1982. *See* Securities Exchange Act Release No. 19064 (September 20, 1982), 47 FR 42483 (September 27, 1982).

[6] The deliverable bill upon exercise of a Treasury bill option will be a bill with either 13 weeks or less or 26 weeks or less (as appropriate) remaining to maturity as of the exercise settlement date. To discourage the delivery of Treasury bills with fewer than the specified number of weeks, however, OCC will not adjust the exercise price to reflect the higher market value of Treasury bills with maturities shorter than the specified 13 or 26 weeks.

[7] The rule filings of the exchanges provide more detail on the specific Treasury option contracts to be traded. *See* File Nos. SR-Amex-81-1, SR-CBOE-81-27 and SR-NYSE-81-5.

[8] In contrast to equity procedures, OCC has not provided for "automatic exercise" of Treasury options that are "in-the-money" by a specified amount. (Automatic exercise rules are intended to reduce the likelihood that a clearing member could inadvertently fail to exercise a profitable option prior to its expiration.) In its rule filing OCC stated that, as in the case of GNMA options, because of the complexity of the Treasury securities market and OCC's lack of experience with Treasury options trading, OCC does not believe it will be in a position to determine appropriate exercise intervals for Treasury options until it gains some practical experience.

[9] At this time, OCC has not proposed to net five minicontracts against one regular contract.

[10] Exercises of Treasury bond and note options will settle daily; exercises of Treasury bill options will settle once a week, ordinarily on Thursdays. (Treasury bills are ordinarily auctioned on Mondays and settled on Thursdays in the cash market.)

[11] Although all Treasury bills and most Treasury bonds and notes are uncertificated, all Treasury securities are represented directly or derivatively by book-entries at Federal Reserve Banks. Therefore, in recognition that transfer of Treasury securities must be achieved by book-entry, OCC has designed its proposed settlement system for Treasury options to accomodate the existing industry systems and procedures. Accordingly, the proposed settlement system provides for correspondent banks, on behalf of clearing members, to effect "delivery" of book-entry securities through automated links to the Federal Reserve computer.

[12] Under the proposed rule change, Treasury securities clearing members must designate, for the purposes of settlement, a correspondent bank that is a participant in the Federal Reserve wire terminal.

[13] The computer switch of the Federal Reserve System contains current securities balances for each participant bank. Transfer and pledges by or among banks having accounts at a Federal Reserve Bank would be effected by entries on the Federal Reserve Bank's books. For these purposes book-entry transfer has the same effect as physical delivery of securities.

[14] A clearing member would be required to make delivery by the later of (i) the end of the business day following the exercise settlement date or (ii) in the case of an option exercise on Treasury securities not issued at the time of exercise, the end of the business day following the day on which the deliverable Treasury securities are issued.

[15] As in the case of equity and GNMA options OCC can direct that a buy-in or sell-out be deferred if OCC has reason to believe that the default will be cured or that other arrangements adequate to protect the interest of the nondefaulting clearing member have been made.

"shortage of securities" rules. Whenever OCC determines that the deliverable security is in short supply,[16] OCC would be authorized to modify the rights and obligations that would ordinarily attach to exercise and assignment and to impose "alternative settlement procedures."[17] Specifically, with regard to Treasury call options, OCC would be entitled under the proposed rules (i) to establish cash settlement prices which assigned writers of Treasury calls who would otherwise be unable to meet their settlement obligations must pay, and exercising holders of Treasury calls must accept, in lieu of deliviery of the underlying Treasury securities, and (ii) to permit assigned writers of Treasury calls to settle by delivering specified Treasury securities that differ from the underlying Treasury Securities ("alternative delivery") as to coupon rate and/or maturity date (in the case of Treasury bond or Treaury note options) or in the number of days to maturity (in the case of Treasury bill options). In the event alternative delivery is required, OCC would adjust the aggregate exercise price to reflect the value of the alternative delivery.[18]

Under the proposed rule change OCC also has authority, in the event of a shortage of Treasury securities, to permit exercising holders of Treasury puts to settle by alternative delivery. In addition, however, OCC may prohibit the exercise of Treasury puts whenever the exercising member is unable to deliver the underlying Treasury security specified in the contract.[19]

5. *Margin.* As the issuer of option contracts, OCC guarantees writers' performance to holders. To collateralize fully this guarantee in the event of a clearing member defaults, OCC requires clearing members to deposit margin with OCC.[20]

The margin requirement is adjusted daily for each account, based upon changes in each clearing member's aggregate positions and relevant changes in the market value of those positions. The margin required with respect to unassigned short positions[21] in Treasury options is 100% of the current asked price of the option plus a "minimum margin amount." The margin required with respect to an assigned short position is equal to 100% of the difference between the value of the underlying security and the aggregate exercise price, plus a minimum margin amount. The proposed rule provides that the minimum margin amount would be set contract-by-contract at a point between $250 and $1,000 (or whatever higher limit OCC believes is necesary)[22] depending on the volatility of that contract and the degree to which the contract is out-of-the-money.[23] Because contracts that are out-the-money are less likely to be exercised and, therefore, pose a smaller risk to OCC than in-the-money contracts,[24] OCC would impose smaller minimum margin cushions on out-of-the-money options.[25] With the exceptions of the minimum margin amount, the margin required on short positions with respect to minimum margin amount, the margin required on short positons with respect to mini-series option contracts short positions with respect to mini-series option contracts is calculated in the same manner as margin on regular series short option positions. In the case of a short position in a mini-series Treasury option, the minimum margin amount is one-fifth of the minimum amount which would apply to a regular series option contract covering the same underlying security.

Under the proposed rule change OCC would also require margin on exercised long option contracts that are out-of-the-money. The margin required on such out-of-the-money long contracts would be equal to 100% of the difference between the market value of the underlying Treasury security and the aggregate exercise price plus a specified dollar amount determined by OCC (currently proposed to be $2,000).[26]

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[16] OCC's Interpretations and Policies relating to shortages in the underlying Treasury securities provide that OCC may invoke the alternative settlement provisions if there is a shortage of 13-week or 26-week Treasury bills, notwithstanding the availability of Treasury bills with shorter maturity periods.

[17] As in the case of stock and GNMA options, in addition to measures OCC would be authorized to take pursuant to the shortage of securities rules, OCC'S Board of Directors could extend or postone the settlement date for Treasury options, whenever, in its opinion, such action is required to meet unusual market conditions. OCC has indicated that it believes a shortage of securities to be such a condition.

[18] Although for routine settlements OCC will permit delivery of short maturity Treasury bills without adjusting the exercise settlement price, OCC will not compel delivery of such securities under the alternative delivery rule unless the alternative payment reflects their enhanced value.

[19] As in the case of equity and GNMA options, a clearing member that exercises a put and subsequently fails to deliver the underlying security, when such a prohibition is in effect, will be subject to disciplinary action under OCC's proposed rule.

[20] OCC's margin requirements are designed to protect OCC against loss attributable to OCC members' default on obligations to OCC and, as such, should be distinguished from customer purchase margin requirements promulgated by the Board of Governors of the Federal Reserve System in Regulation T [12 CFR Part 220 (1980)] pursuant to Section 7 of the Act.

In addition to margin requirements, OCC imposes its own net capital requirement on clearing members and requires clearing members to contribute to OCC's clearing fund. (A participant's clearing fund deposit can be used when a participant is suspended, if the clearing member's margin deposit proves insufficient to cover the member's outstanding obligations to OCC.) OCC maintains two participant funds: the Stock Clearing Fund and the Debt Securities Clearing Fund. The amount of contribution to each fund is based on the size of the member's short position at OCC subject to a $10,000 minimum required contribution to the Stock Clearing Fund and a $100,000 minimum required contribution to the Debt Securities Clearing Fund.

[21] Under certain circumstances, as prescribed by OCC, a short position in an option may be offset by a corresponding long position, thereby eliminating the margin requirement on the short position. Also, with respect to Treasury bonds and notes, margin is not required on short call positions where the underlying security has been deposited with OCC to cover a member's potential delivery obligations ("covered call"). The deposit of Treasury bills in espect of Treasury bill call options, however, would not be permitted under the proposed rule change because the Treasury bill ordinarily deliverable upon exercise of a Treasury bill option, for margin purposes at OCC, is the Treasury bill to be auctioned the Monday following exercise. As a result, the Treasury bill ordinarily needed to cover a short Treasury bill call position would not be available. Moreover, while Treasury bills with short maturities are acceptable delivery, OCC has not developed a program that would monitor Treasury bill deposits to insure that such bills remain deliverable until the short position is terminated, either by expiration or exercise settlement.

OCC will not permit, at this time, membrs to cover short put positions by pledging Treasury bills in lieu of cash to secure their obligation to purchase the underlying security. Although OCC allows clearing members to pledge Treasury bills in lieu of cash to cover short put positions with respect to equity options, OCC has not completed the necessary programming to effectuate covered puts on debt securities options. OCC has stated, however, that it will consider adding this feature for both Treasury and GNMA options in the future if demand warrants.

[22] As a precaution, initially OCC has determined to set minimum margin for regular series Treasury securities short positions that are in-the-money at $2,000. OCC intends to review this decision in light of experience as soon as practicable after trading begins.

[23] A contract is out-of-the-money if the exercise price exceeds (in the case of calls) or is less than (in the case of puts) the market price of the underlying security.

[24] A contract is In-the-money if the exercise price is less than (in the case of calls) or is greater than (in the case of puts) the market price of the underlying security.

[25] The maximum amount of margin that can be required as a minimum margin amount is reduced by 25% for each percentage point a contract is out-of-the-money down to a minimum of $250.

[26] Out-of-the-money option contracts are rarely exercised and OCC does not anticipate that many Treasury securities will fall out of the money during the short period between exercise and settlement. (Treasury note and bond options will settle daily. Treasury bill options will settle weekly, with the maximum amount of time between exercise and settlement being 8 days.) The provision is primarily relevant as it applies to exercised GNMA options. Those options settle only once a month and, as such, are more likely to fall out-of-the-money between exercise and settlement than Treasury options.

Determinations Regarding OCC's Proposed Treasury Options Clearing Rule

Under Section 19(b)(2) of the Act, the Commission must approve OCC's proposed rule change if the Commission finds that it is consistent with the requirements of the Act and the rules thereunder applicable to registered clearing agencies. The principal provisions of the Act applicable to clearing agencies are contained in Section 17A. Paragraph (b)(3) of that Section requires that the rules of a clearing agency, among other things, be designed: (i) "to promote the prompt and accurate clearance and settlement of securities transactions," (ii) "to assure the safeguarding of funds and securities which are in the custody or control of the clearing agency," (iii) "to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions," and (iv) "to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest."

The Commission has determined that the proposed rules respecting Treasury options are consistent with the requirements of the Act. As discussed, OCC's proposed rules regarding Treasury options parellel the rules approved by the Commission for processing GNMA options. Further, the proposed rules are suitably designed to accommodate intrinsic differences between GNMA's and Treasury securities. In particular, the Commission believes that book-entry settlement through correspondent banks linked to the Federal Reserve wire system is the most practical method of transferring book-entry securities consistent with the safe and orderly processing of Treasury option exercises.

In addition, the Commission has carefully considered two important issues involved in OCC's proposal: (1) adequacy of OCC margin proposed for Treasury options and (2) scope of discretion in the rules relating to shortage of securities.

1. *Adequacy of Margin Required on Treasury Securities.* In the GNMA rule change, OCC amended its margin rules to provide for margin on transactions in all debt securities. In this filing, as a result, OCC has proposed only minor changes in the margin rules to reflect technical differences between Treasury options and GNMA options and to provide for a reduced minimum margin with respect to mini-series contracts that reflects the proportionately smaller principal amount of the underlying Treasury securities.

In approving the GNMA margin rules, the Commission determined that it was appropriate with respect to debt securities: (i) to base margin for unassigned short positions on the current asked price of the option plus a minimum margin amount; (ii) to base margin for assigned short positions on the difference between the market value of the underlying security and aggregate exercise price plus a minimum margin amount; and (iii) to base margin for net long exercised positions that are out-of-the-money on the difference between the aggregate exercise price of the net long position and the market price of the underlying security plus a specified dollar amount. Accordingly, because prices of GNMAs and Treasury securities are largely controlled by the same single factor (interest rates) and because GNMAs and Treasury securities display similar volatility characteristics,[27] the Commission has concluded that the minimum dollar margin approach is appropriately applied to Treasury options.[28]

With respect to the minimum margin amount for margin on short positions in Treasury bond and note options, OCC's selection of a $2,000 minimum margin ceiling for regular-sized contracts was derived from a six-month sample calculation run performed by OCC based on trading activity in bonds and notes in the cash market. The run revealed that, using a $1,500 cushion for prospective Treasury bond and note contracts, OCC would be fully protected against a one-day market movement on more than 85 percent of the days (in the case of bonds) and more than 96 percent of the days (in the case of notes).[29] In addition, a three-month sample run in the Treasury bill cash market revealed that, using a $2,000 cushion for Treasury bill contracts, OCC would be 100 percent protected against a one-day market movement on any day. Although OCC believes that $1,500 minimum margin cushion generally should protect OCC, OCC has, partly as a result of its study of the cash market, chosen conservatively to set the maximum minimum margin at $2,000 to allow for possible disparities in volatility between the cash and options markets. In those instances in which the market moves more than $2,000, OCC would invoke a same day margin variation margin call pursuant to its existing rules.[30] In addition, OCC's proposal provides that OCC may prescribe greater amounts of minimum margin as circumstances require.

In general, OCC's proposed margin rules with respect to Treasury options appear to be appropriate. The Commission, in the OCC's GNMA rule filing, has approved the minimum margin approach for options on debt securities. In addition, OCC's selection of the minimum margin amount appears to be adequate to protect the interest of OCC and its members. We note in particular OCC's authority to require collateral as needed and OCC's plan to review the adequacy of the margin levels in light of experience and adjust them accordingly. Therefore, the Commission has determined that the proposed margin rules are consistent with the requirements of the Act.

2. *Proposed Shortage of Securities Rules.* OCC's alternative settlement procedures for debt securities options are substantially similar to the "cash settlement" procedures for equity options.[31] Both of those procedures

[27] GNMAs and Treasury securities generally display similar volatility characteristics because both are interest bearing securities guaranteed by the United States government and are generally perceived to involve similar risk factors.

[28] The formula for margin on short positions for debt securities differs from the formula used to calculate margin on short positions in equity securities. The "cushion" for the margin on equity securities is 30% of the current market price of the option. OCC stated, however, that a specified dollar amount is more appropriate for debt options than a specified percentage of the market price for two reasons: (1) the adequacy of protection afforded by tying the protective cushion to premiums (as OCC does for equity options) depends on the relationship between premium levels and the price of the underlying security. If premium levels are high relative to the price of the underlying security (as is the case with stocks) the cushion should be adequate. If the premium levels are relatively low, however, (as is expected to be the case with debt securities because of their relatively lower price volatility), it may not be adequate; and (2) a percentage-of-market-value approach can result in excessive margin for deep-in-the-money options, for which most of the market price is attributable to the intrinsic value of the option, rather than to volatility factors. *See* Order approving OCC's proposed GNMA options rules, Securities Exchange Act Release No. 18015 (August 8, 1981), 46 FR 40849 (August 12, 1981).

[29] The study anticipates that the $1,500 cushion would provide a slightly higher level of protection for Treasury note contracts and a slightly lower level of protection for Treasury bond contracts than provided by the margin rules in respect of GNMA options.

[30] Existing OCC Rule 609 (variation margin) authorizes the Chairman or President of OCC: ". . . to require the deposit of additional margin in respect of short positions by any clearing member at any time which the Chairman or President may deem advisable to reflect changes in the market price during such days on any series of options held in a short position in such account . . ."

To assure that OCC is adequately protected whenever the market price of a Treasury option changes, OCC has a matrix that scales OCC margin levels against market prices.

[31] The alternative settlement procedures for equity options involve two steps. The first step requires OCC to shift from an automated mode to broker-to-broker settlement procedures, to prohibit

require OCC to make a determination, based on extraordinary circumstances in the marketplace, that a shortage in the supply of the underlying security exists that would prevent completion of all outstanding option contracts if all such contracts were exercised. In addition, three of the provisions provided by the Treasury option proposal (cash settlement, suspension of settlement obligations and prohibition on the exercise of certain puts) are parallel to OCC's stock shortage rules that were reviewed and approved by the Commission.[32] The additional provision, "alternative delivery",[33] (as well as its application to put options), however, is unique to debt securities options. Alternative delivery is not used with respect to equity options because stocks of different classes and/or issuers are not fungible. In contrast, all Treasury securities are issued by the United States Treasury and the risks associated with one Treasury issue do not differ significantly from those associated with another Treasury issue of the same kind. By requiring alternative delivery and simply adjusting the settlement price, OCC can assure the holder of approximately the same return as if the holder had received the securities called for by the option contract.

By their very nature, alternative settlement procedures are imperfect. To the extent a clearing member has a redelivery obligation on the underlying security in the cash market, alternative delivery may cause that member to default on those redelivery obligations. Nonetheless, although those effects are imperfect, they are not unique to alternative delivery. The ability to meet redelivery obligations in the cash market, for example, will also be jeopardized if OCC invokes cash settlement or suspends settlement in response to a shortage in the supply of the underlying security. In any event, alternative delivery and cash settlement provides a remedy to option purchasers when ordinary performance is impossible, may serve as a disincentive to manipulate the market by compounding a short squeeze, and can obviate any pricing dysfunctions that result from sudden market congestion. In addition, to the extent that receiving parties may avert adverse tax consequences, alternative delivery may be preferable to cash settlement. Accordingly, the Commission believes that OCC's shortage of securities procedures are appropriate to protect OCC and the investing public in the event extraordinary market circumstances develop.

While OCC's alternative settlement procedures define the courses of action available to OCC in the event of a shortage of Treasury securities, the rule allows OCC a substantial range of discretion in directing alternative settlement procedures once such a determination is made. The proposed rule, for example, does not specify the standards to be used by OCC in pricing securities delivered pursuant to alternative delivery directives or in determining a fair cash settlement price. Additionally, in contrast to the shortage of securities procedures respecting equity options, OCC has not adopted "interpretations" or "policies" that would shed light on the probable application of its alternative settlement procedures.[34]

In support of the substantial discretion under the shortage of securities rules, OCC stated that the range of discretion it seeks should be measured in light of the fact that Treasury securities options have never been traded. The Commission believes that OCC's range of discretion is also supported by its need, as a guarantor of writers' performance, to limit exposure to OCC and its clearing members in the event deliveries are frustrated by a shortage in the supply of the underlying security.

The Commission has determined that both the provisions proposed for shortage of securities for Treasury options and the degree of discretion afforded to OCC by its rule in this area are not inappropriate at this time. As noted above, three of the provisions proposed by this filing have been used appropriately in application to equity options. The fourth remedy, alternative delivery, is currently provided for in the futures market.[35] OCC has demonstrated a willingness with respect to equity options to amend its procedures and adopt interpretations and policies based on experience. OCC has stated that policies and interpretations will be adopted with respect to shortage of Treasury securities procedures as soon as practical after OCC gains experience in this area. Further the Commission believes that any inconvenience in the market place caused by uncertainty as to the operation of the alternative settlement procedures[36] is outweighed by OCC's need, at the outset of Treasury options trading, to invoke measures that will protect investors and insure the financial integrity of OCC, consistent with the orderly processing and settlement of Treasury options exercises.

Conclusion

The proposed rule change applies substantially the same procedures that have been used successfully by OCC to clear and settle transactions in equity options. The proposed rule change parallels, with the exception of changes made to reflect the unique characteristics of Treasury securities, the rules approved by the Commission for GNMA options. OCC's proposed book-entry settlement system appears to be designed to accommodate present industry systems and, as such, is consistent with the safe and orderly processing of Treasury option exercises. Furthermore, the Commission believes that both the minimum margin approach, approved in the GNMA proposal with respect to debt securities, and OCC's selection of minimum margin amounts are appropriate as applied to Treasury options. Finally, both the remedies proposed for shortage of securities and the degree of discretion afforded OCC appear appropriate.

In accordance with the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in

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the exercise of certain puts and suspend the settlement obligations of assigned writers and exercising holders of call options. The second step provides for cash settlement of all exercised call options contracts in cases where the writer's inability to deliver the underlying security would cause the settlement to fail. In contrast, because settlement of Treasury option exercises always takes place broker-to-broker, the shortage of security procedures with respect to Treasury options involve only the second step.

[32] *See Securities Exchange Act Release No. 17124, September 5, 1980, 45 FR 60100 (September 11, 1980).*

[33] Alternative delivery permits an assigned writer of calls or an exercising holder of puts to make settlement by delivering underlying Treasury securities that differ from the Treasury securities contracted for, as to coupon rate and maturity date (in the case of Treasury bond or note options) or the number of days to maturity (in the case of Treasury bill options).

[34] Although those procedures were approved by the Commission in the GNMA filing, the Commission believes that a separate determination regarding the adequacy of such procedures with respect to Treasury options is appropriate. Because the securities deliverable in respect of options of Treasury securities are specific issues, as contrasted with the market basket delivery approach adopted for GNMA options, deliverable Treasury securities conceivably may be in thinner supply than deliverable GNMA securities. ("Market basket delivery" for GNMA options means that the deliverable supply consists of instruments having a variety of interest rates and can be drawn from several mortgage pools.)

[35] The International Money Market (Chicago Mercantile Exchange) has rules enabling it to implement alternative delivery with respect to Treasury bill futures if a shortage of securities develops.

[36] OCC has described its alternative settlement procedures in its Options Disclosure Document.

particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28983 filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19133; File No. SR-Phlx-81-4]

Philadelphia Stock Exchange Inc.; Order Approving Proposed Rule Change

October 14, 1982.

In the matter of Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA 19103 File No. SR-Phlx-81-4).

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("the Act"), and Rule 19b-4 thereunder, the Philadelphia Stock Exchange, Inc. ("Phlx") has filed with the Commission a proposed rule change to modify its rules to accomodate the listing and trading of standardized options on foreign currencies ("Foreign Currency Options").[1] Phlx also has designated the specific terms of the proposed foreign currency options contracts. For the most part, Phlx's proposal would make only minor changes to its existing equity options rules in order to accommodate the unique characteristics of Foreign Currency Options.

Nineteen comment letters were received by the Commission. The comments generally concern two matters: the jurisdiction of the Commission to approve trading of options on foreign currency and the economic utility of those options. The Commission believes that the former issue has been resolved by enactment of amendments to the Act, which amend Sections 3(a)(10) and 9 of the Act to make clear that options on foreign currency traded on national securities exchanges are securities.[2] Comments regarding the latter issue strongly urge Commission approval of foreign currency options because of the economic need by multinational corporations, investors and other hedgers, which are engaged in international trade and finance, for additional and diversified markets for foreign currency transactions.

II. Uses of Foreign Currency Options

In its submission, the Phlx states that it believes a market for standardized, exchange-traded put and call options on foreign currency would serve important economic functions by providing investors, speculators and multinational corporations with an important risk-shifting and speculative investment mechanism. The risk of adverse fluctuations in foriegn exchange rate between currencies can be hedged through various purchasing and writing strategies in Foreign Currency Options.[3] At the same time, the opportunity to profit from a favorable exchange-rate movement can be retained.[4]

Foreign Currency Options also can be attractive to speculators. Foreign Currency Options would provide an opportunity for market participants to speculate on a leveraged basis on changes in the relative value of the dollar and major foreign currencies, while at the same time limiting their risk exposure to the premium paid. Of course, since options are wasting assets of limited duration, the investor stands potentially to lose his entire investment in a short period of time. Nevertheless, the Commission does not believe that the economic utility of Foreign Currency Options is vitiated for that reason alone.

III. Contract Specifications

The proposed rule change provides for the creation of standardized options contracts on five foreign currencies (i.e., the German mark, British pound, Canadian dollar, Japanese yen and Swiss franc) and establishes an organized tradeing market on which Foreign Currency Options can be listed. The proposal also sets forth the terms of the options contracts which Phlx will begin trading.[5]

In designing the proposed Foreign Currency Options contracts, the Phlx has sought to be responsive to the economic needs of the largest possible groups of participants in the marketplace. In that regard, Phlx has proposed that the contracts cover the currencies of the major industrial nations. In addition, in order to facilitate arbitrage between the foreign currency futures and options markets, it has proposed that the size of Foreign Currency Option contracts be one-half the size of the futures contract on that same currency.[6] Thus, the unit of trading for Foreign Currency Options contracts will be as follows: 12,500 British pounds; 62,500 German marks; 62,500 Swiss francs; 50,00 Canadian dollars; and 6,250,000 Japanese yen.[7]

The Phlx proposes to introduce options series at three month intervals with maturities of three, six and nine months. Options series would be traded on a March/June/September/December expiration cycle to correspond to the delivery dates for foreign currency futures contracts traded on the IMM. Initial options series in each expiration month would be introduced at or near a price per unit of currency reasonably close to the spot sales price of the underlying currency in the New York City interbank foreign exchange market; however, in the event forward market

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[1] Phlx's proposal was originally filed on February 28, 1981 and amendments were filed on March 2, 1982 and May 28, 1982. Notices of the proposed rule change and amendments were given by the Commission in Securities Exchange Act Release Nos. 17666 (March 27, 1981) and 18825 (June 21, 1982) and by publication in the Federal Register (46 FR 20348 (April 3, 1981) and 47 FR 27652 (June 25, 1981), respectively). *See* File No. SR-Phlx-81-4.

[2] For a complete analysis of the effects of the new legislation, see Securities Exchange Act Release No. 19125 (October 14, 1982), in which the Commission issued an order reapproving proposed rule changes relating to the trading of GNMA and Treasury options. The Commission believes the analysis set forth in the release is equally applicable to optioins in foreign currency.

[3] The Phlx identified in its submission several ways in which holders and writers of Foreign Currency Options may transfer the risk associated with variations in the relative value of United States and foreign currency. For example, a U.S. importer of raw materials, the cost of which is denominated in foreign currency, can protect against an adverse fluctuation in exchange rate risk by purchasing foreign currency call options. If the foreign currency appreciates in value relative to the U.S. dollar, the importer can exercise the option and purchase the foreign currency at the lower exercise price.

[4] The risk/reward characteristics of options contracts may make them more attractive to an investor than either forward or futures contracts. Since forwards and futures are mandatory delivery instruments, they offer investors only two risk configurations. If the futures position is covered, the risk of loss from exchange rate fluctuations is fully hedged. If instead the futures position is uncovered, the investor is totally exposed (e.g., on the buy side, the investor would bear the full risk of loss if the spot price fell). By contrast, options contracts may be used to refined to specific increments the amount of risk exposure desired. The investor can refine his risks by deciding whether to buy or sell puts or calls, by determining how far in- or out-of-the-money to buy or sell the options, or by engaging in spreads, straddles or other more complex investment strategies. Moreover, neither forwards nor futures provide the opportunity for immediate cash flow benefits that can be derived from writing options.

[5] The lsiting of any additional Foreign Currency Options classes, or any material change in the contract terms of an existing class, will constitute a proposed rule change under Section 19(b)(1) of the Act and must be filed with the Commission for approval. Rule changes of that nature must set forth the material terms of the proposed contract, including identification of the specific foreign currency that will underly the contract, the contract size and the expiration cycle.

[6] Futures contracts on foreign currency are traded on the International Monetary Market ("IMM") of the Chicago Mercantile Exchange and on the New York Futures Exchange.

[7] The premiums on Foreign Currency Options contracts of this size may closely correspond to premiums on stock options contracts.

prices exist at a significant premium or discount in relation to spot prices, Phlx has proposed that forward market prices for the underlying currency may be taken into account in determining exercise prices of any new options series.

With respect to matters of contract design and delivery specifications, so long as the Commission has no regulatory concerns, it is not inclined to substitute its judgment for the business judgment of the self-regulatory organization. Rather, in matters such as these, the marketplace generally should be permitted to determine whether a particular contract meets the needs of market participants.[8]

The Commission, however, does maintain a regulatory interest in certain other terms of the proposed Foreign Currency Options contracts. These include the qualification of underlying foreign currencies for options trading,[9] the establishment of position and exercise limits and margin requirements.

The Phlx has proposed position and exercise limit rules that are designed to prohibit any market participant from acquiring a position in Foreign Currency Options, or from exercising over a period of five consecutive business days, in excess of 10,000 contracts on the same side of the market.[10] While position and exercise limits are always to a certain extent arbitrary, because of the magnitude of the underlying foreign currency markets, the Commission believes that the proposed position and exercise limits generaly will be sufficient to protect the options and related markets from disruptions caused either by congestion or manipulation.

The Phlx proposed rule change also contains revisions to its margin rules setting forth special margin requirements for foreign currency options.[11] In general, the Phlx proposes to utilize a premium-based margin approach similar to that adopted by CBOE for GNMA options.[12] The Commission has not fully completed its review of the proposed margin amendments and accordingly is not approving that aspect of the Phlx proposed rule change at this time.[13]

IV. Sales Practice Regulation

After conducting an extensive review of stock options sales practices during the Options Study,[14] the Commission approved in early 1980 a package of rule changes submitted by several securities exchanges and the National Association of Securities Dealers in response to Options Study Recommendations designed to enhance the quality of regulation governing securities firms doing a public options business.[15] Phlx acknowledges that it is important that the risks of Foreign Currency Options trading be adequately disclosed to investors and that the sale of those options to public customers be rigorously supervised. In this regard, the Phlx has proposed rules to govern the marketing of Foreign Currency Options by organizations that will participate in Phlx's market,[16] including rules relating to the supervision of sales personnel, risk disclosure and suitability, which are designed to ensure that trading occurs in a well-ordered regulatory environment. To govern the sales practices of member firms doing a public Foreign Currency Options business, therefore, the Phlx has proposed a regulatory structure that generally parallels that adopted for equity options.

In accordance with these rules, each member organization as a pre-condition to engaging in a Foreign Currency Options business would be required to develop and implement a written program for the review of customer accounts and orders under the supervision of a designated Foreign Currency Options Principal ("FCOP"), who is a partner or officer of the member organization.[17] The Phlx rules also would require that, before a member organization can accept a customer order to purchase or write a Foreign Currency Options contract, the customer's account must be specifically approved in writing for Foreign Currency Options trading by a FCOP qualified to supervise the sale of Foreign Currency Options.[18] A FCOP may delegate to qualified employees in each branch office, including registered options principals ("ROPs") not specifically qualified with respect to Foreign Currency Options, the responsibility and authority for supervision of accounts and orders.[19] If a customer intends to grant discretionary authority to the member firm to trade Foreign Currency Options, the customer must provide prior written authorization and the account must be accepted in writing by a FCOP.[20] The FCOP must also either approve or initial each discretionary order on the day entered or, if the order has been approved by a ROP who is not a designated FCOP, confirm that approval within a reasonable time.[21]

To ensure that firm personnel are properly qualified, each FCOP must successfully complete a ROP, allied member or other principal examination or have demonstrated equivalent knowlege.[22] The FCOP also must successfully complete an examination that tests a candidate's knowledge of both Foreign Currency Options and the markets for the underlying foreign currencies.[23] In addition, no registered representative may solicit or accept a customer's order for Foreign Currency Options unless that representative has successfully completed an examination regarding Foreign Currency Options and the markets for the underlying foreign currency.[24]

To provide customers with a description of Foreign Currency Options and an explanation of the special risks associated with Foreign Currency Options trading, exchange rules would require that prospective Foreign Currency Options customers be supplied with a copy of the Foreign Currency Options supplement to the Options Clearing Corporation ("OCC") prospectus or to the Options Disclosure Document at or before the time their accounts are approved for Foreign Currency Options trading.[25] This

[8] *Accord*, Securities Exchange Act Release Nos. 17577 (February 26, 1981), at 6–7, 46 FR 15242 (March 4, 1981) (approving the Chicago Board Options Exchange ("CBOE") GNMA options proposal) (hereinafter "Release No. 17577") and 18371 (December 23, 1981), at 6–7, 46 FR 63423 (December 31, 1981) (order approving Treasury options proposals) (hereinafter "Release No. 18371").

[9] *See* note 5 *supra*.

[10] *See* Phlx Rules 1001 and 1002.

[11] The proposed margin rules for foreign currency options are contained in revisions to Phlx Rule 722(d).

[12] *See* Release No. 17577, at 8–9.

[13] The Phlx intends to submit shortly a proposed rule change to clarify that margin for foreign currency options, as for other securities, must be posted in seven business days.

[14] *See Report of the Special Study of the Options Markets to the Securities and Exchange Commission*, H.R. Rep. No. IFC3, 96th Cong., 1st Sess. (Comm. Print 1978).

[15] *See* Securities Exchange Act Release Nos. 16696 and 16701 (March 26, 1980) (45 FR 2142 and 21426 (April 1, 1980)), and 16807 (May 15, 1980) (45 FR 35056 (May 23, 1980)).

[16] In a companion proposal, Phlx has submitted a Foreign Currency Participation Plan pursuant to which member and non-member organizations may obtain access to Phlx's market to trade Foreign Currency Options. *See* Securities Exchange Act Release No. 18826 (June 21, 1982) (47 FR 27650 (June 25, 1982)).

[17] Rule 1025.

[18] Rule 1024(b)(i).

[19] Rule 1025, commentary .01. Overall supervision of Foreign Currency Options accounts, however, remains the responsibility of qualified FCOPs.

[20] Rule 1027(a)(ii).

[21] *Id.*

[22] Rule 1025(c). *See also* Rule 1025, commentary .04.

[23] Rule 1025(c).

[24] Rule 1024(a)(ii).

[25] Rules 1024(b)(v); Rule 1029. The Commission has adopted new Rule 9b–1 under the Act, which is part of a new disclosure framework for options and which establishes an options disclosure document

supplement would provide information on matters such as the rules applicable to Foreign Currency Options trading, the mechanics of trading and the risks and uses of Foreign Currency Options. Moreover, in making recommendations to customers concerning the purchase or sale of Foreign Currency Options, sales personnel would be subject to the same suitability rule applicable to equity options trading.[26] Further, each member organization will be required to inform its customers exercising Foreign Currency Options that they must be cogniazant of, and familiar with, any requirements or restrictions imposed on nonresident bank accounts when taking delivery of the underlying foreign currency in the country of origin.[27]

V. Floor Procedures

In general, secondary trading in Foreign Currency Options contracts would be governed by the same or comparable floor and upstairs rules and would be subject to the same regulatory controls as options on both equity and debt securities. Accordingly, a number of the provisions of the proposed rule change consist of technical amendments to Phlx's existing rules in order to accommodate certain unique characteristics of foreign currencies.[28]

Phlx intends to trade Foreign Currency Options in the context of its existing specialist and registered options trader ("ROT") system.[29] Thus, each Foreign Currency Options contract will be assigned to a particular specialist unit; and the Phlx will utilize ROTs as supplemental market makers. With certain minor differences, these specialists and ROTs will be subject to the same affirmative and negative obligations as equity options market makers.[30]

The Commission has examined carefully the proposed rules governing trading activities in Foreign Currency Options on the floor of the Phlx and has concluded that the proposed rules are consistent with the requirements of the Act and the rules thereunder.

Surveillance

Section 6(b)(5) of the Act requires an exchange to have rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. Section 6(b)(1) of the Act requires that an exchange be organized and have the capacity to comply, and to enforce compliance by its members and associated persons, with the provisions of the Act, the rules thereunder and the rules of the exchange. Accordingly, an exchange has an obligation to develop and administer a comprehensive surveillance program designed to detect manipulation and other improper trading activities.

With respect to intra-market surveillance, the Phlx's techniques for monitoring trading in Foreign Currency Options generally will be similar to the procedures currently utilized for options on equity securities.[31] Due to the limited availability of timely and independently verifiable transaction, quotation and position information, however, with regard to activities in the related interbank and broker cash market, as well as the futures market, the Phlx has indicated that inter-market surveillance techniques for options on Foreign Currency Options will differ somewhat from those currently employed for equity options.[32]

A principal purpose of inter-market surveillance is to protect the integrity of the options markets by maintaining a capacity to detect and deter the manipulation of options prices resulting from trading in a related market. The magnitude of the related foreign currency markets would appear to militate against a successful manipulation through inter-market trading activity. To address these concerns, however, the Phlx has imposed certain reporting and recordkeeping requirements that will assist it in identifying situations potentially susceptible to manipulation.[33] The Commission believes that the data made available by these rules will assist the Phlx in identifying potentially manipulative activity.[34]

In anticipation of Foreign Currency Options trading, the Phlx has made the necessary revisions to its surveillance modules to monitor options trading on foreign currency and is updating its surveillance manual for Commission review. Prior to the commencement of its Foreign Currency Options program, the Commission expects to review the manual developed by the Phlx outlining its surveillance procedures for Foreign Currency Options.

VII. Findings and Conclusion

Under Section 19(b)(2) of the Act, the Commission must approve the foregoing rule change if it determines that the

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containing information for investors about options and options trading. *See* Rule 9b-1 [17 CFR 240.9b-1]; Securities Exchange Act Release No. 19055 (September 16, 1982) [47 FR 41950 (September 23, 1082)]. The new system contemplates that disclosure to investors may be accomplished by delivery of a series of disclosure documents: a "core" document discussing options trading generally and supplemental documents describing specific options classes or kinds of options, such as Foreign Currency Options. Under Rule 9b-1, the disclosure document must be distributed to investors at or prior to the time an options account is opened, and an amendment must thereafter be distributed whenever the disclosure document is updated. By contrast, the traditional registration statement prospectus filed with the Commission by the OCC will be limited to disclosures regarding OCC and would be provided only to the exchange, although investors may acquire copies of that prospectus from an exchange. Phlx's rules regarding prospectus delivery will have to be amended to comport with Rule 9b-1.

[26] *See* Rule 1026.

[27] Rule 1044, commentary .01.

[28] By a separate rule proposal (SR-Phlx-82-5), the Phlx proposes to extend physical access to member as well as non-member firms through the sale of access participations. *See* Securities Exchange Act Release No. 18828 (47 FR 27650 (June 25, 1982)).

[29] Rule 1014(c).

[30] Because of the absence of last sale reporting in the over-the-counter interbank market for the underlying foreign currencies, Phlx proposes to eliminate bid continuity requirements. In addition, a public limit order book will not be maintained for foreign currency options. Similar steps were proposed by CBOE and approved by the Commission with respect to GNMA and Treasury options. *See* Release Nos. 18371, at 14, and 17577, at 9-10.

[31] Intra-market surveillance involves monitoring for manipulation and other improper trading activities that occur entirely within the options market, including practices such as marking the close, wash sales, fictitious trading, position and exercise limit violations, and trading on inside information.

[32] Inter-market surveillance is concerned with improper trading practices involving the options market and a related market, traditionally including such activities as capping, pegging, frontrunning and mini-manipulation.

[33] Phlx will require that a report be filed with it when the aggregate options position on the same side of the market in a firm or customer account is 10 percent or more of the position limit allowed by Rule 1001. *See* Rule 1003. The Phlx also has imposed reporting requirements on all market makers to identify all accounts maintained for foreign currency trading in which the specialist or ROT engages in trading activity or over which he exercises investment discretion, and no specialist or ROT may engage in foreign currency trading in any account not reported to the Phlx. Rule 1022(a). Further, every specialist and ROT must make available to the Phlx upon request all books, records and other information relating to transactions for their own account or accounts of associated persons with respect to the foreign currency underlying Phlx's exchange-traded options, including transactions in the cash market as well as the futures, options and options on futures markets. Rule 1022(d).

[34] The Commission also believes that an exchange of surveillance information between Phlx and the foreign currency futures markets could be a useful adjunct to an inter-market surveillance program for foreign currency options. Therefore, the Commission urges Phlx to commence discussions with regard to such information-sharing with the relevant futures markets immediately and requests that Phlx report to the Commission on any agreements reached prior to the commencement of trading inforeign currency options. The Commission also notes that efforts to ensure sufficient information sharing between options and futures markets and the SEC and CFTC will be greatly enhanced by the enactment of amendments to the Commodities Exchange Act presently pending in Congress which will permit the CFTC to provide surveillance information regarding futures trading to the options exchanges.

proposed rule change is consistent with the requirements of the Act and the rules thereunder applicable to national securities exchanges. The Commission has reviewed carefully the rules proposed by the Phlx to accommodate the listing and trading of options on foreign currency and has concluded, for the reasons set forth above, that the rules provide for adequate and proper regulation of the proposed market. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 and the rules and regulations thereunder. Prior to the commencement of trading, however, the Phlx must secure Commission approval of certain additional rules.[35] In addition, the Commission must approve the rule changes proposed by the OCC regarding clearance and settlement of Foreign Currency Options, and the Commission's review of both the Foreign Currency Option supplement to the options disclosure document and the Phlx manual detailing its surveillance program for options on foreign currency must be completed.

It is therefore order, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change, as amended, be, and hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28979 Filed 10-20-82; 8:45 am]

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[35] As indicated above, the Commission is not approving that portion of the proposed rule change setting forth margin requirements with respect to foreign currency options (i.e., the amendments to Rule 722(d)). *See* discussion in Part III., *supra.*

The Phlx foreign currency option margin rules also are incomplete in that they do not specify the period in which margin must be posted. In addition, the Phlx must revise its prospectus delivery requirements. See note 25, supra. Finally, Phlx must amend its delivery rule, Rule 1044, to conform to OCC's proposed settlement rules requiring settlement by the third business day following tender to OCC of a proper exercise notice.

[Release No. 19131, SR-CBOE-82-4]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

October 14,1982.

The Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, submitted on February 22, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend the CBOE's rules relating to GNMA options to conform to parallel rules with respect to government securities options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18535, March 8, 1982) and by publication in the **Federal Register** (47 FR 10334, March 10, 1982). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.[1]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28967 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[1] With the enactment of the recent amendments to the securities laws, the Commission believes its authority to approve proposed rule changes of national securities exchanges to accommodate the listing and trading of options on GNMA securities is clear. *See* Securities Exchange Act Release No. 19125 (October 14, 1982).

[Release No. 19134/File No. SR-Phlx-82-5]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

October 14, 1982.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), and Rule 19b-4 thereunder, the Philadelphia Stock Exchange, Inc. ("Phlx") 1900 Market Street Philadelphia, PA 19103, has filed with the Commission a proposed rule change designed to specify the terms and conditions under which both Phlx members and non-members may obtain access to Phlx's foreign currency options market.[1] Under the terms of the rules, the privilege of trading foreign currency options on the Phlx will be available only to individuals who have purchased "Foreign Currency Options Participations" ("FCO Participations").[2] Unlike equity options trading privileges, the ability to participate in Phlx's foreign currency options market will not be limited to members of the exchange. Non-members who purchase FCO Participations and who satisfy certain other requirements also will be able to participate in that market. Phlx believes that allowing non-members to participate will enhance the depth and liquidity of this market by bringing additional capital and market participants to the trading floor.[3]

[1] The proposed rule change was filed May 28, 1982. Notice was given by the Commission in Securities Exchange Act Release No. 18826 (June 21, 1982) and by publication in the **Federal Register** (47 FR 27650 (June 25, 1982)). *See* File No. SR-Phlx-82-5. No comments were received.

The establishment of an exchange market for trading standardized options on Foreign Currency ("Foreign Currency Options") was approved by the Commission in Securities Exchange Act Release No. 19133 (October 14, 1982).

[2] An FCO Participation is the Foreign Currency Options "counterpart" to membership. Under new Article XXVII, Section 27-1 of Phlx's by-laws, which establishes the participation plan, Phlx's Board of Governors will be authorized to issue FCO Participations. The number of FCO Participations authorized to be issued will be the greater of (i) 200; or (ii) the total number of participations sold during the "initial offering period," plus 10 percent of that number or 25, whichever is greater. Commencing January 25, 1982, Phlx conducted a conditional subscription offering of FCO Participations (conditional both on Phlx succeeding in trading Foreign Currency Options and on Commission approval of the FCO Participation rule filing). Subscriptions during the first 60 days of the initial offering were set at $2,500 for current Phlx equity-options members, $4,000 for equity-only members and $5,000 for non-members. As of April 12, 1982, 354 subscriptions for FCO Participations were sold, totalling $1,021,000. The initial offering period will extend to the last business day preceding the commencement of trading in Foreign Currency Options. During the remainder of the initial offering period (until trading commences), FCO Participations may be purchased for $5,000 by an equity-options member, $8,000 by a equity-only membership holder, and $10,000 by a non-member. Article XXVII also provides that, during the first 180 days after termination of the initial offering period, Phlx can sell any authorized but unissued FCO Participations for not less than $15,000 each and that, thereafter, the Phlx can sell participations at such time and at such prices consistent with the maintenance of a fair and orderly market.

[3] Commission jurisdiction with respect to foreign currency options has been clarified by enactment of P.L. No. ———, which amends Sections 3(a)(1) and 9 of the Act explicitly to provide that options on foreign currency traded on a national securities exchange are securities. For a complete analysis of the effects of the new legislation, see Securities Exchange Act Release No. 19125, October 14, 1982, in which the Commission issued an order reapproving proposed rule changes relating to the trading of GNMA and Treasury options. The Commission believes the analysis set forth in that release is equally applicable to options on foreign currency.

II. Rights of FCO Participants

The participation plan would establish procedures for admission, as well as establish the terms, conditions, rights and privileges concerning holders of FCO Participations.[4] A holder of an FCO Participation who meets all applicable requirements for admission will be entitled to enter into Foreign Currency Options transactions as a floor broker or retail member, and with the approval of the Allocation, Evaluation and Securities Committee, as a specialist or registered options trader. In general, an FCO Participant will be subject to all of Phlx's rules and by-laws (unless otherwise provided in that rule or by-law or exempted by the Phlx's Board of Governors), including customer protection rules, business conduct standards, fees, assessments for deficiencies, and Phlx's self-regulatory procedures. By-laws that would not be applicable to non-member FCO Participants include those regarding the right to nominate and vote for exchange officials, serve as Chairman or Vice Chairman of the Board of Governors, call special meetings, serve as trustees of the exchange fund or amend by-laws. In addition, unlike seatholders, non-member FCO Participants would not acquire any equity interest in exchange assets or property.

During the first 180 days following commencement of trading in Foreign Currency Options, FCO Participations would be nontransferrable except among associated persons. Thereafter, the holder of a participation would be allowed to transfer it in accordance with Phlx rules and by-laws. Unless revoked by the Phlx, the privilege afforded by acquisition of an FCO Participation status continues indefinitely.

III. Dues, Fees and Charges

To help defray the cost of operating a Foreign Currency Options market, the Board of Governors would be authorized to impose users' fees on each FCO Participant (except that yearly general dues paid by a Phlx member would be credited against that member's FCO users' fees for that year)[5] and to impose penalties for nonpayment of those fees.[6]

The Division believes that the cost for FCO Participations and the imposition of user's fees are consistent with Section 6(b)(4) of the Act, which requires that exchange rules provide for an equitable allocation of reasonable dues, fees, and other charges among its members and persons using its facilities. Phlx has stated that the revenues raised from the sale of FCO participations[7] will help defray some of the costs of establishing a Foreign Currency Options market. Moreover, since Phlx would have been free to permit existing members to trade Foreign Currency Options without having to pay an additional FCO Participation fee, the Commission does not believe that Phlx's determination to charge different fees for FCO Participations sold to members and non-members is either unreasonable or inequitable.

In addition, since non-member holders of FCO Participations receive the benefit of Phlx's total facility, the cost of which is borne by seatholders of equity-options and equity only memberships, the Phlx is justified in permitting seatholders to credit their annual dues against FCO Participation users' fees. Therefore, Phlx's method for allocating users' fees among holders of FCO Participations is not inequitable or inconsistent with Section 6(b)(4) of the Act.

IV. Findings and Conclusions

Under Section 19(b)(2) of the Act, the Commission must approve the foregoing proposed rule change if it determines that it is consistent with the requirements of the Act and the rules thereunder applicable to national securities exchanges. The Commission has reviewed carefully the rules proposed by the Phlx to accommodate participation by member and non-member organizations in Phlx's Foreign Currency Options market. The Phlx has attempted through its plan to maximize participation in its Foreign Currency Options market. Thus, consistent with Sections 6(b)(2), 6(b)(5) and 6(b)(8) of the Act, Phlx is seeking to allow access to qualified persons, to remove impediments to a free and open market, and to foster competition among a wide variety to market participants.[8] Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28968 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[4] Legal title to an FCO Participation must be held by an individual, but equitable title can be held by a corporation or partnership. Accordingly, an FCO Participant will be able to confer trading privileges on an affiliated entity by registering that entity as a Foreign Currency Options Participant Organization.

[5] By-law Article XXVII, Sections 27-2 and 27-3.

[6] By-law Article XIV, Section 14-5.

[7] *See* note 2 *supra.*

[8] That participation may be essential to implementing a new options product program, meeting increased competition for order flow and providing the economic incentive for new members to bring capital, expertise and additional business to the Phlx. *See generally* Securities Exchange Act, Release No. 17038 (August 1, 1980) (20 SEC Docket 876, 881 (August 19, 1980)) (order disapproving proposed rule change by NYSE limiting annual physical access memberships to two).

[Release No. 34-19116; File No. SR-Phlx-82-8]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 8, 1982, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PHLX submits the specifications for the Foreign Currency Options Qualification Examination, which is Exhibit 1 to this filing, as a rule change filed under section 19(b) of the Securities Exchange Act of 1934 (the "Act"). Confidential treatment has been requested for Exhibit 1, which has been filed separately with the Commission pursuant to SEC Rule 24b-2(b) under the Act.

II.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.* The purpose of this rule change is to provide the specifications for the Foreign Currency Options Qualification Examination pursuant to changes that have been proposed in PHLX Rule 1024, entitled "Conduct of Accounts for Options Trading," and PHLX Rule 1025, entitled "Supervision of Accounts." The basis under the Act for this rule change is section (6)(b)(5) of the Act because the examination is designed to protect investors and the public interest.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* PHLX does not believe the proposed

rule change will impose any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Soliciation of Comments

Interested person are invited to submit writen data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 12, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 8, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-28767 Filed 10-20-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19098; File No. SR-DTC-82-6]

Self-Regulatory Organizations; Proposed Rule Change by the Depository Trust Company

Relating to a 12 percent Surcharge on the monthly bill of all Participants. Comments requested within 21 days after the date of this publication.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 20, 1982, The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Depository Trust Company ("DTC") has added an across-the-board surcharge[1] of 12 percent on each DTC Participant's monthly bill, effective August 1, 1982, for the remainder of 1982 unless the surcharge is reduced later this year.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change.* The purpose of the proposed rule change is to establish a 12 percent surcharge on each Participant's monthly bill for the months of August through December 1982, subject to possible reduction later this year.

DTC's revenues are primarily a function of trading volume which generated less processing activity in 1982 than DTC has assumed in its 1982 budget. A surcharge will eliminate an accumulated net loss of $2.5 million for the first six months and any subsequent month's operating loss. In past years, DTC has been able to grant year-end refunds instead of applying surcharges.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the Act) and the rules and regulations thereunder applicable to DTC because it equitably allocates the surcharge among DTC Participants. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since the surcharge will eliminate a projected revenue shortfall through the end of 1982.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* DTC perceives no impact on competition by reason of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* All Participants were notified that the Board of DTC would consider implementation of the surcharge by a note (attached hereto as Exhibit 3) included in the quarterly financials for the second quarter of 1982 which was sent to all Participants in July 1982. All Participants were informed by memorandum on "Surcharge on Monthly DTC Bills to Participants" dated September 13, 1982, (attached hereto as Exhibit 2) that said surcharge was effective as of August 1, 1982. No written comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to

[1] Certain items, as outlined in Exhibit 2, are excluded from the surcharge.

the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: October 4, 1982.

George A. Fitzsimmons,

Secretary

Exhibit 2

September 13, 1982

To: Participants, pledgee banks and depository facilities.

Attention: Operations Manager; Managing Partner/Officer.

Subject: Surcharge on monthly DTC bills to Participants.

Beginning with the present DTC monthly billing to Participants for August activity, the depository plans to add a surcharge of 12% on the total of service fees billed to Participants each month for the remainder of the year.

This surcharge was made necessary by DTC's net loss for the first six months of 1982 of approximately $2.5 million. That loss was due largely to a phenomenon widely noted in the industry at that time—the increase of average shares per trade which changed the normal relationship between share volume traded and the number of transactions processed. Continued expenditure reductions and increased revenues from higher fees effective July 1 for new or ancillary services cannot deal with this accumulated loss, though these measures helped DTC to operate at a slight profit in July and August.

Participants were advised on the possibility of this surcharge on the depository's July 16 publication of Second Quarter Statements of Income and Condition which reported that the Board of Directors in early September would consider a surcharge on the order of 10% on monthly bills to Participants for the remainder of the year, effective with billings for August activity. The 12% surcharge level just approved by the Board of Directors is a level which may decrease, but should not increase, toward the end of the year.

Exempted from the base of the surcharge are fees paid by Depository Facilities and Pledgee Banks and charges to Pariticpants which pass-through to them fees from transfer agents and the cost of their Participants Terminal System (PTS) equipment (the latter exclusion to begin October 1 when PTS pass-through charges will increase to a level which will then recover present DTC cost for such equipment.)

EXHIBIT 3

July 16, 1982

To: Chief Operating Officer, Participants, pledgee Banks and Depository Facilities.

Subject: Second Quarter Statements of Income and Condition of The Depository Trust Company.

Attached are the Statements of Income and Condition of The Depository Trust Company for the six months ended June 30, 1982.

Operating revenues for the first six months of 1982 are lower than last year's level despite high trading volume due to an increase in shares per trade and substantial reduction in transaction levels in major services.

Expenses for the same period are higher largely due to inflation during 1981 and increased personnel costs related to the Municipal Bond Program.

Investment income for the six months of 1982 is higher than the same period last year due to a greater amount of cash available for investment, partially offset by lower short-term interest rates.

Monthly refunds to Participants of dividends investment income amounted to $9,761,000 for the first six months.

The net loss before tax benefits for the first six months was $2,534,000. Net income before taxes was $8,759,000 for the first six months of 1981. This year's net loss was due largely to a phenomenon widely noted in the industry—the increase in average share per trade which has broken the normal relationship between share volume traded and the number of transactions. Depository management estimates that a continuation of this condition despite some upturn in the last quarter would result in a deficit of $2 million for the year 1982 even after further expenditure reductions and new revenues measures placed in effect as of July 1. To prevent such a deficit from occurring and after examining financial results for July and August, the Board of Directors in early September will consider a surcharge on the order of ten percent on monthly bills to Participants for the remainder of the year, effective with billings for August activity.

THE DEPOSITORY TRUST COMPANY; STATEMENT OF INCOME (UNAUDITED)

[Dollars in thousands]

	Six months ended June 30,	
	1982	1981
Revenues:		
Services to participants	$28,843	$30,525
Services to affiliates	578	453
	29,421	30,978
Expenses:		
Employee costs	23,974	19,550
Rent, maintenance and utilities	3,763	2,652
Data processing rentals and supplies	3,071	2,007
Professional and other services	2,337	1,534
Charges from affiliates	169	765
Amortization and interest on capital leases	1,414	1,296
Depreciation and amortization	805	479
Other expenses	3,103	2,913
	38,636	31,196
Net operating loss	(9,215)	(218)
Investment income	16,442	15,794
Less: Monthly refund of investment income from dividend, interest and reorganization payments	(9,761)	(6,817)
Net investment income	6,681	8,977
Net income (loss) before taxes [1]	(2,534)	8,759
Income taxes (benefit)	(35)	5,153
Net income (loss)	($2,499)	$3,606

[1] Subject to refund to users.

THE DEPOSITORY TRUST COMPANY; STATEMENT OF CONDITION (UNAUDITED)

[Dollars in thousands]

	June 30,	
	1982	1981
Assets		
Cash	$ 45,581	$ 35,791
Repurchase agreements, at cost and accrued interest	320,042	278,117
U.S. Government securities, at amortized cost (which approximates market)	6,409	6,399
Receivables:		
Participants:		
For settlements	5,988	2,966
For services	5,018	5,534
Affiliates	673	649
Dividends, interest and other	5,064	8,432
Prepaid expenses	973	410
Equipment and leasehold improvements, less accumulated depreciation	5,709	3,628
Leased property under capital leases, less accumulated amortization	6,158	7,186
Contributions to Participants Fund, callable on demand	195,487	196,409
	$597,102	$545,521
Liabilities and Capital		
Liabilities:		
Drafts payable	$249,684	$178,444
Accounts payable and accrued expenses	10,049	11,360
Payable to participants:		
On settlements	11,423	22,755
On receipt of securities	8,013	17,763
Dividends and interest received	106,709	99,146
Payable to affiliates	1,333	1,048
Obligations under capital leases	6,244	7,000

THE DEPOSITORY TRUST COMPANY; STATEMENT OF CONDITION (UNAUDITED)—Continued

[Dollars in thousands]

	June 30,	
	1982	1981
Participants Fund:		
Deposits received	4,029	3,573
Contributions callable on demand	195,487	196,409
Capital:		
Capital notes, 6 percent, due April 1, 1988	15	15
Capital stock—authorized, issued and outstanding, 18,500 shares of $100 par value	1,850	1,850
Surplus	776	555
Undivided profits	1,490	5,603
	$597,102	$545,521

[FR Doc. 82-28765 Filed 10-20-82; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0150]

Capital Marketing Corp.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Capital Marketing Corporation (CMC) 9004 Ambassador Row, Dallas, Texas 75265, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed a application with the Small Business Administration pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)) for approval of a conflict of interest transaction.

CMC proposes to loan $400,000 to Clyde Stricklin dba Strick's, Inc., P.O. Box 6452, Fort Worth, Texas 76115, for debt consolidation and purchase of equipment and inventory.

The conflict of interest arises because Clyde Stricklin's brother, Dan Stricklin, is a member of the Board of Directors of Affiliated Food Stores, Inc., an associate of CMC. As a result, CMC's financing of Clyde Stricklin falls within the purview of Section 107.1004(b)(1) of the SBA Regulations and requires prior written approval of SBA.

Notice is hereby given that any person may not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Dallas-Fort Worth, Texas area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 18, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-28964 Filed 10-20-82; 8:45 am]
BILLING CODE 8025-01-M

Region IX Advisory Council Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 12:00 Noon, on Monday, November 1, 1982, at the Sheraton Santa Barbara Hotel, 1111 East Cabrillo, Santa Barbara, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gerold Y. Morita, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Los Angeles, California.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

October 15, 1982.

[FR Doc. 82-28965 Filed 10-20-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-263; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-3 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: review jet routes and low altitude airways to ensure conformance to existing traffic flows. Establishment and retention criteria of airways and jet routes will also be studied. In addition, the Task Group will review the fixed route concept for area navigation (RNAV) use to determine the extent of the need, if any, for a future fixed RNAV route system.

DATE: Beginning November 8, 1982 at 11 a.m., continuing daily, except Saturdays, Sundays and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, Rooms 8A and 8B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W, AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by November 2, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on October 14, 1982.

Willard H. Reazin,

Program Manager, NARAC.

[FR Doc. 82-28895 Filed 10-20-82; 8:45 am]
BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-263; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-1 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: review and validate special use airspace establishment criteria and separation requirements.

DATE: Beginning November 8, 1982 at 11 AM, continuing daily, except Saturdays, Sundays and holidays, not to exceed three weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, Rooms 9A and 9B, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1,

800 Independence Avenue, S.W., Washington, D.C. 20591, by November 2, 1982. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on October 14, 1982.

Willard H. Reazin,

Program Manager, NARAC.

[FR Doc. 82-28896 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-21]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 10, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 15, 1982.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
19647	Eli Lilly Int'l Corp.	14 CFR § 61.58(c)	Renewal of Exemption No. 2435 to permit petitioner to complete a 24-month pilot-in-command check in an FAA-approved flight simulator.
23358	Clarke Outdoor Spraying Co., Inc.	14 CFR § 91.39(c)	To permit petitioner to carry certain persons on restricted category aircraft while spray gear is installed.
23288	Butler Aviation Int'l, Inc	14 CFR § 135.165(b)	To permit petitioner to operate its Hawker Siddeley, HS-125-400A, in extended overwater operations with only one Omega long range navigation system and one high frequency communication system.
20336	Executive Air Fleet Corp.	14 CFR § 135.89(b)(3)	Renewal of Exemption No. 3130 to permit petitioner to operate its aircraft above flight level (FL) 350 (35,000 feet) up to and including FL 410 (41,000 feet) without one pilot having to wear and use an oxygen mask.
23360	Omni Int'l Corp.	14 CFR Part 125	To permit petitioner to operate its BAC 1-11 203AE aircraft under Part 91 during periods when Omni holds such aircraft as inventory for sale.
23362	Arabian American Oil Co	14 CFR § 91.200(b)	To permit petitioner to operate its F-27 airplanes for an indefinite period without a combined safety belt and shoulder harness at the flight-deck station that would normally accommodate an observer.
22450	Georgia State Patrol	14 CFR §§ 91.65(b), 91.73(a), 91.79(c), 91.109 (a) and (b).	To permit petitioner to conduct law enforcement aircraft operations in formation with suspect aircraft; without lights at night; below 500 feet other than to land or takeoff; and/or at other than appropriate cruising altitudes.
23383	Braniff Airways, Inc	14 CFR § 91.305(b)(2)(ii)	To allow petitioner to operate five Boeing 727 aircraft in the U.S. from January 1, 1983 until January 1, 1984 without meeting the operating noise limit requirements.
82-ANE-34	Garrett Turbine Engine Co., Phoenix, AZ	14 CFR § 33.88	To permit petitioner to conduct the rotor test for 5 minutes in lieu of the existing requirements.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
23228	Los Angeles Dodgers, Inc	14 CFR § 91.303	To allow petitioner to operate one Boeing 720 aircraft in the U.S. from January 1, 1985 until January 1, 1988 without meeting the operating noise limit requirements. Denied Sept. 30, 1982.
23121	American Express Co.	14 CFR Subpart D of Part 91 and § 91.169	To permit petitioner to operate its helicopter under Subpart D. Granted Oct. 8, 1982.
23134	Skywest Aviation, Inc	14 CFR § 135.181	To permit petitioner to utilize a drift down procedure, as an alternative compliance means, when operating on routes where the minimum en-route altitude exceeds the Single Engine Service Ceiling. Granted Oct. 8, 1982.
23226	Lowa Limited	14 CFR § 61.58(c)	To permit pilots-in-command (PIC) to complete the entire 24-month PIC check in a FAA-approved simulator, provided that the pilot taking the flight check has completed at least three takeoffs and three landings within the preceding 90-days in a Boeing 707. Granted Sept. 30, 1982.
23292	Jet Transport Training, Inc	14 CFR § 61.63(d)(2) and 61.157	To permit trainees of petitioner to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate in a simulator although petitioner does not have a certificate issued under Part 121. Granted Oct. 1, 1982.
22792	Bar Aviation, Inc.	14 CFR § 91.31	To permit petitioner to operate its DC-6 aircraft at a 5 percent increased zero fuel and landing weight. Denied Sept. 30, 1982.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
12227	Nat'l Business Aircraft Assoc., Inc	14 CFR Portions of Parts 91, 121, 123, 129, 135, 137	To amend and extend Exemption No. 1637] to permit petitioners' members to operate small civil aircraft of U.S. registery under the operating rules of §§ 91.183 through 91.215 and the inspection provisions in §§ 91.217 and 91.219. It would also permit petitioner's members to operate and maintain helicopters of U.S. registery under the provisions of Subpart D of Part 91. Granted Sept. 28, 1982.
12738	Union de Transports Aeriens (UTA)	14 CFR Portions of Parts 21, 61, 63 and 91	Extension of Exemption No. 1775 to permit petitioner to operate three leased DC-10 airplanes (N54629, N54639, and N54649) using an FAA-approved minimun equipment list (MEL) and on FAA-approved continuous airworthiness maintenance program and also permits UTA crewmembers to obtain special airman certificates to operate these U.S.-registered aircraft. Granted Sept. 23, 1982.
22506	Guyana Airways Corp	14 CFR Portions of Parts 21 and 91	Amendment of Exemption No. 3434 to permit petitioner to operate and maintain an additional leased U.S.-registered aircraft using an FAA-approved minimum equipment list and an FAA-approved maintenance and inspection program. Granted Sept. 24, 1982.
23036	Icelandair, S.A. (Icelandair)	14 CFR Portions of Parts 21 and 91	Extention of Exemption No. 3531 to permit petitioner to operate a leased, U.S.-registered aircraft using a FAA-approved master minimum equipment list and to maintain the aircraft in accordance with FAA-approved continuous airworthiness maintenance and inspection program. Granted Oct. 4, 1982.
22282	Regional Airline Association	14 CFR § 135.261(b)	Amendment to condition number 3 on exemption No. 3535 so that it reads "New flight crewmember may be scheduled for more than 8 hours of flight time in the duty period immediately preceding the 8 hours of consecutive rest, and no more than 8 hours of flight time in the 24-hour period beginning with 8 hours of consecutive rest." Denied Oct. 10, 1982.
23393	Aero Sun Int'l, Inc	14 CFR § 121.311(f)	To permit petitioner to operate two Convair 340/440 airplanes (N910RC and N920RC) until November 15, 1982, without each flight attendant having a seat for takeoff and landing in the passenger compartment. Granted Nov. 8, 1982.
21228	Scandinavian Airlines System (SAS)	14 CFR Parts 21 and 91	Extension of Exemption No. 3113 to permit petitioner to operate two Boeing 747/283B airplanes of U.S. registry using the FAA-approved B-747 master minimum equipment list (MMEL) and to maintain the airplanes under a continuous airworthiness maintenance program. Granted Nov. 8, 1982.
20035	Energy Helicopters, Inc	14 CFR § 43.3(h)	To permit petitioner's appropriately trained and certificated pilots to remove, check and reinstall magnetic chip detector plugs on company aircraft. Granted Nov. 6, 1982.
23343	Cerro Industries, Inc	14 CFR § 91.307	To allow operation in the United States under a service to small communities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 1 BAC-1-11: N588TF. Granted Nov. 4, 1982.
21170	Air California, Inc	14 CFR § 91.307	To allow operation in the United States under a service to small commmunities exemption specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985: 13 B-737-200, 2 B-737-100. Granted Sept. 27, 1982.
23331	American Int'l Airways, Inc	14 CFR § 91.307	To allow operation in the United States under a service to small communities exemption specified tow-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1985: 5 DC-9-30. Granted Sept. 28, 1982.
22507	The City of New York, et. al	14 CFR § 93.185(c)	Amendment to Exemption No. 3456 to add the names of certain airmen and the numbers of certain aircraft to Attachment A and to permit certain operators to use Flushing Airport. Amended Nov. 1, 1982.

[FR Doc. 82-28894 Filed 10-10-20-82; 8:45 am]
BILLING CODE 4910-13-M

Proposed Advisory Circular on Hazards Following Ground Deicing and Ground Operations in Conditions Conducive to Aircraft Icing

Correction

In FR Doc. 82-28002 appearing on page 44962 in the issue for Tuesday, October 12, 1982, first column, last line, the telephone number should read "462-8395".

BILLING CODE 1505-01-M

Federal Highway Administration

Environmental Impact Statement; Anchorage, Alaska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway reconstruction project on Raspberry Road in the Municipality of Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT:

Tom Neunaber, Field Operations Engineer, Federal Highway Administration, P.O. Box 1648, Juneau, Alaska 99801, Telephone: (907) 586-7428.

Terry Fleming, Central Region Environmental Coordinator, Alaska Department of Transportation & Public Facilities, Pouch 6900, Anchorage, Alaska 99502, Telephone: (907) 266-1506.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities, will prepare an Environmental Impact Statement (EIS) on a proposal to improve Urban Route 526 in Anchorage, Alaska. The proposed

improvement would involve the reconstruction to urban street standards of 1.3 miles of Raspberry Road between the intersection with Jewel Lake Road and the intersection with Minnesota Drive.

The proposal includes upgrading of the facility from a two-lane rural roadway to a four-lane urban street with left-turn protection.

The proposed improvement is considered necessary for the following reasons: (1) To improve traffic flow on the project roadway under the existing and projected traffic demand. (2) To reduce the traffic related accident potential in the general project area. (3) To implement an important link within the systemwide transportation plan.

Alternatives under consideration include (1) taking no action; and (2) reconstruction as proposed.

Letters describing the proposed action and soliciting comments will be distributed to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed interest in the proposal. A public informational meeting was held January 14, 1982 to discuss the concerns of the immediate community and the general public. No formal scoping meeting is planned at this time. In addition, a public hearing will be held after the Environmental Impact Statement has been completed and made available for public and agency review and comment.

To ensure that the full range of issues related to this proposal are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA or the ADOT/PF at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and Local Clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on October 15, 1982.

Barry Morehead,

Division Administrator, FHWA, Juneau, Alaska.

[FR Doc. 82-28947 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP82-20; Notice 1]

Goodyear Tire & Rubber Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Goodyear Tire & Rubber Co. of Akron, Ohio, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

The notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S4.3 requires that the sidewalls of each passenger car tire be labeled with the maximum load rating. Between September 20, 1981, and June 5, 1982, Goodyear produced over 31,000 Convenience Spare Tire size T145/80D16 tires on which the maximum load was stated as 2260 pounds. The correct figure is 2050 pounds. The error came to Goodyear's attention when Transport Canada discovered failure to meet Canadian Standard No. 109's endurance test requirements, 4 of 18 tires failing when tested at 2240 pounds. Canada then tested 12 tires for endurance at 2030 pounds two of which failed the post inspection test with sidewall bulges. Goodyear's own test of 64 tires at 2050 pounds showed 15 failures.

Goodyear believes that the noncompliance is inconsequential as the heaviest vehicle using the tire, the 1982 Oldsmobile Custom Cruiser Station Wagon, uses as an optional extra load tire one which has a maximum load capacity of 1874 pounds. On the Oldsmobile, the maximum load on each tire will be 1499 pounds. There thus exists a 25% reserve load capacity. Tires tested for endurance under Standard No. 109 at 1874 pounds all passed. The noncompliance then is said to be inconsequential.

Interested persons are invited to submit written data, views and arguments on the petition of The Goodyear Tire & Rubber Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

Comment closing date: November 22, 1982.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 13, 1982.

Courtney M. Price,

Associate Administrator for rulemaking.

[FR Doc. 82-28855 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-59-M

Urban Mass Transportation Administration

Letter of No Prejudice Policy

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The Urban Mass Transportation Administration ("UMTA") is issuing a policy governing the issuance of Letters of No Prejudice ("LONPs"). The LONP authorizes an applicant to incur costs on a future project utilizing non-Federal resources with the understanding that the costs incurred subsequent to the issuance of the letter may be reimbursable as eligible expenses or eligible for credit toward non-Federal match should UMTA approve the project at a later date. It is not, however, a legal or moral commitment that UMTA will in fact approve the project. Publication of this policy is necessary to provide notice to applicants of the flexibility offered by LONPs when mass transit construction projects are contemplated. The policy sets forth five circumstances in which LONPs may be issued, as well as six criteria for assessing the financial impact of LONPs. Pending further notice, however, UMTA will not issue LONP's under Paragraphs 4D(1) and 4D(2). The policy is set forth below and will be published as UMTA Circular 9500.1.

EFFECTIVE DATE: November 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth E. Bolton, Office of Policy, 202-426-4060, or Ms. Jocelyn Karp, Office of the Chief Counsel, 202-426-4011, at 400 Seventh Street, S.W., Washington, D.C. 20590.

UMTA Circular 9500.1:

1. Purpose

To issue policy and provide guidelines concerning the issuance of Letters of No Prejudice.

2. Policy

It is UMTA policy that Letters of No Prejudice ("LONP") are to be only issued under the most extenuating circumstances as determined and evaluated on a case-by-case basis. An LONP is not, and should not be construed as, a legal or moral commitment by UMTA or the Federal Government to approve a project. In addition, under no circumstances will the no prejudice authorization granted in a letter extend beyond ten years from the date on which the LONP was issued. In establishing the expiration date for an individual LONP, UMTA will consider:

—The interval required to prepare an application and process the grant action;
—The projected time during which a dedicated funding source is expected to become available; and
—The anticipated date that the grantee expects to receive Federal funds.

The underlying premise for promulgation of this policy is to ensure that evaluation of no prejudice actions is consistent with the Administration's objectives of minimizing intrusion into local decisions and maximizing local flexibility in responding to transit needs consistent with UMTA's overall responsibility in the exercise of its discretionary authority. Accordingly, UMTA has established specific criteria to assess the financial impact reimbursement of LONPs would have on UMTA's current and future budgets.

Five circumstances may generally be considered to justify the issuance of LONPs. A discussion of these circumstances is contained in paragraph 4.

Adherence to specific assessment criteria will ensure that LONPs are issued reasonably and in accordance with congressional direction to limit the use of LONPs. These criteria for assessing LONP impact will be discussed later in paragraph 5.

3. Background

A Letter of No Prejudice authorizes a public ageny ("applicant") to incur costs on a future project utilizing non-Federal ("local") resources with the understanding that the costs incurred subsequent to the issuance of the letter may be reimbursable as eligible expenses or eligible for credit toward local match should UMTA approve the project at a later date. The LONP is the only formal mechanism UMTA utilizes to allow an applicant to be reimbursed for expenses incurred prior to project approval. The letter should never be construed as a commitment by UMTA or the Federal Government to approve funding. In addition, an LONP is not to be used as a substitute for a Letter of Intent (see UMTA C 9000.6, dated November 23, 1979).

Authority to issue LONPs is delegated to the Administrator from the Secretary pursuant to the general delegations in 49 CFR 1.51(a) [See also DOT Order 1100.60 (10/16/80]. The Administrator has reserved authority to issue all LONPs to himself (see UMTA order 1100.17(i)(e) (5/4/79)).

Letter of No Prejudice are employed in UMTA programs for Urban Discretionary Grants, Urban Formula Capital Grants, Research and Demonstration Grants, Planning and Technical Studies Grants, Managerial Grants, University Research and Training Grants, Federal-Aid Urban System projects (23 U.S.C. 142) and Interstate Transfer projects (23 U.S.C. 103(e)(4)). Urban Formula Operating Assistance Grants and Non-Urbanized Formula Grants programs are not covered. Urban Formula Operating Assistance Grants allow retroactive reimbursement of projected expenses, thereby obviating the need for no prejudice authority. Projects funded under the Non-Urbanized Formula program are to be approved by means of a State Management Plan with the UMTA role in administration greatly reduced.

In its report on the FY 1981 Department of Transportation Appropriations Bill, the House Appropriations Committee expressed its concern about the extent to which UMTA was employing Letters of No Prejudice. The Committee stated its belief that UMTA was employing Letters of No Prejudice too extensively, particularly in view of the March 1980 General Accounting Office report that criticized the use of Letters of No Prejudice. The Committee stated it expected UMTA to limit the use of Letters of No Prejudice to unique or emergency situations and to provide a report of all letters issued during fiscal year 1981 before the 1982 appropriations hearing. UMTA has complied with the Committee's request and submits a list of Letters of No Prejudice every year.

In addition to the unique and emergency situations identified by Congress, UMTA also recognizes the need to maintain local flexibility in initiating transit projects at a time when Federal funds are not readily available to finance the Federal portion of the project. In situations where localities require some degree of flexibility and when it is in the clear economic benefit of the Federal Government to proceed expeditiously, UMTA will consider a request for no prejudice authorization.

4. Letter of No Prejudice Categories

A. Emergency Situations

Situations sometimes occur in which essential transportation services are in danger of being halted due to safety reasons, equipment failures or failure to expeditiously acquire the assets of a private operator. Under such emergency conditions, the applicant frequently must proceed quickly even though a pending application has not progressed to the point where the project is ready for formal approval.

There are also situations in which an applicant has an urgent need to implement improvements and UMTA is unable to provide funds or take a formal approval action as quickly as the applicant needs. For example, UMTA and an applicant might be required to respond to a court-ordered change in the method of providing service or in the way a previously approved project should be implemented. Responding to such an order could require the immediate expenditure of funds and could require incurring expenses the project budget does not totally fund.

B. Post-Grant No Prejudice Actions

This type of LONP authorizes a grantee to incur obligations beyond the amount identified in an already approved project budget. This allows grantees to pay for unexpected cost increases without disqualifying these costs from inclusion in a subsequent amendment. This type of authorization is only available for already approved budget line items. If the project has sufficient funds in contingency or other approved budget line items, the increased cost should be accommodated by means of a budget revision, rather than an LONP.

Cost increases on specific line items may occur which are too large to be absorbed by project contingency funds. These situations cannot be predicted and may not be known until bids are received. Since bid prices usually remains in effect for a limited period, the grantee must act promptly regarding any award of contract. If the prices are determined to be reasonable, the grantee may request UMTA's permission to award the contract provided an amendatory application is submitted formally requesting additional grant funds. Approval of a request for additional funds usually cannot be accomplished within the period of time that the bid price remains in effect. Consequently, UMTA may permit the award of a contract, committing local funds for the increase, without prejudice

to the sponsor s request for additional funds.

C. Local Option—Project Currently Eligible

These LONPs will be issued for projects involving bus and bus facilities, rail modernization, planning, and researchah *and training. The intent of issuing letters in this circumstance is to preserve local flexibility with respect to transit opportunities, thereby allowing local authorities to exercise options which are clearly to the economic benefit of the locality and the Federal Government.*

Situations in this category vary from the discovery that a much-needed piece of real estate is suddenly available at a reasonable price, thus requiring prompt action on the part of the applicant to secure it; to the knowledge that while an activity is proceeding on schedule, there is a need to contract for additional activities in order to maintain momentum and retain staff, options and public support. Many of these situations represent opportunities which cannot be regained.

Examples of these situations can be found in all UMTA programs and currently represent the primary reason for issuing LONPs on a continuing basis. These include bus purchases, maintenance facility construction, rail car purchases, rail modernization activities, planning and service and methods demonstration projects.

These letters will fall into two sub-categories:

(1) *Local Match Only*—LONPs issued under this category allow a locality to incur expenses, the value of which will be allowed to be credited towards a future transit project. At the time no prejudice authority is granted, the ultimate UMTA project may or may not have been specified.

(2) *Total Project*—LONPs issued under this category allow a locality to incur expenses towards the initiation and completion of an identified transit project.

For both sub-categories, should UMTA agree to participate in the project at a later date, funding of eligible project expenses will be in accordance with the overall scope of activities and the then prevailing statutory provisions with respect to the Federal-local match ratio.

Letters in this category must expire within two years of the date of issuance. They may be extended for an additional three years in exceptional circumstances, but in no case will they intend beyond five years from the original date of issuance. Exceptional circumstances for extension would include:

—unanticipated delays in construction or equipment acquisition or grant application and/or approval; and

—unexpected reduction in Federal funds available to fund the project.

D. Local Option—Project Not Currently Eligible (Funding Deferred)

These LONPs will be issued where UMTA has determined it is fiscally prudent to defer Federal financial partiapation.

These Letters of No Prejudice will generally apply to preliminary engineering, land acquisition, system design and construction projects under the New Rail Starts and the Downtown People Mover (DPM) category.

For example, this type of letter may be needed to provide local communities with the flexibility to proceed with locally approved rail projects during the period in which Federal funding has been deferred, but still provide the opportunity for future consideration as part of a federally-sponsored program.

Letter issued under this category, while intended to maximize local flexibility and protect local decisionmaking, will be carefully scrutinized in that such letters generally are issued in situations where the potential for UMTA participation is least certain. Because the Administration proposes to defer funding for the activities in this category these LONPs will be isssued only under the most unusual circumstances.

(1) *Land Acquisition, System Design and Construction—Local Match Only.* LONPs issued under this category allow a locality to incur expenses, the value of which may be credited as the local match for a future transit project. At the time no prejudice authority is granted, the potential UMTA project may or may not have been specified.

(2) *Land Acquisition, System Design and Construction—Total Project.* LONPs issued under this category allow a locality to incur expenses towards the initiation and completion of an identified transit project.

(3) *Preliminary Engineering.* LONPs for this category will allow a locality to incur costs for preliminary engineering for a transit project described under this category. For all sub-categories, should UMTA agree to participate in the project at a later date, funding of eligible project expenses will be in accordance with the overall scope of activities and the then prevailing statutory provisions with respect to the Federal-local match ratio.

Note.—Pending further notice, UMTA will not issue Letters of No Prejudice in Categories D(1) and D(2).

E. Special Projects

Letters of No Prejudice issued under this category will allow local communities the opportunity to initiate or proceed with activities utilizing local funds for a specified federally supported project or program. Such letters will be issued in cases where the Federal Government issued a Letter of Intent, full funding contract or is in the process of negotiating for the issuance of a Letter of Intent or full funding contract. In determining whether to issue letters in this category, particular concern will be given to the degree to which the Federal Government has implied commitment or support for a particular project or program.

It should be noted that a full funding contract by definition provides no prejudice authority to the project sponsor in the acceptance of a full funding contract by a grantee brings with it no prejudice authority to proceed to incur expenses specifically authorized within the scope and budget of the full funding contract. However, Federal funding in excess of the original contractual commitment is not available under a full funding contract, except to the extent necessary to pay extraordinary costs specifically allowable under the contract.

5. Assessment of LONPs' Financial Impact

The fact that a project falls within one of the five categories does not mean that no prejudice approval will automatically be authorized. UMTA will first establish whether or not the issuance of an LONP would be a prudent step.

Specific criteria to be considered follow:

A. The total number and amount of LONPs outstanding nationally and in the local area.

B. UMTA's ability to fund the project in a timely manner within current budget constraints.

C. The dollar value of the LONP request.

D. In those cases in which no prejudice authority is requested to initiate or proceed with a project which is not currently eligible (see paragraph 4D) but which is expected will provide a local economic benefit, UMTA will give special consideration to requests from LONP applicants who can, within congressionally directed parameters, demonstrate a willingness and ability to finance a larger portion of eligible project expenses than that required in the existing statutory Federal-local match.

E. The existence of a dedicated funding source in a given area will be of particular significance in the issuance of an LONP for any major transit undertaking.

F. The financial and managerial ability of the project sponsor to maintain the project.

The weight that these criteria are given in the evaluation of an LONP request will vary depending upon the scope of the proposal, as well as its category. Special consideration will be given to obvious emergencies (Category 4A) and situations where the request is within the scope of an approved project (Category 4B). Greater scrutiny will be given to requests under Categories 4C and 4E, with Category 4D receiving the most extensive assessment.

6. Joint Statement of Understanding

When UMTA issues an LONP, UMTA and the grantee will sign a Joint Statement of Understanding describing the basis of the LONP. The precise wording of the statement will be worked out on a case-by-case basis, but it must contain, at a minimum, the following conditions:

A. The LONP is not a legal or moral commitment that the project will be approved for UMTA assistance or that UMTA will obligate funds for the project under the UMT Act. Furthermore, the LONP is not a legal or moral commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

B. All UMTA statutory, procedural and contractual requirements must be met.

C. No actions will be taken by the grantee which prejudice the legal and administrative findings which the Administrator of UMTA must make in order to approve a project.

D. Local funds expended by the grantee pursuant to and after the date of the LONP will be eligible [to be credited toward local match] [for reimbursement] (whichever is appropriate) if UMTA in the future makes a grant for the project.

E. The Federal amount of any future assistance by UMTA for the project will be determined on the basis of the overall scope of activities and the then prevailing statutory provisions with respect to the Federal-local match ratio. (This provision may be unnecessary for certain post-grant Letters of No Prejudice.)

F. The LONP will remain in effect for the period specified (including the period of an approved extension, if any) or until UMTA approves a grant for the project, whichever first occurs. Expiration date for Category C letters may not extend beyond two years from the date of issuance, with the possibility of a three-year extension in extraordinary circumstances.

Note.—For post-grant LONPs, reference in the Joint Statement and in the LONP should be to approval of an amendment to the grant or project, rather than to approval of the grant or project itself.

Issued on: October 13, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-28828 Filed 10-20-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Use of Social Security Administration and Railroad Retirement Board Benefit and Annuity Files to Determine Eligibility

AGENCY: Internal Revenue Service, Treasury.

ACTION: Announcement.

SUMMARY: This document announces that the Internal Revenue Service will use Social Security Administration and Railroad Retirement Board benefit and annuity files to determine the eligibility for and the proper amount of Credit for the Elderly claimed on Form 1040, Schedules R and RP, Credit for the Elderly.

FOR FURTHER INFORMATION CONTACT: Ruby Alston, Program Analyst, Returns Processing and Accounting Division, Office of Assistant Commissioner (Returns and Information Processing), Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3237, not a toll-free call.

Announcement

The initial Credit for the Elderly amount specified in Internal Revenue Code Section 37 is to be reduced by an amount equal to the sum of the amount received by taxpayers as a pension or annuity under title II of the Social Security Act, under the Railroad Retirement Act of 1935 or 1937, or otherwise excluded from gross income. The credit is available to eligible taxpayers by filing Form 1040, U.S. Individual Income Tax Return, Schedule R and FP, Credit for the Elderly.

To determine eligibility and amount of Social Security Administration and Railroad Retirement Board benefit and annuity for taxpayers that claimed the Credit for the Elderly, the Internal Revenue Service will use Social Security Administration and Railroad Retirement Board benefit and annuity files to match against Forms 1040, Schedules R and RP. If a taxpayer has improperly claimed the credit he/she will be notified of a proposed credit adjustment to his/her tax return.

Bernard L. Barela,

Assistant Director, Returns Processing and Accounting Division.

[FR Doc. 82-28939 Filed 10-20-82; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

National Cemetery, Federal Region IV; Availability of Final Supplemental Environmental Impact Statement

Notice is hereby given that a document entitled "Final Supplemental Environmental Impact Statement for Veterans Administration Federal Region IV National Cemetery," dated September 1982, has been prepared in accordance with § 1502.9(c) of the National Environmental Policy Act Regulations.

Since the decision by the Administrator of Veterans Affairs on July 24, 1981 to develop the Federal Region IV National Cemetery at Fort Mitchell, Alabama, new information regarding land use restrictions on the Fort Mitchell site has been brought to the attention of the Veterans Administration. The Supplemental EIS documents and makes public these restrictions as well as other conditions which must be satisfied prior to the transfer of Fort Mitchell to the VA.

Significant comments received by the Veterans Administration during the 45-day public review period (May 14 to June 28, 1982) are included, each followed by an appropriate response. Factual corrections have been made to the text of the Supplemental EIS based on comments received.

The document is being placed for public examination at the Veterans Administration in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Staff (005B), Room 423, Veterans Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-3316). Single copies of the Final Supplemental Environmental Impact Statement may be obtained on request to the above office.

Dated: October 14, 1982.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-28899 Filed 10-20-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 204
Thursday, October 21, 1982

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

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, November 5, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1515-82 Filed 10-19-82; 2:57 pm]

BILLING CODE 635-01-

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, October 29, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1516-82 Filed 10-19-82; 2:57 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, October 28, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open

MATTERS TO BE CONSIDERED: Revisions to Guideline I.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1517-82 Filed 10-19-82; 2:57 pm]

BILLING CODE 6351-01

4

FEDERAL COMMUNICATIONS COMMISSION

October 18, 1982.

Deletion of Agenda Item From October 21st Open Meeting

The following item has been deleted at the request of the Office of Commissioner Fogarty from the list of agenda items scheduled for consideration at the October 21, 1982 Open Meeting and previously listed in the Commission's Notice of October 14, 1982.

Agenda, Item No., and Subject

Renewal—1—Title: License Renewal Application of Provident Broadcasting Company for Station WQCX(FM), Manchester, Georgia. Summary: The East Central Alabama-West Central Georgia Minority Chirstian Broadcast Coalition filed a petition to deny alleging that licensee's programming does not serve the needs and interests of the local minority population and that licensee's employment practices regarding minorities do not comply with the Commission's EEO rules and policies. The Commission considers petitioner's allegations.

Issued: October 18, 1982.

Deletion of Agenda Item From October 21st Closed Meeting

The following item has been deleted at the request of the office of Commissioner Fogarty from the listing of agenda items scheduled for consideration at the October 21, 1982 Closed Meeting and previously listed in the Commission's Notice of October 14, 1982.

Agenda, Item No., and Subject

Hearing—4—Draft Decision in the Hart, Michigan, comparative FM proceeding (Docket Nos. 80-688 and 80-689).

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1506-82 Filed 10-19-82; 10:51 am]

BILLING CODE 6712-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:17 a.m. on Friday, October 15, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) approve the application of Syracuse Savings Bank, Syracuse, New York, for consent to merge, under its charter and title, with Mechanics Savings Bank, Elmira, New York, and to establish the four offices of Mechanics Savings Bank as branches of the resultant bank; and (2) provide financial assistance to Syracuse Savings Bank, pursuant to section 13(e) of the Federal Deposit Insurance Act, in order to facilitate the merger and prevent the probable failure of Mechanics Savings Bank.

At that same meeting, the Board of Directors considered two personnel matters.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters

in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsection (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 15, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1509-82 Filed 10-19-82; 11:51 am]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in the Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 11:30 a.m. on Monday, October 18, 1982, the Corporation's Board of Directors determined, on Motion of Director Irvine H. Sprague (Appointive), seconded by Mr. William E. Martin, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of The Savings Bank of Baltimore, Baltimore, Maryland, for consent to establish a branch at George Town, Grand Cayman, Cayman Islands, British West Indies.

Request for relief fron adjustment for violations of Regulation Z: Name and location of Bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A) (ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: October 18, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1510-82 Filed 10-19-82; 11:51 am]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION:

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 11:00 a.m. on Monday, October 18, 1982, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. William E. Martin, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and Resolution re: Recommendation to withdraw proposed Part 350 of the Corporation's rules and regulations, entitled "Special Reporting Basis for Insured Savings Banks," which would have (1) required all insured savings banks to report all debt and equity securities acquired on or after January 1, 1983 on a current value basis for purposes of preparing their Report of Condition and Income that are filed with the FDIC, and (2) permitted insured savings banks to defer and amortize gains and losses on dispositions of financial assets acquired prior to January 1, 1983.

By the same majority vote, the Board further determined that no notice of this change in the subject matter of the meeting prior to October 13, 1982, was practicable.

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and Resolution re: Final Amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," which continues the requirement that the boards of directors of insured state nonmember banks approve extensions of credit to bank insiders which exceed $25,000 in the aggregate.

By the same majority, the Board further determined that no notice of this change in the subject matter of the meeting prior to October 15, 1982, was practicable.

Dated: October 18, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1511-82 Filed 10-19-82; 11:51 am]

BILLING CODE 6714-01-M

8

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, October 26, 1982 at 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTER TO BE CONSIDERED: Compliance, Litigation, Audits, Personnel.

* * * * *

DATE AND TIME: Thursday, October 28, 1982 at 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Setting of dates for future meetings; correction and approval of minutes; advisory opinions.

Draft AO 1982-54: John D. Cummins, on behalf of Public Securities Association.

Draft AO 1982-55: James F. Clements, on behalf of Prince George's County Board of Realtors, Inc.

Draft AO 1982-56: James P. Seidensticker, Jr., Legal Counsel for Congressman Andrew Jacobs, Jr.

Presidential primary matching funds regulations and associated guidelines and manuals.

Administrative Matter: Financial disclosure for Commission employees.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Elland, Public Information Officer, telephone 202-523-4065.

Majorie W. Emmons,

Secretary of the Commission.

[S-1518-82 Filed 10-19-82; 3:44 pm]

BILLING CODE 6715-01-M

9

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 47, Page No.—None at this time, Date Published—None at this time.

PLACE: Board Room, 6th floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the bank board meeting scheduled Wednesday, October 27, 1982.

Examination Fees and Assessments.

No. 71, October 19, 1982.

[S-1512-82 Filed 10-19-82; 11:54 am]

BILLING CODE 6720-01-M

10

NATIONAL TRANSPORTATION SAFETY BOARD.

[NM-82-24]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 46055, October 14, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, October 19, 1982.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Collision of a Southeastern Pennsylvania Transportation Authority Commuter Train with a Gasoline Truck, Southhampton, Pennsylvania, January 2, 1982, and Recommendations to the Commonwealth of Pennsylvania, the Atlantic Richfield Company, the American Public Transit Assocation, and the Southeastern Pennsylvania Transportation Authority.

2. *Letters* to Federal Aviation Administration, Experimental Aircraft Association, and the National Business Aircraft Association, Inc., regarding Recommendations A–81–148 concerning FAA review of aircraft records and inspections performed under 14 CFR 91.217.

3. *Recommendations* to Consolidated Rail Corporation and New Jersey Department of Transportation resulting from investigation of a railroad accident at Fair Lawn, New Jersey, July 7, 1982.

4. *Recommendation* to General Aviation Manufacturers Association regarding the inadvertent fueling of reciprocating engine-powered airplanes with jet fuel.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

October 15, 1982.

[S–1513–82 Filed 10–19–82; 12:22 pm]

BILLING CODE 4910–58–M

11

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–25]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 46055, October 14, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, October 21, 1982.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required cancelling this meeting and that no earlier announcement was possible.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

October 15, 1982.

[S–1514–82 Filed 10–19–82; 12:22 pm]

BILLING CODE 4910–58–M

12

NUCLEAR REGULATORY COMMISSION

DATE: Week of October 18, 1982 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Tuesday, October 19

10:00 a.m.—Briefing on Status of Litigation in *Pane vs. NRC* and of Staff Response to *Pane* Decision (Closed—Ex. 10) (As Announced).

2:00 p.m.—Discussion of Order in Waste Confidence Proceeding (Closed—Ex. 10) (Replaces Discussion of 10 CFR Part 61).

Wednesday, October 20

2:00 p.m.—Discussion of Phase II Reverification Program for Diablo Canyon (Public Meeting) (As Announced).

Thursday, October 21

10:00 a.m.—Discussion of Emergency Planning at Indian Point (Public Meeting) (As Announced).

2:00 p.m.—Briefing on Pending Investigations (Closed—Ex. 5) (As Announced).

3:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (Additional Item):

a. Review of ALAB–685—In the Matter of Metropolitan Edison Company.

b. Reassertion of Certain Regulatory Authority in the State of Idaho.

c. Delegation of Authority to Secretary (*postponed* from October 14, 1982).

d. Revised S–3 Policy Statement (Additional Item).

Friday, October 22

10:00 a.m.—Discussion of 10 CFR Part 61—"Licensing Requirements for Land Disposal of Radioactive Waste" (Moved from 2:00 p.m., October 19) (Public Meeting).

Automatic telephone answering service for schedule update: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–1505–82 Filed 10–18–82; 4:37 pm]

BILLING CODE 7590–01–M

13

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (46 FR 44657, October 8, 1982).

STATUS: Closed meeting.

PLACE: Room 6059, 450 5th Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 6, 1982

CHANGES IN THE MEETING: Additional meeting.

The following item was considered at a closed meeting scheduled on Thursday, October 14, 1982, at 9:30 a.m.: Litigation matter.

Chairman Shad and Commissioners Evans, Thomas Longstreth and Treadway determined by vote that Commission business required the above change 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: Diane Klinke at (202) 272–2000.

October 14, 1982.

[S–1507–82 Filed 10–19–82; 11:18 am]

BILLING CODE 8010–01–M

14

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 18, 1982, at 450 5th Street, N.W., Washington, D.C.

Closed meetings will be held on Tuesday, October 19 and on Wednesday, October 20, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth and

Treadway voted to consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 19, 1982, at 10:00 a.m., will be:

Regulatory matters regarding financial institutions.

The subject matter of the closed meeting scheduled for Wednesday, October 20, 1982, at 10:00 a.m., will be:

Settlement of administrative proceedings.
Institution of injunctive actions.
Formal orders of investigation.
Freedom of Information Act appeal.
Settlement of injunctive action.

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: Richard Starr at (202) 272-2467.

October 14, 1981.

[S-1508-82 Filed 10-19-82; 11:19 am]

BILLING CODE 8010-01-M

federal register

Thursday
October 21, 1982

Part II

Postal Service
Department of Defense

Office of the Secretary

Mail Security

POSTAL SERVICE

39 CFR Parts 10, 111, and 233

Military Postal System Overseas; Mail Security and Mail Cover Regulations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service adopts its proposal to amend its regulations so as to defer to a request from the Department of Defense for specialized mail security and mail privacy regulations for the military postal system overseas. The description of the specialized policy which the Department is adopting is published elsewhere in this issue.

EFFECTIVE DATE: November 20, 1982.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun, (202) 245–4620.

SUPPLEMENTARY INFORMATION: An explanation of the proposal accompanied its publication in the **Federal Register** on April 6, 1982 (47 FR 14862 (1982)).

The Postal Service received eight letters concerning the proposal.

Most of the comments received related, not so much to the Postal Service's proposal to amend its regulations, as to the details of the Department of Defense's companion notice in the same issue of the **Federal Register** to prescribe mail security policies under its own authority to deal with the flow of drugs and other contraband overseas.

Most of the comments either supported or did not object to the proposal insofar as it contemplated that the Department of Defense would become responsible for promulgating mail security regulations for the military postal service overseas.

In particular, three commenters expressed their full support for both proposals. One commenter reasoned that: "DoD has greater familiarity with the executive agreements permitting the military to operate postal systems in foreign countries and will be better able to exercise the United States' rights and meet its obligations under those agreements if it has the power to adopt regulations governing the military mail system."

The few objections received against having the Department of Defense be responsible for the promulgation of mail security regulations for the military postal service overseas were largely intertwined with objections to the legality, constitutionality, or reasonableness of particular provisions of the Department's proposal. One commenter objected to the proposal for permitting the Department to engage in practices which he believed to be unconstitutional; another objected that the Postal Service was proposing to give the Department "carte blanche" in its formulation of mail security and mail privacy regulations; and a third commenter stated that although it did "not challenge the legal authority of DoD and the United States Postal Service to enter into the proposed postal agreement * * *," it objected to the discontinuation of Postal Service "oversight" of the military postal system overseas.

None of these objections show that the Postal Service should not adopt its proposal to amend its mail security regulations to discontinue their applicability to the military postal service overseas. Nothing in the proposal authorizes, or could possibly authorize, the Department of Defense to take any unconstitutional or unlawful action. The Department, moreover, is accountable to the President and Congress for the reasonableness of its policies, and any actions it takes or proposes to take pursuant to its own policies are subject to judicial review in appropriate cases for its full compliance with applicable constitutional and legal requirements. There is no apparent reason why, on matters of law and policy, oversight of the Department of Defense's military postal operations overseas would better be conducted by the Postal Service instead of the President, Congress, and the courts. Far from giving the Department "carte blanche," the Postal Service is acting with the knowledge that the Department's formulation of mail security policies overseas is subject to appropriate constitutional, legal, and political restraints. The consequence of the action taken by the Postal Service in adopting its proposal is only to remove the restraints of those civilian domestic postal policies embodied in postal regulations which the Department properly determines, within the scope of its own legal authority, should not apply to military postal operations overseas.

A description of the Department of Defense's policy, based on its consideration of the comments it received on its proposal, and the Department's explanation of its decision, are published elsewhere in this issue.

In view of the foregoing, the Postal Service adopts the following revisions of Title 39 CFR; of the International Mail Manual, which is incorporated by reference in the **Federal Register**, see 39 CFR 10.1; and of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**, see 39 CFR 111.1.

List of Subjects

39 CFR Part 10

Foreign relations, Postal Service.

39 CFR Part 111

Postal Service.

39 CFR Part 233

Crime, Postal Service.

PART 10—INTERNATIONAL POSTAL SERVICE

1. In part 932 of the International Mail Manual, add new *j.* reading as follows:

Part 932—General Exceptions to Payment—Insured Parcel Post and Registered Postal Union Mail

Indemnity may not be paid:

* * * * *

j. For an article or parcel which was officially seized while it was in the military postal system overseas.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

2. Revise the Domestic Mail Manual as follows:

Part 115—Mail Security

a. In 115.9, revise .93 to read as follows:

.93 Military Postal System. This part does not apply to the military postal system overseas or to persons performing military postal duties overseas. See 125.3.

Part 125—Mail Addressed From, To, or Between Military Post Offices Overseas

b. In part 125, add new 125.3 to read as follows:

125.3 Privacy of Mail in the Military Postal System Overseas. Information about mail security and mail cover regulations prescribed by the Department of Defense for mail in the military postal system overseas may be obtained from the Department of Defense.

Part 149—Indemnity Claims

c. In 149.252 add new *s.* reading as follows:

.252 Nonpayable Claims. * * * Indemnity will not be paid in the following situations:

* * * * *

s. The mail article or part or all of its contents were officially seized while in the military postal system overseas.

PART 233—INSPECTION SERVICE AUTHORITY

3. In § 233.3 of title 39, Code of Federal Regulations, add new paragraph (j) reading as follows:

§ 233.3 Mail covers

* * * * *

(j) *Military Postal System.* Section 233.3 does not apply to the military postal system overseas or to persons performing military postal duties overseas. Information about regulations prescribed by the Department of Defense for the military postal system overseas may be obtained from the Department of Defense.

Transmittal letters making changes in the pages of the International Mail Manual and the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance of the transmittal letters will be published in the **Federal Register** as provided in 39 CFR 10.3 and 111.3, respectively.

(39 U.S.C. 401(2), 401(3), 403(a), 406, 411 (1976))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-28817 Filed 10-20-82; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Security of Military Post Office (MPO) Mail Overseas

AGENCY: Office of the Secretary (Military Postal Service), DOD.

ACTION: Notice.

SUMMARY: On Tuesday, April 6, 1982, the Department of Defense published a notice in the **Federal Register**, (47 FR 14864), announcing a proposed agreement between the United States Postal Service (USPS) and DoD which would make DoD responsible for the security of Military Post Office (MPO) Mail overseas. This notice presents the policy of DoD concerning this subject. This policy permits DoD officials to inspect, search, and collect information concerning mail when consistent with the Fourth Amendment to the U.S. Constitution, the Uniform Code of Military Justice, and the Manual for Courts-Martial. The new policy should assist DoD in reducing the flow of drugs and other contraband in MPO mail overseas.

EFFECTIVE DATE: November 20, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas C. Wright, Office of the General Counsel, Department of the Army, Room 2E729, The Pentagon, Washington, D.C. 20310, (202) 695-2253.

SUPPLEMENTARY INFORMATION: The Department of Defense received comments from the public and from other federal agencies. These comments will be addressed below.

For many years the Department of Defense has recognized the need to control contraband in MPO mail overseas. However, many regulations of the USPS, designed to apply primarily to domestic mail, were not effective to provide such control overseas where there are no postal inspectors, federal judges, or federal magistrates. A new agreement has been reached between USPS and DoD in which DoD will exercise the responsibility for policies and regulations concerning the privacy and security of MPO mail overseas.

The new policy will enable military law enforcement personnel to seek and execute search authorizations, issued pursuant to law and upon a showing of probable cause, for mail matter. At the same time, the privacy of mail shall be preserved. The new policy will also provide mechanisms for military mail covers, similar to the process currently used by USPS domestically. Provisions for random inspection of mail bags and parcels are included in order to stem the flow of drugs and other contraband through the mail. The policy does not permit opening of any piece of mail except under limited specified circumstances.

Finally, the policy recognizes the authority of United States personnel to cooperate with and assist host country authorities who may have a legitimate interest in inspecting the mail.

DOD received comments from eight sources, including other federal agencies, congressmen, unions representing federal civilian employees, and individual citizens. The comments received by DOD and the changes to the policy since the previous notice are discussed below.

The first sentence of paragraph I has been changed slightly after internal review to use terminology more accurately describing the operation of military post offices overseas.

DOD received one comment stating that the policy is too open-ended, citing paragraph I.2.a.(3) as an example. The commenter suggested that DOD leave the "other circumstances" described by that paragraph for resolution by future rulemaking. The discretion vested in the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) by that paragraph is limited to a customs-type inspection of the exterior of the item of mail. This is a reasonable vesting of authority in a senior DOD official. No change has been made to this paragraph.

Paragraph I.2.b.(2) has been expanded after internal review to prescribe appropriate action when nonmailable items are detected at military post offices.

DOD received one comment questioning why mail not sealed against inspection may be opened, read, searched, or contents divulged in order to determine whether the correct postage has been paid, under paragraph I.2.b.(2).

The question misperceives the intent of this particular section. The authorized military postal clerk or postal officer may take only such actions as are necessary to determine the mailability of the contents or whether the correct postage has been paid. If the postal clerk or postal officer does not need to read the contents of the mail to make this determination, then he may not read the mail under this paragraph. To clarify this intent, the provision has been changed.

Paragraph I.3.a. has been changed as a result of internal review to add a definite time limit to the provisions regarding detention of mail.

Paragraph I.3.b. has been changed after internal review to add a cross-reference to another section of this policy.

Paragraph I.3.f. has been changed after internal review to make it clear that officials with authority to issue search authorizations also have the authority to order detention of the mail. Detention is less intrusive than search of the mail.

Paragraph I.4. has been changed after internal review to permit any person acting under the authorization of a military postal clerk or postal officer (such as, a bomb disposal expert) to act under this section regarding mail suspected of being dangerous to persons or property. It is impractical to determine now the exact status of the person who may be required to dispose of such a threat when it arises.

DOD received one comment stating that the reporting requirements under paragraph I.4. should be identical to those under paragraph I.11. DOD does not agree. The provisions of paragraph (a)(4), relating to mail reasonably suspected of being dangerous to persons or property, will be rarely used, but when they are used it will be in an emergency situation where the ordinary reporting requirements may not be practical. This commenter also complained that while the addressee was routinely informed of a seizure of his mail, the sender was notified under the regulations only if he had purchased a return receipt. While both the addressee and the sender do have an interest in the mail, DOD regards the addressee's interest as paramount. USPS has a similar provision in paragraph 115.63 of the Domestic Mail Manual.

Paragraph I.6.a.(2) was changed after internal review to include a reference to the Manual for Courts-Martial, which contains the authority for issuing search authorizations. The Manual is promulgated by Executive Order 11476 pursuant to Article 36 of the Uniform Code of Military Justice, 10 U.S.C. 836.

DOD received one comment suggesting that DOD express a preference for military judges or magistrates over commanding officers in issuing search authorizations. This comment was not adopted. The courts that have considered the constitutionality of search authorizations issued by commanding officers have unanimously upheld such searches as a general matter. Of course, when the commanding officer is not in fact "neutral and detached," just as when a magistrate or judge is not "neutral and detached," the search authorization is unlawful and the fruits of the search will be suppressed. *See*

Military Rule of Evidence 315, which is set forth in the Manual for Courts-Martial; *U.S. v. Ezell*, 6. M.J. 307 (CMA 1979). This is the same protection given in the civilian criminal system. In order to ensure respect for appropriate interests in privacy of the mail, paragraph I.6.a.(2) provides that only senior commanding officers may issue such search authorizations.

The terms "military postal official" and "senior military postal official," formerly used in paragraphs I.7, I.8, and I.11, have been changed to "senior military official" and "senior military official having responsibility for postal operations of each major overseas command within each of the respective Services." This change was made after internal review in order to describe more clearly the person who will be exercising this authority.

Paragraph I.8. was modified after internal review. Paragraph I.8.a. was added. This provision contains definition of terms used elsewhere in paragraph I.8. In paragraph I.8.b., the phrase "the request may be granted only if it demonstrates reasonable grounds for determining" has been changed to "the request may be granted only if the military official or his designee has a reasonable suspicion, based on articulable facts * * *." This change describes more clearly the appropriate standard. A provision has been added to paragraph I.8.b. that permits a mail cover to be ordered when necessary to protect the national security. This authority relates only to the ordering of mail covers, and not to ordering searches of the mail. Further, this authority may not be delegated from the senior military official described in this paragraph. Finally, paragraph I.8.f. was added to set a time limit for mail covers.

DOD received one comment that paragraph I.8.b. leaves room for the "senior military postal official" to be subjected to pressure of rank from the commanding officer of the person whose mail is to be subjected to the mail cover process. This comment was not accepted. It is DOD's view that the "senior military official having responsibility for postal operations of each major overseas command within each of the respective services" will have sufficient stature and impartiality in the exercise of this function.

DOD received four comments expressing concern with the provisions of paragraph I.10.a. Formerly, that section referred to "necessary" inspections by foreign customs officials. The language in this section has been changed to clarify the operation of this section. One comment regarded the former section as inconsistent with certain Status of Forces Agreements that exempt mail from search by the host country authorities. While such an interpretation was never DOD's intent, the current section more clearly explains that Status of Forces Agreements on this matter are to be considered controlling.

One comment criticized this paragraph for its provisions permitting foreign officials to search mail in the host country. This comment also suggested that DOD exempt official mail from inspection either by foreign or military customs officials. The revisions of this paragraph make clear that DOD will do all that it can to lessen the frequency and intrusiveness of searches by foreign officials. However, DOD cannot unilaterally exempt any class of mail from inspection by foreign government officials. Further, the Department of Defense believes that all users of MPO facilities should be subject to the same procedures. This comment suggested that DOD define the word "contraband" as used in this regulation. That word is defined in DOD 4525.6–M of which this policy will become a part.

DOD received one comment expressing concern that implementation of this policy might reduce the effectiveness of the military customs inspection program. DOD is likewise concerned that this not happen, and provisions of I.10.b have been changed to delete specific reference to "military customs officials." Consequently, military customs officials will not necessarily have the additional burden of performing duties under that paragraph.

DOD received a comment that civilian employees should receive the same protection as other citizens within the United States. The policy incorporates applicable Fourth Amendment standards and other requirements as rigorously as possible. Probable cause is a requirement for the issuance of military search authorizations as well as for the issuance of civilian search warrants.

This commenter also suggested that under *Reid v. Covert*, 354 U.S. 1 (1957), military authorities are precluded from exercising criminal jurisdiction, and thus the conduct of searches, against civilians. While *Reid* does preclude the exercise of criminal jurisdiction by military authorities against civilians (with exceptions stated therein), that case does not preclude a commander from searching civilians or civilian's property. Civilian courts have uniformly upheld legitimate command-directed searches of civilians. On the same theory, mail addressed to a civilian may be searched under this policy so long as it is MPO mail overseas.

One comment suggested that DOD should not attempt to inspect the mail because Status of Forces Agreements permit foreign customs officials to open and inspect MPO mail coming into their own countries. As explained in answers to other comments, DOD seeks to conduct inspections of the mail instead of inspection by foreign customs officials. Further, such an inspection by foreign customs officials does not occur in every country, and never occurs with regard to mail going to ships on the high seas. The commenter also stated that civilian employees are opposed to being subjected to the Uniform Code of Military Justice. This policy does not subject civilians to the Uniform Code of Military Justice for criminal prosecution purposes. However, when civilians avail themselves of the benefits of the MPO system, just as when civilians avail themselves of the opportunity to enter a military installation, they subject themselves to the authority of the military to conduct searches and seizures consistent with the Fourth Amendment.

M. S. Healy,

OSD Federal Register, Liaison Officer, Department of Defense.

October 15, 1982.

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Part III

Environmental Protection Agency

Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62017B; TSH-FRL 2217-6]

Polychlorinated Biphenyls (PCBs); Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Use in Closed and Controlled Waste Manufacturing Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends portions of an existing EPA rule concerning certain chemical substances known as polychlorinated biphenyls (PCBs). The Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), generally prohibits the manufacture, processing, distribution in commerce, and use of PCBs. This rule excludes PCBs produced in certain limited manufacturing processes from the TSCA prohibitons. Appropriate safeguards are included to ensure compliance with the conditions for exclusion provided by the rule.

DATES: These amendments shall be considered promulgated for purpose of judicial review under section 19 of TSCA at 1:00 p.m. Eastern Daylight Time on October 27, 1982. These amendments shall be effective on November 22, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460. Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404). Copies of this rule and its support documents can be obtained from the Industry Assistance Office listed above.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0008.

I. Recodification of 40 CFR Part 761

Notice of the recodification of 40 CFR Part 761 appears in the Federal Register of May 6, 1982 (47 FR 19527). This final rule contains the new designations:

New designation	Former designation
Subpart B	Subpart D.
§ 761.185	§ 761.45.
§ 761.3	§ 761.2.
§ 761.65	§ 761.42.
§ 761.70	§ 761.40.
§ 761.75	§ 761.41.

II. Background

Section 6(e) of the Toxic Substances Control Act (TSCA) prohibits the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs). However, the statute enables EPA to promulgate rules to reduce the impact of the ban. EPA promulgated a rule, published in the Federal Register of May 31, 1979 (44 FR 31514), to implement section 6(e) of TSCA. This rule is listed in the Code of Federal Regulations under 40 CFR Part 761. This rule, among other things, generally excluded from the ban materials containing PCBs in concentrations under 50 parts per million (ppm).

The Environmental Defense Fund (EDF) obtained judicial review of the rule in the U.S. Court of Appeals for the District of Columbia Circuit. EDF challenged the provision described above, among others. On October 30, 1980, the court invalidated the regulatory exclusion for PCB concentrations below 50 ppm *Environmental Defense Fund* v. *EPA*, 636 F.2d 1267. The court remanded the rule to EPA for further action consistent with the opinion. The court's decision placed industries that had relied upon the PCB Ban Rule in a difficult position. Issuance of the court's mandate would have activated section 6(e)'s broad prohibitions on the manufacture, processing, distribution in commerce, and use of PCBs, resulting in the disruption of many activities in industries throughout the United States.

Accordingly, the parties to the lawsuit filed a joint motion on February 20, 1981, to seek a stay of the court's mandate. The joint motion proposed that during the period encompassed by the stay: (1) EPA would conduct new rulemaking with respect to PCBs, and (2) industry groups would initiate studies to provide information for the new rulemaking.

During discussions which led up to this joint motion, representatives of some affected industries stated that some of the processes which produce PCBs are designed and operated so that no releases of PCBs occur or that the PCBs formed in the processes are released only in wastes that are disposed of appropriately. Consequently, virtually no risk to humans or the environment is associated with such processes because the likelihood of exposure is so low. Therefore, the joint motion proposed that EPA would publish an Advance Notice of Proposed Rulemaking (ANPR) requesting comments on the possible exclusion of these PCBs from the provisions of section 6(e) of TSCA.

In addition to dealing with closed and controlled waste processes, the February 20 joint motion also proposed to publish an ANPR requesting information on all other manufacture, processing, distribution in commerce, and use of PCBs in low concentrations. PCBs generated in and released from other than closed or controlled waste processes are referred to as "uncontrolled PCBs."

On April 13, 1981, the court entered an order in *EDF* v. *EPA*, in response to the February 20 joint motion. The text of the court's order is set forth in the Federal Register of May 20, 1981 (46 FR 27615). The April 13 order stayed issuance of the court's mandate with respect to activities relating to PCBs in concentrations below 50 ppm. Thus, the 50 ppm regulatory cutoff remains in effect for the duration of the stay, and persons who manufacture, process, distribute in commerce, and use PCBs in concentrations less than 50 ppm may continue these activities during the stay. The order also adopted a plan for further actions by EPA and industry groups leading toward new EPA rulemaking on the regulation of PCBs in concentrations below 50 ppm. The April 13 order required EPA: (1) to publish two ANPRs on developing rules to cover PCBs in concentrations below 50 ppm; (2) to promulgate a final rule, within 18 months from the date of the order (i.e., October 13, 1982), with respect to exclusion of the generation of PCBs in closed and controlled waste manufacturing processes from the prohibitions of section 6(e)(3), or to explain the reasons for not proceeding with such a rule; and (3) to advise the court, within 11 months after the date of the order (i.e., March 13, 1982), of EPA's plan and schedule for further action on PCBs in concentrations below 50 ppm generated as uncontrolled PCBs.

In the Federal Register of May 20, 1981 (46 FR 27617 and 46 FR 27619), EPA issued two ANPRs on the 50 ppm regulatory cutoff. The ANPRs established bifurcated rulemaking proceedings with respect to PCBs in concentrations below 50 ppm. The first ANPR announced rulemaking on PCBs generated in closed and controlled waste manufacturing processes. The second ANPR announced the framework for the Agency's exploration of the scope of the problem presented by PCBs in concentrations below 50 ppm in other than closed or controlled waste processes.

On March 11, 1982, EPA submitted, in accordance with the April 13, 1981 court order, a report to the court that contained its plans for further regulatory

action on uncontrolled PCBs. EPA requested that the court allow EPA to report on its further plans for regulatory action on uncontrolled PCBs following the completion of the rulemaking on closed and controlled waste processes (but no later than November 1, 1982). EPA also requested that the court extend its stay of mandate until December 1, 1982, to allow EPA time to present its plans for regulatory action on uncontrolled PCBs to the court and for the court to respond. On April 9, 1982, the court granted EPA's requests.

In its report to the court on uncontrolled PCBs, due November 1, 1982, EPA intends to describe its plans for regulatory action on uncontrolled PCBs and at the same time, request a further extension of the court's stay of mandate, until the completion of rulemaking on uncontrolled PCBs.

After considering all comments submitted to the Agency in response to the first ANPR, EPA issued a proposed rule in the **Federal Register** of June 8, 1982 (47 FR 24976), which would exclude PCBs produced in closed and controlled waste manufacturing processes from the TSCA ban on the manufacture, processing, distribution in commerce, and use of PCBs. EPA received 48 comments on the proposed rule and, on July 26, 1982, held a public hearing in Washington, D.C. At the hearing, three participants provided testimony on various aspects of the proposed rule.

EPA has considered all the comments received on the proposed rule and has modified the proposed rule where appropriate. Further, EPA has prepared a support document for this rulemaking which addresses all major comments made on the proposed rule and includes EPA's responses to suggestions which were not incorporated in the final rule. This document, entitled "Response to Comments on the Closed and Controlled Waste Rule," is available by contacting the Industry Assistance Office (see **FOR FURTHER INFORMATION CONTACT**).

In order to avoid a "race to the courthouse" by persons seeking judicial review of this rule, EPA has decided to designate the time and date of "promulgation" of this rule as 1:00 p.m. Eastern Daylight Time on October 27, 1982. The Agency has previously taken this approach for rules promulgated under the Clean Water Act (see 40 CFR 100.01, 45 FR 26048). The Agency will be considering a general rule for TSCA similar to 40 CFR 100.01.

III. Summary of the Final Rule

The objective of this final rule is to exclude certain process situations from the prohibitions and requirements of section 6(e) of TSCA. This exclusion is voluntary; manufacturers are not required by this rule to take advantage of the exclusion.

This final rule modifies and clarifies some of the requirements presented in the proposed rule because of information obtained during the public comment period and at the public hearing on the proposed rule. Briefly, in the proposed rule: (1) EPA defined the absence of PCBs in releases from closed and controlled waste manufacturing processes by referencing an analytical technique, (2) EPA defined controlled wastes as wastes disposed of in facilities approved by EPA for the disposal of PCB wastes under 40 CFR 761.60, and (3) EPA required recordkeeping by persons taking advantage of the exclusion.

In the final rule: (1) EPA is setting numerical cutoffs for purposes of defining the absence of PCBs in releases from closed and controlled waste processes, (2) EPA is adding additional disposal mechanisms to the list of acceptable mechanisms for the disposal of controlled wastes containing PCBs in concentrations between the limit of quantitation and 50 ppm, and (3) EPA is instituting a new recordkeeping requirement and a reporting requirement in addition to the recordkeeping requirements listed in the proposed rule.

In this final rule, EPA is excluding from the requirements of section 6(e) the manufacture, processing, distribution in commerce, and use of PCBs created in closed manufacturing processes and controlled waste manufacturing processes. A closed manufacturing process is defined as a manufacturing process that produces PCBs, but releases PCBs only in concentrations below the practical limits of quantitation for PCBs in air emissions, water effluents, products, and process wastes.

Similarly, a controlled waste manufacturing process is a manufacturing process that produces PCBs, but releases PCBs only in concentrations below the practical limits of quantitation for PCBs in air emissions, water effluents, and products, and all remaining PCBs are disposed of in accordance with methods for disposal specified in this rule. Controlled wastes containing PCBs in concentrations between the practical limit of quantitation and 50 ppm, must be disposed of in a qualified incinerator (see discussion under IV.A.5.), or in an EPA-approved PCB landfill, or be stored for incineration or landfilling in accordance with § 761.65(b)(1). (Controlled wastes, containing PCBs in concentrations above 50 ppm, must be handled like all PCB waste above 50 ppm, in accordance with the existing PCB disposal and marking rule (43 FR 7150)).

For purposes of this rule, the practical limit of quantitation for PCBs in any release to air is ten micrograms per cubic meter (roughly 0.01 part per million (ppm)) per resolvable gas chromatographic peak; in any release to water, the limit is 100 micrograms per liter (roughly 0.1 ppm) per resolvable gas chromatographic peak; and in any product or waste, the limit is two micrograms per gram (2 ppm) per resolvable gas chromatographic peak. (See discussion of the practical limit of quantitation of PCBs under IV.A.3.c. for more details.) These PCB concentrations represent the lowest concentrations of PCBs which EPA believes can be practically quantified in air, water, products, and process waste streams. EPA believes that for all practical purposes, it would be impossible to determine whether regulation of PCBs below these levels had any effect on actually reducing releases of PCBs. Consequently, EPA has concluded that there would be no measurable gain in protecting the environment or public health by attempting to regulate PCB at levels that are not practically measurable.

In specifying the methods for the disposal of controlled wastes containing less than 50 ppm PCBs, EPA is confident that these wastes will be disposed of in a manner that will result in little or no environmental contamination. At the same time, EPA believes that this rule will not place unreasonable burdens on existing disposal facilities or create excessive disposal costs for manufacturers disposing of wastes containing PCBs in concentrations between the practical limit of quantitation and 50 ppm.

In addition to meeting the criteria for eligibility described above, manufacturers who want to take advantage of the exclusion must fulfill certain recordkeeping and reporting requirements. These include: (1) certifying that their processes qualify, (2) notifying EPA that they have made this certification and how they have made the determination, and (3) maintaining a record of the determination that their processes qualify for exclusion. Manufacturers are provided the option of conducting theoretical assessments to support certification or of conducting actual monitoring of PCB levels in releases. Recertification and renotification of EPA are required upon significant process changes.

In providing for theoretical assessments in lieu of actual monitoring

of PCB levels, EPA has concluded that such determinations may be possible in certain process situations; therefore, it would be unreasonable to require actual monitoring of PCB levels in all situations. Manufacturers have the burden of making the decision about when a theoretical assessment in lieu of actual monitoring of PCB levels is appropriate. Because of the difficulty of estimating actual PCB levels, EPA recommends that a theoretical assessment be used to qualify for the exclusion only when the results of the theoretical assessment indicate that PCB concentrations in releases will be substantially below the practical limits of quantitation.

EPA is issuing some general guidelines for conducting a theoretical assessment to aid manufacturers in completing this assessment. Nonetheless, EPA expects that each individual manufacturer will exercise judgment in choosing the methodology to be used in conducting a theoretical assessment, and in deciding when to undertake chemical analysis of process streams to determine if a process qualifies for exclusion.

EPA will not be performing theoretical assessments in enforcement inspections to determine whether a process qualifies for exclusion, but rather, will be conducting chemical analysis of process streams. In monitoring compliance with this rule, if EPA identifies a process that is supported by a complete theoretical assessment but is determined to be operating in violation of TSCA section 6(e) (through chemical analysis of process releases), then the process will be ineligible for exclusion, regardless of the results of the manufacturer's theoretical assessment.

EPA believes that recordkeeping and reporting are necessary to ensure that only processes which meet the definitions of closed and controlled waste processes are permitted to operate under this exclusion. A reporting requirement also enables EPA to develop an effective compliance monitoring program. Thus, EPA has determined that the benefits of instituting a reporting requirement far outweigh the costs to manufacturers of submitting this information to EPA.

TSCA explicitly provides only for case-by-case exceptions to the ban on the manufacture, processing, distribution in commerce, and use of PCBs. However, Federal courts have recognized the "de minimis" exception to legislative mandates. Although the court in *EDF* v. *EPA* overturned portions of the Agency's PCB regulations, it nevertheless noted that administrative agencies have the power "inherent in most statutory schemes, to overlook circumstances that in context may fairly be considered de minimis." 636 F. 2d 1283. Courts and agencies should be reluctant to apply a statute literally in pointless expenditure of effort, where regulation would yield a gain of trivial or no value. EPA has evaluated closed and controlled waste manufacturing processes in this context and finds that circumstances surrounding these processes may fairly be considered de minimis situations.

A substantial number of industry comments have criticized EPA for failure, in this rule, to deal with the entire universe of PCBs generated in low concentrations. Some would have the Agency use this rule as a vehicle to create exclusions from the regulatory ambit of section 6(e) for all low concentration PCBs on the basis that they present de minimis risks to health or the environment. EPA emphasizes that this rule has a more limited purpose. It is intended only to exclude a specific class of chemical processes from further regulation. This rule does not establish a single PCB concentration below which all PCBs are excluded from regulation and above which all PCBs will always be regulated.

EPA is not prepared at this time to make any decisions on processes releasing PCBs in concentrations above the practical limits of quantitation. For those instances in which PCBs are generated and released in concentrations below 50 ppm, but are not excluded by this rule, EPA intends to request a further stay of the D.C. Circuit Court's mandate until an additional rule can be promulgated. Under the terms of such a stay, PCBs produced in processes not qualifying as closed or controlled waste processes under this regulation could continue to be generated in the interim period. In any case, until that further stay is granted, a manufacturing process not qualifying as a closed or controlled waste process under this regulation, but producing and/or releasing PCBs in concentrations below 50 ppm, may continue, at least for the period of the current stay of the Court's mandate. The current stay extends to December 1, 1982.

EPA intends to submit a plan for addressing other than closed and controlled waste processes to the court by November 1, 1982. In the next PCB rulemaking, EPA intends to determine whether other PCBs may present de minimis risks, whether some other forms of administrative exclusion might be appropriate, or whether any exclusion at all is appropriate.

Since the closed and controlled waste process exclusion is voluntary, manufacturers who believe they qualify for the exclusion set out in this final rule have the option of delaying their decision on whether to take advantage of the exclusion until the next PCB rulemaking is completed.

IV. Major Elements of the Final Rule

A. Definitions of Closed and Controlled Waste Manufacturing Processes

1. *Historical perspective.* During the course of discussions among EPA, EDF, and industry immediately after the court's decision, industry suggested that manufacturing processes that produce PCBs but do not release PCBs be excluded from the TSCA section 6(e) ban on the manufacture, processing, distribution in commerce, and use of PCBs. EPA and EDF agreed. From the literal definitions of these process types, it logically follows that if no PCBs are released from a process or if PCBs are released only to wastes that are destroyed or otherwise properly disposed of, then the exposure and risk to humans and the environment from these processes must be extremely small. There would be little or no benefit from regulating the processes under section 6(e) since there could be no reasonable means of determining whether any regulatory actions could actually reduce human or environmental exposure.

The practical application of this concept requires an understanding of the way chemical processes work. Chemical manufacturing processes are generally made up of a series of unit operations. Each unit operation causes chemical and/or physical changes in the material passing through the process. These changes are brought about by the chemical reactions or various types of physical manipulations that are never one hundred percent effective or complete.

In some processes which manufacture PCBs in low concentrations, virtually all the PCBs are destroyed in the process or are drawn off in a waste stream. However, there inevitably will be at least a few molecules of PCBs in every product or effluent that exits the process.

EPA recognized at the time of proposal the need to define, in a practical sense, the absence of PCBs in releases to the environment from these processes. Specifically, EPA recognized that it had to establish how the absence of PCBs is defined in air emissions, water effluents, products, and wastes from closed processes; and how the

absence of PCBs is defined in air emissions, water effluents, and products from controlled waste processes. Further, EPA recognized the need to specify appropriate methods for disposal of process wastes from controlled waste processes to insure that PCBs and the toxic decomposition products which can result from incomplete combustion would not be released to the environment from disposal operations.

2. *Defining the absence of PCBs in products, wastes, emissions and effluents.* In the June 8, 1982, proposed rule, EPA specified in analytical method and procedures to be used to determine the absence of PCBs. If PCBs were absent from all releases to air, water, and products (and wastes from closed processes), using EPA's method and procedures, the process would be eligible for exclusion. Under this approach, EPA gave some general guidance concerning the PCB concentrations it expected its procedures to be capable of quantifying (see 47 FR 24980).

EPA proposed this approach for several reasons. The Agency believed that the choice of analytical method was one of the major sources of variability when attempting to measure PCBs. During the fall of 1981, the Chemical Manufacturers Association (CMA) conducted a round robin experiment in which five different samples of material from processes which manufacture PCBs as a byproduct were analyzed by eight different laboratories using a total of ten different analytical methods. The round robin experiment shows considerable variability in the results obtained by the ten different methods. Specifying the analytical method would eliminate one of the sources of this variability.

EPA also believed that specifying a method was preferable to specifying a cutoff because the difficulty of analyzing products and wastes varies considerably among processes. EPA believed that with a numerical cutoff specified, some companies would be able easily to measure PCBs in their process streams below the cutoff, and other companies might have extreme difficulty measuring PCBs at the cutoff due to chemical matrix effects. In this regard, a numerical cutoff might put greater burdens on some manufacturers. EPA believed that specifying an analytical procedure would mitigate this problem.

The majority of comments submitted in response to the proposed rule criticized the proposed approach, and suggested alternate means for defining the absence of PCBs in releases from closed and controlled waste manufacturing processes. These comments maintain that the approach proposed by EPA provides no target for the analytical chemist because, with enough resources, a chemist would ultimately be able to measure any level of PCBs. These comments indicate that with improving analytical techniques, it would be virtually impossible to state that any substance is absent from a particular matrix. In the case of PCBs, they believe that by investing greater and greater resources in the extraction, cleanup, and analysis of given samples, lower and lower amounts of PCB congeners will become quantifiable, almost without limit. In light of this, the comments state that it is not possible for a chemist simply to stop analyzing his samples at a particular point and honestly certify that the PCBs are not quantifiable. A chemist can only certify that PCBs are not present above a specific preestablished concentration.

EPA agrees with these comments and has concluded that "nonquantifiable" PCBs could be defined differently by different parties, even if the analytical hardware to be used for the analysis is specified by regulation. Further, EPA also agrees with other comments that maintain that the limits of PCB quantitation will vary depending on the particular CGC/EIMS instrument used for analysis. These comments have pointed out that several instrument manufacturers currently market a variety of CGC/EIMS instruments, each of which has its own characteristics and inherent sensitivity.

Several comments have suggested that EPA specify the sample size, the extraction protocol, the cleanup procedures, and other details of the analytical method by regulation, to eliminate some of these sources of variability in measuring PCBs. Other comments have supported EPA's efforts to keep these parameters open and flexible, to accommodate various situations. Still other comments have suggested that it may be ultimately impossible to specify these parameters given the wide range of sample types which require analysis.

EPA agrees that given the wide variety of matrices in which PCBs are found, it is not practical or feasible to establish detailed procedures for the analysis of PCBs, especially in the areas of extraction and cleanup of samples for analysis. This is because different types of samples require different types and degrees of extraction and cleanup prior to anlaysis. EPA further agrees with testimony provided at the public hearing which suggested that the proposed approach was not practical and that a preferred approach would be for EPA to set a numerical cutoff, and thereby allow each individual laboratory to develop the appropriate procedures specific to the analysis of particular process samples.

Even if EPA could establish standards for the rigor of extraction and cleanup, an alternative suggested by some comments, many comments on the proposed rule have criticized EPA's proposed approach on separate grounds. Specifically, many persons have maintained that with advances in analytical procedures for the extraction and cleanup of samples, and technological improvements in the actual analytical hardware, in time, lower and lower levels of PCBs will be subject to regulation under section 6(e) of TSCA. Thus, specifying an analytical technique in the absence of a numerical cutoff would result in a moving regulatory target. These comments argue, then, that a numerical cutoff is not only preferable, but necessary to avoid the problems which would be encountered by adopting an approach that would result in a moving regulatory target.

In response to the comments received on the proposed rule, EPA has concluded that using an analytical method to define the absence of a chemical may result in substantially different limits of quantitation for different process samples, and therefore, substantially different levels of release. Depending upon the analyst, the analytical hardware, and the specific techniques used, especially in the areas of extraction and cleanup of samples prior to analysis, limits of quantitation could vary by several orders of magnitude. Further, EPA agrees with comments that suggest that nonquantifiable levels could vary over time, as new developments in cleanup and extraction protocols and improvements in analytical hardware occur. Therefore, EPA has decided to establish numerical cutoffs for purposes of defining the absence of PCBs in air emissions, water effluents, products, and process wastes from closed and controlled waste manufacturing processes.

Although EPA believes that with a numerical cutoff specified some companies will be able easily to measure PCBs in their process streams at the cutoff, others may have extreme difficulty quantifying PCBs at the cutoff due to chemical matrix effects. However, comments on the proposed rule acknowledged the advantages and disadvantages of the available alternatives and expressed clear preference for the approach set out in

this final rule. Thus, EPA has concluded that there are substantial merits in setting numerical cutoffs. First, numerical cutoffs are fixed and will not move in time independent of EPA intervention. Second, numerical cutoffs are not open to widely differing interpretations. Finally, numerical cutoffs provide targets for the analytical chemist. In addition to specifying numerical cutoffs, EPA is also recommending an analytical technique and methods for the analysis of air samples, water samples, and product and process waste samples for byproduct PCBs (see discussion under IV.A.3.b.).

3. *Establishing the numerical cutoffs*—a. *Limit of Detection (LOD) v. Limit of Quantitation (LOQ).* The analytical system most often used to monitor PCB's includes a gas chromatograph with a suitable detector. The detector response is converted to an electrical signal which is recorded on a strip chart, and the quantity of material present can be determined by measuring the intensity of the respose. When only the matrix is passing the detector, the detector generates an electrical signal, referred to as "background" or "noise." Detecting and confirming the presence the PCBs depends on the analyst's ability to measure an increase in the recorded electrical signal above this noise.

The lowest concentration of a substance than an analytical process can detect is referred to as the limit of detection (LOD). A commonly used standard is that an LOD should be based on a ratio of at least three between the average magnitude of the electrical signal from the sample and the standard deviation of the electrical signal from the background. This ratio is called the signal-to-noise ratio.

The lowest concentration of a substance that an analytical process can reproducibly quantify with a known level of precision is referred to as the limit of quantification (LOQ). A commonly used standard is that an LOQ should be based on a signal-to-noise ratio of at least ten.

One comment expressed preference for the use of "nondetectable" PCBs versus "nonquantifiable" PCBs as the definition of the absence PCBs for purposes of defining closed and controlled waste manufacturing process. The comment suggested that EPA require that releases be tested at the limit of detection (LOD) for the presence of PCBs, primarily because the statutory ban speaks in terms of "any" PCBs. EPA has concluded, as explained in IV.B. below, that PCBs present in concentrations below the LOQ present a de minimis risk to public health and the environment. Furthermore, it is not practical to test releases of PCBs at the LOT because it may be impossible to confirm the identity of the PCBs at that level. This is particularly important in the analysis of PCBs present as byproducts and impurities because in many instances chemically similar compounds are also present in the sample undergoing analysis. For compliance monitoring purposes, a PCB concentration at or near the LOQ is needed to confirm the identity of the chlorinated biphenyl. For this reason, EPA has selected LOQ instead of LOD for purposes of defining the absence of PCBs in releases from closed and controlled waste manufacturing processes.

b. *Selecting the analytical technique.* LOQs, in general, vary with: (1) the analytical technique, (2) the analytical method, and (3) the type of chemical matrix in which the PCBs are found. For purposes of this rule, an analytical technique is defined as the type of analysis. Thin-layer chromatography, gas chromatography coupled to mass spectrometry, and high performance liquid chromatography are all examples of analytical techniques. In order to determine what the practical LOQ is for PCBs, EPA first evaluated several different types of analytical techniques (with varying degrees of sophistication), and considered the complexities of the chemical matrices in which the PCBs are found, the availability and cost of analytical hardware, and the cost of conducting analyses. As a general rule, more sophisticated analytical techniques are more costly and less readily available, but are capable of measuring PCBs at lower concentrations (i.e., these techniques have very low LOQs) than less sophisticated techniques. (See "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations" for a further discussion of available analytical techniques for PCB analysis.)

In selecting the most appropriate analytical technique, EPA first identified analytical techniques that were specific for PCB byproduct analysis. EPA then considered the sensitivity of the identified techniques, the availability of the instrumentation, and the cost of obtaining the instruments and conducting the analyses.

In the proposed rule, EPA selected capillary gas chromatography (CGC) coupled to electron impact mass spectrometry (EIMS) as the analytical technique to be used in determining whether PCBs were quantifiable in releases from a manufacturing process. For purposes of this rule, EPA selected CGC/EIMS because: (1) it is cost effective for the analysis of air, water, products, and process waste samples, (2) it is reproducible, and (3) it provides confirmatory evidence for PCBs. EPA expected this technique to supply reliable data of known quality if users implemented an appropriate and documented quality assurance plan. The vast majority of comments on the proposed rule that addressed this point agreed with EPA that CGC/EIMS is the preferred technique for the analysis of PCB byproducts.

During the public comment period for the proposed rule, and during the development of the final rule, EPA sponsored preliminary analytical method validation studies to test the efficacy of CGC/EIMS for the analysis of PCBs. The method validation exercise was undertaken to check the validity of the proposed protocol for the analysis of PCBs in commercial products and process waste streams in particular. Data are presented in the analytical method validation study from the evaluation of the efficiency of cleanup and extraction protocols as well as from the actual (CGC/EIMS) analyses of process samples (See MRI reports: "Analytical Methods for Incidentally Generated PCBs—Preliminary Validation and Interim Methods"). The data generated from the analysis of PCBs in the matrices studied indicate that the method is applicable and useful for the analysis of PCBs. Although additional validation work is continuing and additional data will be gathered, this technique is the most reasonable analytical procedure currently available for the analysis of PCBs generated as byproducts and is thus appropriate for use in implementing this regulation. Testimony provided at the public hearing on the proposed rule supported the method validation trials conducted by the Midwest Research Institute (MRI) as technically competent.

Since the majority of comments that addressed this point supported the proposed selection of CGC/EIMS as the preferred technique, EPA has selected CGC/EIMS as the analytical technique from which it would estimate the practical LOQs of PCBs in air emissions, water effluents, products, and process waste streams for purposes of defining closed and controlled waste manufacturing processes in this final rule.

c. *Establishing the practical LOQs of PCBs.* For purposes of this rule, an analytical method is defined as a series of procedures used when chemically analyzing a sample. Analytical methods

include procedures for sample collection, protocols for the extraction and cleanup of samples, and procedures for the analysis of the specimen by the analytical technique. The limit of quantitation of a particular analytical method is a function of six major factors: (1) the inherent sensitivity of the analytical instrument, (2) the size of the sample taken for analysis, (3) the volume extracted, (4) the volume injected into the instrument, (5) the amount of interferences, and (6) the degree of the chemical matrix effects.

The LOQ of an analytical method depends upon the values selected for the factors listed above. For each variable, values could be selected that would ultimately minimize (or maximize) the overall LOQ of an analytical method. However, there is a limit to the degree to which the LOQ can be minimized without significantly increasing the cost and difficulty of analysis. To select reasonable values to assign to each of these variables (for purposes of calculating the practical LOQ of PCBs), EPA balanced the benefits of increased sensitivity versus the resultant increased costs and practical considerations associated with minimizing the LOQ.

The class of PCBs is made up of 209 individual chemical compounds, individually referred to as chlorinated biphenyl congeners. Using CGC, each separate resolvable peak on a gas chromatograph may represent a single chlorinated biphenyl congener, or it may represent more than one chlorinated biphenyl congener. Comments on the proposed rule have pointed out that all 209 PCB congeners cannot, for all practical purposes, be individually resolved by CGC/EIMS, or by any other single analytical instrument currently in existence. Thus, although it may be most desirable to define the absence of PCBs on a per congener basis, this is not possible because this separation cannot be accomplished for every sample. To accommodate this situation, EPA is defining the absence of PCBs by setting numerical cutoffs according to PCB levels represented by resolvable gas chromatographic peaks. To qualify for exclusion, no single peak on a gas chromatogram can register PCBs at or in excess of the numerical cutoffs set by EPA for PCBs in air, water, or products (or wastes from closed processes).

1. *Instrument sensitivity.* Depending upon the particular CGC/EIMS instrument used to analyze for PCBs, the instrument's sensitivity (or limit of quantitation) may be one picogram per resolvable gas chromatographic peak, one microgram per resolvable peak, or an intermediate level. Although this wide range of sensitivities exists for CGC/EIMS equipment, highly sensitive equipment is very costly and not generally available in most analytical laboratories. To calculate the practical LOQ of PCBs, EPA selected a value for the sensitivity of CGC/EIMS that is representative of the average minimum sensitivity of this type of analytical technique. This required a balancing of sensitivity versus costs and availability.

EPA selected ten nanograms (ng) per resolvable gas chromatographic peak as a reasonable estimate of the average sensitivity of CGC/EIMS. This number represents the smallest amount of a substance that a typical EIMS system can measure and is EPA's estimate of the average minimum amount of PCBs expected to be measured.

The determination that ten ng per resolvable gas chromatographic peak represents the average minimum amount expected to be measured was based upon contacts with a manufacturer of GC/MS equipment about the sensitivities and costs of available CGC/EIMS instruments; more costly instruments are capable of measuring PCBs at lower levels. Available data indicate that the cost of CGC/EIMS equipment ranges from $87,000 for the least sensitive equipment, through $380,000 for the most sensitive equipment (see records of telephone communications between Redford and Moll of EPA and Finnigan MAT). EPA selected this level of sensitivity as representative of an average sensitivity of CGC/EIMS because it is intermediate in sensitivity, and CGC/EIMS instruments capable of measuring this level are readily available, are of moderate cost, and are expected to be currently available in most analytical laboratories.

This estimate of the average system sensitivity is also supported by research results reported by Dr. E. Pellizari of Research Triangle Institute in his 1981 report entitled: "State-of-the-Art Instrumental Analysis in Environmental Chemistry," which appeared in Chapter 10 of "Environmental Health Chemistry." Dr. Pellizari reports a minimum detection range for EIMS from one nanogram through .1 milligram. EPA's estimate of ten ng/peak as an average sensitivity falls within the range of Dr. Pellizari's reported detection limits for any peak on an EIMS (since limits of quantitation are often at least three times as high as limits of detection).

Further, the Dry Color Manufacturers Association's (DCMA's) research on the analysis of PCBs in organic pigments reports the sensitivity of CGC/EIMS as ten ng per resolvable gas chromatographic peak (see page 5 of "An Analytical Procedure for the Determination of Polychlorinated Biphenyls in Dry Phthalocyanine Blue, Phthalocyanine Green and Diarylide Yellow Pigments; Proposed by the Dry Color Manufacturers Association").

2. *Sample size.* The actual minimum quantitatable level for an analytical method depends on not only the inherent sensitivity of the analytical instrument, but also the amount of original sample that had its PCB contents extracted and condensed for analysis by CGC/EIMS. For instance, a sample that is ten times larger than another from the same source would contain the same concentration (ug/volume) of PCBs but would actually contain ten times the mass of PCBs (nanograms). When both are concentrated to one milliliter, the extract resulting from the larger sample would be ten times more concentrated than the other, and when injected into the detector, it would yield a response ten times greater. This would translate to a quantitation limit in the larger sample that was ten times lower than in the smaller sample.

However, there is a limit to the extent to which one can maximize the sample size (in an attempt to minimize the LOQ) without encountering substantial additional costs in collection and extraction, and experiencing handling difficulties. Larger sample sizes require longer collection times (especially pertinent in air sampling), more effort (resources) in extraction and cleanup, and in some cases, may require specialized equipment.

With this relationship in mind, EPA has estimated reasonable sample sizes, ones that would provide enough material for a reasonable determination as to whether PCBs are present without presenting sampling and handling problems. These estimated sample sizes are: Ten cubic meters for air, one liter for water, and fifty grams for products or process waste streams. Then cubic meters of air, and one liter of water are commonly accepted sample sizes for these media, considering the type of chemical undergoing analysis (i.e. halogenated aromatics).

In selecting 50 grams as a reasonable sample size for products and process wastes, EPA analyzed available data and developed a list of expected products containing PCBs as impurities or byproducts. For each product on the list, EPA considered various sample sizes, ranging from one gram to 100 grams, and selected the most

appropriate sample size for each individual product. EPA considered the capacity of typical laboratory equipment, the physical and chemical properties of the product/sample, handling problems, measurement problems, the inherent cost of the material to be analyzed, and other related factors in determining the most appropriate sample sizes for each individual product. After considering appropriate sample sizes for individual products, EPA selected 50 grams as representative of a reasonable sample size for products and process wastes (see "Rationale for Levels of Quantitation for CGC/EIMS," "Rationale for Choosing a Reasonable Sample Size and Matrix Interference Allowance for the PCB Analytical Method," "PCB Quantitation List Parameters," and "Transmittal of MRI's PCB Quantitation List Parameters Memorandum with Additional Comments").

3. *Extract and injection volumes.* For air, water, products, and process waste samples, typical extract and injection volumes would be one milliliter and one microliter, respectively. The Midwest Research Institute (MRI), in conducting CGC/EIMS method validation trials (see "Analytical Methods for Incidentally Generated PCBs—Preliminary Validation and Interim Methods"), considered several extraction volumes and injection volumes. The volumes selected as reasonable by EPA were determined to be most appropriate during these trials. Larger injection volumes either might damage the mass spectrometer or the chromatographic column. Smaller injection volumes, below one microliter, would increase the likelihood of measurement errors, decreasing the accuracy of any measured PCB level. Increases in the extract volume or greater concentration of the extract either lowers recovery efficiency, overly concentrates the injection, or requires excessive efforts to extract and condense the extract. With extraction volumes below one milliliter, the potential for measurement errors and losses from evaporation increases, decreasing the accuracy of the PCB levels measured (see "PCB Quantitation List Parameters," and "Transmittal of MRI's PCB Quantitation List Parameters Memorandum with Additional Comments").

4. *Interferences and matrix effects.* In the absence of interferences and matrix effects, the estimated lower limits of quantitation of PCBs in air, water, products, and process wastes, using CGC/EIMS, reasonable sample sizes, and reasonable extract and injection volumes, would be one microgram per cubic meter (roughly 0.001 ppm) in air, ten micrograms per liter (roughly 0.01 ppm) in water, and .2 microgram per gram (0.2 ppm) in products and process waste streams, per resolvable gas chromatographic peak. These lower limits of quantitation assume an instrument sensitivity of ten ng per resolvable gas chromatographic peak, reasonable sample sizes, and reasonable extract and injection volumes.

However, interferences and matrix effects are commonly experienced in the analysis of PCB byproducts because of the similarity in chemical structure between the PCBs produced in the process and the matrix of chemical substances in which the PCBs are found. In byproduct PCB analysis, these factors influence an analytical instrument's ability to measure accurately low level PCBs. Therefore, an allowance for these considerations must be made in calculating the practical LOQ for PCBs in air, water, products and process waste streams.

To accommodate this situation, EPA assumed an upper quantitation limit of 100 ng per resolvable peak as a reasonable allowance for interferences and matrix effects. This allowance is supported by experimental data produced by MRI through method validation trials (see "Analytical Methods for Incidentally Generated PCBs—Preliminary Validation and Interim Methods," "PCB Quantitation List Parameters," "Rationale for Choosing a Reasonable Sample Size and Matrix Interference Allowance for the PCB Analytical Method," and "Transmittal of MRI's PCB Quantitation List Parameters, Memorandum with Additional Comments"). MRI found that in the analysis of some samples, interferences and matrix effects were negligible, thus, the LOQ approximated the lower quantitation limit of the analytical instrument. However, in the analysis of other samples, interferences and matrix effects were significant, and resulted in a LOQ that was two orders of magnitude higher than the lower quantitation limit of the analytical instrument. EPA's estimate of a reasonable allowance for interferences and matrix effects is one order of magnitude higher than the average lower quantitation limit of CGC/EIMS as estimated by EPA.

5. *Conclusion.* Per peak then, the practical LOQ of PCBs in air corresponds to ten micrograms per cubic meter (roughly 0.01 ppm); in water, 100 micrograms per liter (roughly 0.1 ppm); and, in products and process waste streams, two micrograms per gram (2 ppm). This means that for a process to be eligible for exclusion under the closed and controlled waste process exclusion, no single peak on a gas chromatogram registers PCBs in excess of: ten micrograms per cubic meter in air emissions, 100 micrograms per liter in water effluents, and two micrograms per gram in products and uncontrolled waste streams, regardless of the number of PCB congeners known to be or expected to be represented by the peak. (See Unit IV.B. for a discussion of the extremely low exposure which will result from setting cutoffs at these levels.)

EPA considered setting numerical cutoffs based on total PCBs, instead of setting numerical cutoffs according to levels represented by resolvable gas chromatographic peaks. Under that approach, EPA would attempt to estimate an average number of gas chromatographic peaks that would be resolved upon analysis of process samples, and then multiply that average number by the practical limits of quantitation per resolvable peak. This approach would result in separate numerical cutoffs for total PCB levels in air emissions, water effluents, products, and wastes from closed processes.

After evaluating this approach, EPA concluded that there is insufficient information upon which to base an estimate of the average number of PCB congeners created in manufacturing processes. Although some information on PCB concentrations in products and processes is available, little comprehensive factual data are available on the type and number of different congeners created in these processes. Without this type of information, EPA could not support any estimate of the average number of congeners created in manufacturing processes.

d. *Aroclor v. non-Aroclor PCB analysis.* The limits of quantitation of PCBs in air, water, products, and wastes, discussed in the preceding unit, are EPA's estimates of the practical limits of quantitation of PCBs produced as byproducts and impurities (non-Aroclor PCBs). These PCBs are not easily measured in air emissions, water effluents, products, or process waste streams, because up to 209 different chemical compounds can be produced and be present in different concentrations in a sample undergoing analysis. Before these PCBs can be measured in a sample, they must first be identified as PCBs.

In contrast, PCBs produced for use as dielectric fluids (Aroclors) are much

more easily measured. These PCBs display characteristic patterns upon analysis that are easily recognizable as representing PCBs. Unlike these PCBs, PCBs produced as byproducts and impurities do not display characteristic or easily recognizable patterns upon analysis. (See "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations" for a comparison of the methods for Aroclor vs. non-Aroclor PCB analysis.)

Because of this fact, and the need to identify byproduct PCBs as truly PCBs, the limits of quantitation of byproduct PCBs in different media may be several orders of magnitude higher than the limits of quantitation of Aroclor PCBs in these same media. Thus, other environmental regulations pertaining to the release of Aroclor PCBs (such as under the Clean Water Act, 33 U.S.C. 466 *et seq.*) may place limits on the release of PCBs that are orders of magnitude below the practical limit of quantitation for byproduct PCBs as established in this final rule.

4. *Determining what constitutes a process.* In the proposed rule, EPA applied the exclusion to any person who produces PCBs in a chemical manufacturing "process" which qualifies as a closed manufacturing process or a controlled waste manufacturing process. Comments received in response to the proposed rule requested clarification of the term "process" in the definitions of closed and controlled waste manufacturing processes. The comment said that the term "process" could be open to differing interpretations; it could, at one extreme, mean a single unit of a multi-unit operation operating at a site, or, at the other extreme, it could mean the entire series of operations (possibly operating at different geographic localities) leading to the production of a final commercial product.

EPA defines the term "process" in this final rule to mean all the unit operations operating at a site. Therefore, PCB-containing isolated intermediates manufactured at one location on a plant site can be processed further at some different on-site location. Analytical or theoretical analyses of PCB levels in the product would take place only prior to its removal from the site. Similarly, PCB concentrations in water effluents and process wastes would be analytically determined or theoretically estimated only prior to the release from a site.

Because it is difficult to define the boundaries of the atmosphere surrounding a facility, for air emissions, PCB concentrations would be determined at the most convenient sampling point prior to release to the atmosphere.

For water effluents, PCB levels would be determined prior to release from the site. For example, if deep well injection is used to dispose of water effluents from a process, PCB levels would need to be determined at some point prior to injection. The objective is to allow companies to determine PCB levels in the water effluent as close to the final point of release to the environment as possible. If on-site water treatment occurs, PCB levels would need to be analytically or theoretically determined only prior to release to the receiving body of water (i.e., at the point of outflow from the on-site water treatment facility).

EPA uses the term site to mean a contiguous property unit. Property divided only by a public right-of-way is considered one site. There may be more than one manufacturing plant on a single site (See 40 CFR 710.1(a)).

5. *Determining appropriate methods for disposal.* EPA already has in effect a Disposal and Marking Rule (40 CFR 761.60) which requires PCBs in concentrations over 50 ppm to be stored and disposed of in accordance with the criteria prescribed under §§ 716.65, 761.70, and 761.75. These are the same disposal criteria that EPA proposed for the disposal of wastes (containing any concentration of PCBs) from controlled waste processes in the proposed rule.

EPA proposed these mechanisms for disposal of controlled wastes on the premise that EPA must be reasonably confident that the wastes from controlled waste processes are disposed of in a manner which results in negligible environmental contamination. Although this basic premise remains valid, EPA has concluded that certain less costly, alternate disposal mechanisms would result in negligible environmental contamination as well.

Several comments criticized the proposed requirement that wastes from controlled waste manufacturing processes be incinerated in EPA-approved PCB incinerators. They maintain that in selecting this regulatory option, EPA did not consider the enormous potential costs of disposing of wastes containing PCBs in concentrations between the LOQ and 50 ppm in EPA-approved PCB incinerators. Data were provided by the CMA which indicate that the costs of destroying liquid wastes containing PCBs in EPA-approved PCB incinerators is $0.23 per pound of waste. Thus, as the concentration of PCBs in the wastes decreases, the cost of disposal per pound of PCB increases substantially. At PCB concentrations near the practical limit of quantitation in wastes, the cost of disposal in EPA-approved PCB incinerators per pound of PCB could be very high.

Further, comments indicate that unlike mineral oil contaminated with low level PCBs, chemical manufacturing process waste streams with similarly low levels of PCBs cannot, in general, be used as fuel in high efficiency, energy generating boilers because of their high chlorine content. Finally, certain comments indicate that since there are so few EPA-approved PCB incinerators in existence, priority should be given to the destruction of higher concentration wastes in these facilities. Restricting the incineration of controlled wastes containing less than 50 ppm PCBs to EPA-approved PCB incinerators would place demands on these facilities, which could result in a shortage of PCB disposal capacity.

One comment, however, strongly supported EPA's proposal to require the incineration of controlled wastes in EPA-approved PCB incinerators. Specifically, the comment stated that incinerators used for the destruction of PCBs should be required to meet certain standards to prevent the formation and release of dibenzofurans and other potentially toxic products of incomplete combustion.

As a result of the comments received in response to the proposed rule, EPA has decided to modify the requirement that wastes from controlled waste manufacturing processes be disposed of in EPA-approved PCB incinerators. Certain less costly disposal mechanisms should result in negligible environmental contamination as well, and further, should preclude the formation of toxic incomplete combustion products.

Thus, in this final rule, EPA is allowing PCB wastes (containing PCBs in concentrations below 50 ppm) to be destroyed in incinerators which have been approved under section 3005(c) of the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. 6925(c). The incinerator must be capable of destroying compounds which are less readily burned than the PCB homologs in the waste. The manufacturer of PCBs who wishes to qualify for exclusion under the controlled waste exclusion by disposing of PCB wastes in a RCRA-approved incinerator is responsible for determining that the incinerator is capable of destroying the PCBs, and for certifying that this is the case (see IV.D.). The manufacturer is also responsible for obtaining reasonable assurances that the incinerator, when burning PCB waste, will be operated under conditions that have been shown

to enable the incinerator to destroy less readily burned compounds. Manufacturers may use heat of combustion or other indicators of ease of incinerability addressed in the "RCRA Guidance for Hazardous Waste Incineration," to support this certification. This approach should ultimately increase the number of incinerators qualified for the destruction of PCBs and should also prevent the formation of toxic products of incomplete combustion during incineration.

One of the factors used to determine how efficiently a substance may be destroyed is the heat of combustion. Heat of combustion is the heat evolved when a definite quantity of a substance is completely burned. According to classical thermodynamics, compounds with lower heats of combustion should be less readily burned and should require higher temperatures for destruction than compounds with higher heats of combustion. Heat of combustion values are measured under controlled laboratory conditions or derived from theoretical calculations.

Under RCRA, EPA has developed a ranking of hazardous constituents based on heat of combustion values. This hierarchy allows the applicant for a permit to incinerate hazardous wastes to demonstrate the required level of performance for a large number of constituents of a waste stream by successfully burning one or several of those which are most difficult to destroy. In the permitting of facilities, EPA does not intend to use the incinerability ranking alone, but rather, to use it in conjunction with the permit writer's engineering judgment. The list provides the permit writer and the applicant for the permit with a useful means of identifying the constituents of a waste which are likely to be most difficult to destroy, and may be used in conjunction with other information relating to the incinerability of an organic constituent, when available (see "RCRA Guidance for Hazardous Waste Incineration").

The "RCRA Guidance for Hazardous Waste Incineration" contains this list of compounds, including the PCB homologs, ranked according to heats of combustion. While EPA has little experimental data that indicate that heat of combustion is the best criteria (or the only criteria) to be used in judging the relative ease of destruction of chemical compounds, it can be used as an indicator (see "A Method for Designation of the Principal Organic Hazardous Constituents for Hazardous Waste Incineration," "Heats of Formation and Combustion from the Method of Handrick," "Comparison of Ranking Factors," and "RCRA Guidance for Hazardous Waste Incineration"). Thus, manufacturers may use heat of combustion values to support their determination that a particular RCRA-approved facility is capable of destroying their PCB wastes.

Although RCRA requires a minimum destruction and removal efficiency of 99.99 percent for the incineration of chemical wastes, and the TSCA requirements will result in a minimum destruction efficiency of 99.9999 percent (for the incineration of PCBs in concentrations over 50 ppm) EPA believes that for PCBs in concentrations below 50 ppm, a destruction and removal efficiency of 99.99 percent is adequate to insure only negligible environmental release. If one assumes that all the PCBs created in closed and controlled waste manufacturing processes (approximately 56,000 pound) will be incinerated annually in these RCRA-approved incinerators, then the difference in destruction efficiencies between the proposed requirement and the final rule will result in a maximum of an additional 5.54 pounds of PCBs released annually throughout the entire United States as a result of the modification to the proposed requirement.

In addition to allowing the destruction of controlled wastes in certain RCRA-approved incinerators, EPA is also adding to the list of acceptable disposal mechanisms, the destruction of controlled wastes (containing PCBs in concentrations between the limit of quantitation and 500 ppm) in any high efficiency boiler that has been specifically approved to burn PCBs present in fluid other than mineral oil, in accordance with the requirements of § 761.60(a)(3). This will create an additional mechanism for the disposal of controlled wastes, while providing continued protection against the formation of toxic incomplete combustion products during incineration. Wastes containing PCBs in concentrations between the practical limit of quantitation and 50 ppm may also be destroyed in EPA-approved PCB incinerators as well, and would qualify as controlled wastes. This rule does not change the requirements of the PCB Marking and Disposal Rule (40 CFR 761.60) for the disposal of PCBs in concentrations over 50 ppm.

Thus, these modifications will: (1) Increase the number of incinerators ultimately available for the destruction of PCB wastes; (2) reduce the potential for accidents during the transport of wastes; (3) ultimately provide for less costly disposal alternatives to manufacturers disposing of controlled wastes; and (4) should continue to provide protection against the formation of toxic incomplete combustion products during incineration.

B. The De Minimis Determination

1. *Exposure Analysis.* EPA's rough estimate of the amount of PCBs produced in closed and controlled waste manufacturing processes is less 56,000 pounds per year. Of these roughly 56,000 pounds of PCBs, extremely small quantities of PCBs in concentrations below the practical limits of quantitation will be released to the environment in wastes from closed processes and in air emissions, water effluents, and products. Actual environmental releases from products are expected to be in concentrations even less than the limits of quantitation, since the PCBs in many products are bound in solid matrices (e.g., paints and polymers). Although wastes from controlled waste processes will contain higher concentrations of PCBs, the requirements for handling these wastes will prevent significant releases to the environment.

Based on available information (supplied by CMA), EPA estimates that less than one thousand pounds of byproduct PCBs are likely to actually enter the environment each year from closed and controlled waste manufacturing processes. The estimated actual releases to the environment from closed and controlled waste processes is only 0.0006 percent of the estimated 150,000,000 pounds of PCBs that currently exist in the environment as free PCBs. Further, this amount is only 0.0001 percent of the estimated 750,000,000 pounds of PCBs currently in use in electrical equipment in the United States.

EPA is imposing both recordkeeping and reporting requirements (see IV.D.) to reduce the likelihood of processes being mislabeled as closed or controlled waste manufacturing processes when releases are actually above the practical limits of quantitation. These requirements help to ensure that PCBs released to the environment as a result of this exclusion remain below the practical limits of quantitation.

2. *De Minimis Finding.* TSCA section 6(e) specifically bans the manufacture, processing, distribution in commerce, and use of PCBs in other than a totally enclosed manner. To be eligible for exclusion from the provisions of section 6(e), processes must meet EPA's definitions of closed or controlled waste manufacturing processes. This means

that releases of PCBs in products, air emissions, and water effluents are below practical limits of quantitation. For closed manufacturing processes, releases of PCBs in wastes are also below the practical limit of quantitation. Wastes from controlled waste processes are disposed of in qualified incinerators (see discussion under IV.A.5.) or in landfills approved under § 761.75 or are stored for incineration or landfilling in compliance with the standards and requirements prescribed in § 761.65(b)(1). Recordkeeping and reporting by manufacturers helps to ensure that releases of PCBs from these processes are actually below the practical limits of quantitation, and that exposure to PCBs as a result of EPA creating this exclusion remains negligible.

EPA believes that for all practical purposes, it would be impossible to determine whether regulation of PCB concentrations below the practical limits of quantitation had any effect on actually reducing releases of PCBs. EPA believes that PCBs present in concentrations below the practical limits of quantitation are of such low concentration, and the total amount of PCBs released would be so low, that it would be impossible to determine if regulation of these levels provided anything greater than trivial benefits. Consequently, EPA has concluded that there would be no measurable gain in protecting the environment or public health by attempting to regulate PCBs at levels that are unmeasurable for all practical purposes.

EPA finds that closed and controlled waste manufacturing processes represent de minimis situations and should not be subject to the prohibitions and other provisions of section 6(e) of TSCA because: (1) releases of PCBs from closed and controlled waste processes (excluding controlled wastes) are below the practical limits of quantitation, (2) the estimated amount of PCBs released from these processes per year is only 0.0006 percent of the estimated 150,000,000 pounds of PCBs present in the environment as free PCBs, (3) controlled wastes are disposed of in a manner that should result in negligible environmental contamination, and (4) manufacturers operating these processes are required to keep records and notify EPA of processes that qualify for exclusion.

C. Determination of No Unreasonable Risk

EPA has concluded that there would be no measurable benefits to public health or the environment by regulating closed and controlled waste processes (as defined in this rule) under section 6(e) of TSCA. Therefore, as previously noted, these processes are eligible for exclusion under the de minimis principle. Nonetheless, the Agency has also considered whether closed and controlled waste processes present an unreasonable risk to human health or the environment. To determine whether a risk is unreasonable, EPA balances the probability that harm will occur from the activity against the adverse effect on society from regulation. In making a determination of whether an unreasonable risk is present from these processes, EPA considered the following factors:

1. The effects of PCBs on human health and the environment.

2. The magnitude of PCB exposure to humans and the environment.

3. The benefits from products containing PCBs, the availability of substitutes, and the ability to prevent the formation of PCBs.

4. The economic impact resulting from the rule upon the national economy, small business, technological innovation, the environment, and public health.

After considering all available information, within the context of the factors listed above, EPA finds that excluding closed and controlled waste processes presents no unreasonable risk to human health or the environment. This finding is based on the following analysis.

1. *Health and environmental effects and exposure to PCBs.* Toxicity and exposure are the two basic components of risk. During this rulemaking, EPA has conducted an analysis of the health and environmental effects of PCBs (see "Response to Comments on Health Effects of PCBs" for details). EPA has concluded that in addition to chloracne, there is a potential for reproductive effects and developmental toxicity as well as oncogenic effects in humans, based on animal data. EPA has also concluded that PCBs do present a hazard to the environment.

However, PCBs are not uniquely toxic, and minimizing exposure to PCBs will minimize any potential risk. EPA evaluated the potential for exposure to PCBs from closed and controlled waste manufacturing processes, and has determined that the exposure to PCBs from closed and controlled waste processes is so low as to be unmeasurable for all practical purposes.

In calculating the practical limits of quantitation of PCBs, EPA considered setting lower levels. While lower numerical cutoffs would theoretically further reduce the risks posed from closed and controlled waste manufacturing processes, it would not be practically possible to measure this reduction in risk afforded by the lower levels of release (see IV.A.3.c.). Thus, regulating PCBs at levels below the practical limits of quantitation provides no measurable benefits to public health or the environment.

As part of the de minimis determination, EPA also considered the public health and environmental benefits of recordkeeping and reporting and their effect on reducing the risks posed from closed and controlled waste manufacturing processes. EPA concluded that recordkeeping and reporting by manufacturers operating closed and controlled waste processes would substantially reduce the likelihood that processes would be mislabeled and, therefore, would result in a reduction in the actual amount of PCBs released to the environment as a result of this exclusion (see IV.D.). Thus, recordkeeping and reporting would help to ensure that only de minimis situations are allowed to operate as a result of this exclusion.

2. *Benefits of products generated in closed and controlled waste processes, the availability of substitutes, and economic impacts.* If the ban on all manufacturing, processing, distribution in commerce, and use of PCBs was made effective for all closed and controlled waste processes, there could be a major disruption of the chemical industry and several other industries in the United States. Since there could be a large number of controlled waste processes, an immediate ban could cost billions of dollars. An immediate ban could disrupt the manufacture of a wide variety of products including paints, varnishes, enamels, agricultural chemicals, adhesives and sealants, printing ink, plastic materials, drugs, and soaps and cosmetics. Such products have great societal value, and a ban of this nature would create great hardship for the public and industry due to the unavailability of these products and would have a severe economic impact. Should such processes be subject to the section 6(e) ban, all manufacturers utilizing closed and controlled waste manufacturing processes which generate PCBs as byproducts would be required to conform with the prohibitions and requirements of section 6(e). Industry has commented that, in general, substitutes are not available for products contaminated with low level PCBs at the same or equivalent costs as PCB-contaminated products, and that processes cannot be modified to prevent the formation of any PCBs. CMA has

commented that research programs to study ways to reduce incidental PCB formation are very costly and have met with limited success. CMA provided an example of a process adjusted to reduce formation of PCBs to below 50 ppm, and estimated that the cost of this project was on the order of $800,000.

Although TSCA does provide a mechanism for obtaining relief from the total ban of PCBs, industry has commented that the statutory process for obtaining an exemption is unworkable for the many operations that manufacture, process, or distribute in commerce PCBs in low concentrations. Since TSCA requires a company to obtain an annual exemption, industry representatives indicated that the uncertainty associated with knowing whether they would be able to continue operations and the large cost of submitting petitions each year would be a burden. A quick survey of companies which filed PCB exemption petitions with EPA in the past showed that the annual costs of developing the information required by an exemption petition plus the cost of filing the petition may cost between $16,000 and $132,440 per process. Although EPA does not know precisely how many processes meet the definition of closed and controlled waste processes, if 500 processes were eligible, the avoided cost of submitting petitions for exemption could range from $8 million to $66 million per year. These estimates will vary depending upon the actual number of processes eligible for the exclusion. Administering exemption petitions for closed and controlled waste processes could require extensive EPA resources.

This rule has no significant negative economic impact. Although for those companies who choose to take advantage of it, it imposes additional burdens, it avoids the larger burdens imposed on industry by the prohibitions of section 6(e). As discussed in the following unit, EPA is requiring manufacturers who operate closed and controlled waste manufacturing processes and who desire exclusion to certify that their processes are closed or controlled waste processes, and to notify EPA that the processes qualify for exclusion. EPA has concluded that recordkeeping and reporting by manufacturers affords substantial human health and environmental benefits that greatly outweigh the costs of recordkeeping (see IV.D. for further analysis).

EPA is providing manufacturers the option of conducting a theoretical analysis or of actually monitoring releases for PCB levels. EPA estimates the cost of conducting a theoretical analysis to be on the order of $1,014 per process. EPA estimates the cost of recordkeeping and certification to be on the order of $374 per process per year. If actual monitoring of PCB levels is undertaken, using the EPA recommended method, EPA estimates the costs of monitoring to range between $120 and $770 per sample. Total costs per process range from $844 to $45,990, depending on the frequency of sampling and the actual costs of testing (see support document entitled "Economic Analysis for the Final Rule to Exclude Closed and Controlled Processes from the PCB Ban" for details). The upper estimate of the cost per process of monitoring incorporates $32,000 for air sampling. In adding this amount into its calculation of the upper estimate, EPA assumed that monitoring of air emissions is not currently ongoing for other purposes. Therefore, all costs associated with air emission monitoring have been added to the costs of recordkeeping and reporting under this rule. Since it is unlikely that this is the case for most manufacturing facilities, the upper estimate provided by EPA may be artifically high. For most companies, EPA expects that the costs will not exceed $26,600 per process. This assumes that sampling equipment preparation and data reduction/report writing are the only costs of air emissions monitoring that would be directly attributable to this rule.

3. *Unreasonable risk determination.* EPA has evaluated the human health and environmental effects and exposure to PCBs from closed and controlled waste processes, the benefits of the processes producing the PCBs, and the economic impact of regulating these processes under section 6(e) of TSCA. EPA has concluded that closed and controlled waste processes represent de minimis situations because: (1) The PCBs released from closed and controlled waste manufacturing processes are released at low concentrations, (2) the estimated amount of PCBs released from these processes per year is only 0.0006 percent of the 150,000,000 pounds of PCBs currently in existence in the environment as free PCBs, (3) controlled wastes are disposed of in a manner that should result in negligible environmental contamination, and (4) manufacturers operating these processes are required to keep records and notify EPA of processes operating under the exclusion.

EPA has considered the benefits of closed and controlled waste processes and found them to be substantial. Further, EPA has considered the statutory process of petitioning for yearly exemptions from the TSCA ban and found it to be resource intensive. Finally, EPA has considered the costs of recordkeeping and reporting by manufacturers operating closed and controlled waste processes. EPA has found that these costs do not represent an excessive burden.

Thus, after balancing the risks to human health and the environment created as a result of this exclusion against the benefits afforded by the exclusion, EPA concludes that the exclusion of closed and controlled waste manufacturing processes poses no unreasonable risks to public health and the environment.

D. Recordkeeping and Reporting

1. *Summary of requirements.* In the proposed rule, EPA proposed certain recordkeeping requirements for closed and controlled waste manufacturing processes. EPA proposed that either theoretical assessments or actual monitoring of PCB levels in releases be completed in order to qualify for exclusion, that the records of the analysis be maintained at the facility, and that manufacturers certify that their processes qualify for exclusion. The certification was to be completed by a responsible corporate officer, who was also required to certify that the analysis was true and accurate to the best of his knowledge and that the analysis had been conducted by qualified personnel. The certifications (and records to support the certifications) were to be maintained at the facility for three years after a process ceased operation or for seven years, whichever was shorter. The submission of these records and cerifications to EPA was not required in the proposed rule.

EPA proposed these recordkeeping requirements to: (1) Reduce the likelihood of processes being mislabeled as closed or controlled waste processses, and (2) to aid EPA in monitoring compliance with the rule.

In addition to the recordkeeping requirements of the proposed rule, in the final rule, EPA is requiring: (1) That manufacturers using RCRA-approved facilities for the disposal of controlled wastes certify that the facility qualifies for the disposal of the PCB wastes, and document the basis for the determination, and (2) that EPA be notified of any processes operating under the closed and controlled waste manufacturing process exclusion. Manufacturers are also required to notify EPA of the basis for the determination that a process is

excluded, by indicating whether a theoretical assessment or actual monitoring of PCB levels has been completed. If the process is a controlled waste process, manufacturers are also required to notify EPA of the type, the name, and the location of the disposal facility. Manufacturers have the option, as provided under TSCA section 14(c), of declaring any of this information to be confidential. Manufacturers desiring exclusion would: (1) identify processes which they believe generate PCBs as impurities or by-products; (2) determine if the processes are closed processes or controlled waste processes; (3) place data and records of their determinations in files at the facility: (4) certify that the process qualifies; and (5) transmit a letter to EPA notifying EPA that processes are excluded and the bases of the determinations. Should manufacturers periodically undertake monitoring of PCB levels in processes or in releases from the processes, these data are also retained at the facility. EPA is requiring that such records be maintained for at least three years after the particular process being used at the facility ceases operations or for seven years, whichever is shorter. Further, EPA is requiring that processes be reevaluated and that a new certification be filed upon significant process changes that invalidate the previous certification. Significant process changes include changes that are likely to change the concentration of PCBs in releases from the processes (except in controlled wastes) outside the values in the original assessment and changes in the facility in which PCBs are disposed. The costs of recordkeeping and reporting to manufacturers operating closed and controlled waste manufacturing processes will vary depending upon the nature of the manufacturing process. Processes that are frequently changed or are known to release PCBs in air emissions, water effluents, or products in concentrations that approach the limit of quantitation will probably require more frequent analyses than other types of processes.

Manufacturers are not required to use this rule. They can use the statutory exemption process as an alternative to taking advantage of this exclusion.

2. *Recordkeeping and monitoring requirements.* In the proposed rule, EPA proposed certain recordkeeping requirements. EPA proposed: (1) That either theoretical analyses or actual monitoring of PCB levels be conducted; (2) that the records of the analysis be maintained at the facility: (3) that manufacturers certify that the processes qualify for exclusion; and (4) that all records be maintained for three years after a process ceased operation or for seven years, whichever was shorter.

Certain comments on the proposed rule suggested that EPA should impose a reporting requirement in addition to the proposed recordkeeping requirements (see IV.D.3.). Other comments, however, questioned the need for even the proposed recordkeeping requirements. They maintained that since closed and controlled waste manufacturing processes by definition have been determined to represent de minimis situations, recordkeeping by manufacturers operating such processes creates an unnecessary burden.

However, EPA has concluded that the benefits to public health and the environment of recordkeeping are substantial, and further, that an additional recordkeeping requirement is warranted as a result of the modification to the disposal requirements (see IV.A.5.).

In addition to the recordkeeping requirements of the proposed rule, in the final rule, EPA is requiring that manufacturers disposing of controlled wastes in RCRA-approved incinerators certify that the incinerator is capable of destroying the PCB wastes and maintain records of the basis of the determination. EPA believes that this additional recordkeeping requirement is needed to ensure that controlled wastes are disposed of in qualified RCRA-approved facilities. Manufacturers may use any generally accepted criteria to demonstrate the capability of the incinerator to destroy the PCBs, including the use of heat of combustion values and other parameters addressed in the "RCRA Guidance for Hazardous Waste Incineration."

With recordkeeping requirements in place, fewer processes will be mislabeled by manufacturers as qualifying for exclusion. With fewer processes being mislabeled, less total PCBs will be released to the environment as a result of EPA creating this exclusion. The recordkeeping requirements help to ensure that only situations that have been determined to be de minimis are excluded from regulation under TSCA section 6(e). Further, such recordkeeping is necessary to the development of an effective compliance monitoring program by EPA. Without records (and notification of EPA), EPA will have little or no information upon which to develop an effective compliance monitoring program.

EPA estimates the cost of recordkeeping alone to be on the order of $374 per process per year. This cost does not include the costs associated with conducting the theoretical assessment or monitoring PCB levels in releases.

In view of the substantial benefits afforded public health and the environment described above and the relatively low costs of recordkeeping to manufacturers, EPA has concluded that the benefits, in terms of public health and environmental protection, far outweigh the costs.

In the proposed rule, EPA provided manufacturers the option of utilizing a theoretical assessment to support a determination that a process qualified for exclusion. However, a number of comments criticized the portion of the proposed rule that provided for theoretical assessments in lieu of actual monitoring of PCB levels. Several comments on the proposal maintained that many manufacturers may be either unable to complete a theoretical assessment or uncomfortable with relying on this means of analysis. Other comments suggest that EPA should impose strict monitoring requirements for manufacturers taking advantage of this exclusion.

EPA does not agree that monitoring of process releases is necessary in all process situations. EPA believes that theoretical assessments which correctly conclude that PCBs are not released above the practical limits of quantitation will be possible in some process situations and that it would be unreasonable to require actual monitoring of PCB levels when reason and logic alone clearly dictate that a process qualifies for exclusion. Further, EPA has concluded that it is not reasonable for EPA to eliminate this option for all manufacturers simply because certain manufacturers have commented that they would be uncomfortable relying on a theoretical analysis.

The objective of conducting a theoretical assessment is to use reason, logic, and chemical/mathematical calculations to make a correct determination of whether a manufacturing process is a closed or controlled waste manufacturing process and, therefore, qualifies for exclusion. Specifically, the objective is to determine if PCB levels in releases from a process to other than controlled wastes exceed certain levels (the practical limits of quantitation of PCBs) without actually monitoring these releases. Obviously, if the expected concentration of PCBs in releases (derived through a theoretical calculation) approaches the level set as the regulatory cutoff, actual monitoring

of PCB levels would be advisable. The need to actually undertake monitoring of releases can be determined only by each manufacturer and will depend upon the expected level of release, its relationship to the cutoff, and the level of confidence placed in the accuracy of the estimate. The ultimate burden of making a correct decision to rely on theoretical analyses rests on each manufacturer.

A primary consideration in completing a theoretical assessment is determining the probable point(s) of manufacture of PCBs, the likely mechanism(s) of formation, and the probable identity and concentrations of the PCB congeners formed. Once these have been determined, the fate of the PCBs is traced from the point(s) of manufacture, through the process, to the point(s) of release. Factors to be considered in projecting the movement of the PCBs through the process include: (1) The concentrations of PCBs at different points in the manufacturing process, (2) the solubility, volatility, and density of the PCB congeners relative to the other process components, (3) the temperatures and pressures at different points in the process, (4) the potential for the PCBs to be transformed into other compounds or destroyed prior to release, and (5) the physical characteristics of the process and the processing equipment used within the process. Additional guidance on conducting a theoretical assessment is provided in a support document to this rulemaking entitled: "Guidance for Conducting a Theoretical Assessment." This document is available in the rulemaking record, and by contacting the Industry Assistance Office (see FOR FURTHER INFORMATION CONTACT).

A theoretical assessment is to address: (1) The reaction or reactions believed to be producing the PCBs, (2) the levels of PCBs generated and released, (3) the bases for estimates of PCB concentrations in releases, and (4) the name and qualifications of the person or persons performing the analysis.

If actual monitoring of PCB levels is undertaken, records are to be maintained and must include: (1) The method(s) of analysis, (2) the results of the analysis for PCB levels in releases, including data from the quality assurance plan, (3) the name of the analyst or analysts, and (4) the date and time of the analysis.

A determination that PCBs are absent by actual monitoring of PCB levels should take into account the statistical variability in analytical results which will always occur. Recognizing that there will be variation in results of a series of samples taken from a particular stream, EPA is recommending a sampling procedure that uses a sequential sampling scheme. (See support document entitled "Guidance for Sample Collection.")

This approach should result in a considerable savings over standard statistical sampling methods without adding to the risks of making incorrect decisions. Sequential sampling is a procedure where, unlike other statistical methods, the sample size is not fixed in advance. After every sample or group of samples is analyzed, the sequential sampling procedure indicates whether sufficient samples have been gathered to make a decision or whether additional samples are needed. On the average, fewer samples are required for this procedure than with other methods.

In general, for any statistical method, two decision errors are possible: (1) declaring processes which are qualified for an exclusion to be not qualified for exclusion, and (2) declaring processes which are not qualified for exclusion to be qualified for exclusion. The sequential sampling scheme recommended by EPA eliminates any significant likelihood of committing an error of the first type. The recommended maximum number of samples (seven) was chosen because, when several PCB peaks are present, it results in an acceptably low probability of the second type of error without necessitating an excessive amount of sampling to declare a process qualified for exclusion.

Manufacturers are required to certify that their processes qualify for exclusion, certify that the analysis completed is accurate to the best of their knowledge, and maintain these records and certifications for three years after a process ceases operation or for seven years, whichever is shorter.

EPA estimates that cost of conducting a theoretical analysis to be on the order of $1,014 per process. EPA estimates the cost of certification without actual monitoring of PCB levels in releases to be on the order of $374 per process per year. If actual monitoring of PCB levels is undertaken, using the EPA-recommended method, EPA estimates the costs of monitoring to range between $120 and $770 per sample. Total costs per process are estimated to range from $844 to $45,990, depending upon the frequency and actual cost of sampling (see "Economic Analysis for the Final Rule to Exclude Closed and Controlled Processes from the PCB Ban" for detailed assessment).

3. *Reporting requirement.* In the proposed rule, EPA did not propose that reporting of data to the Agency be required. However, in response to the proposed rule, EPA received several comments that suggested that a reporting requirement should be imposed in addition to the proposed recordkeeping requirements. These comments maintain that the cost to manufacturers of notifying EPA that certain processes qualify for exclusion is trivial (less than $1.00 per process), and the benefits to EPA of developing an effective compliance monitoring program far outweigh these trivial costs. Other comments, however, question the need for even the proposed recordkeeping requirements (see IV.D.1.) for situations that have been determined to be de minimis. These comments suggest that reporting and recordkeeping requirements impose unnecessary burdens on industry.

After considering these comments, EPA is instituting a reporting requirement in the final rule. The final rule requires manufacturers to notify EPA that closed and controlled waste processes are operating at their facilities. Further, manufacturers are required to indicate, in the notification letter, whether a theoretical assessment or actual monitoring of PCB levels was used to make the determination that the processes qualify for exclusion. If the manufacturing process is a controlled waste process, the manufacturer must also notify EPA of the type, the name, and the location of the disposal facility. Manufacturers have the option of declaring this information to be confidential, under TSCA section 14(c). Manufacturers also have the option to sending a copy of the actual assessment to EPA.

EPA has concluded that requiring notification of EPA that processes are excluded and submission of information on the general bases for the determinations that the processes are excluded provides a relatively low cost incentive for manufacturers to carefully evalute their processes for eligibility for exclusion. Further, EPA believes, as several comments have suggested, that such a reporting requirement would provide benefits which greatly outweigh the costs to manufacturers of transmitting letters to EPA. Specifically, the letters could be used by EPA in developing an enforcement strategy and in monitoring compliance with the rule. EPA agrees with these comments and has concluded that establishing a reporting requirement of the nature described here does not place unreasonable burdens on the regulated community.

E. The EPA Recommended Analytical Method for Quantifying PCBs

For purposes of this rule only, EPA has designated capillary gas chromatography coupled to an electronic impact mass spectrometer (CGS/EIMS) as the EPA recommended analytical technique for quantifying PCBs in air emissions, water effluents and product/process streams. (Different analytical techniques may be more appropriate for other situations). This is the analytical technique which EPA will use in monitoring compliance with this final rule and which manufacturers may very well choose to use. To qualify for the closed and controlled waste process exclusion, PCBs must be below practical limits of quantitation for PCBs in air, water, and products (and wastes from closed processes). It should be emphasized that actual monitoring of releases is not required as a condition for exclusion (theoretical analyses are acceptable), and this method is not required if monitoring is elected.

1. *Chemical analytical methodology.* True confirmation of chlorinated biphenyls (PCBs) in specimens which may contain other chlorinated aromatic compounds can reliably be accomplished by capillary gas chromatography coupled to mass spectrometry. In order to obtain the selectivity to use this analytical technique, specific separation, extraction, and cleanup steps are a necessary part of the chemical analysis process. There are many analytical procedures for separation, extraction, cleanup, and detection which can successfully be used to indicate the presence of PCBs. Some suggested protocols appear in the support document: "Analytical Methods for Incidentally Generated PCBs—Initial Validation and Interim Methods."

2. *Quality assurance plan for measurement of incidentally generated chlorinated biphenyls.* An integral part of CGC/EIMS analysis is the quality assurance program (QAP). QAPs insure the integrity of the data produced.

A QAP includes the following: (1) History and disposition of samples, (2) sampling and sample collection procedures and (3) extraction and instrumental analysis procedures. A QAP documents how a laboratory intends to demonstrate its capability to produce data of acceptable quality. A QAP is essential for establishing the validity of the analytical data generated. In monitoring compliance, EPA will use CGC/EIMS in conjunction with a QAP to verify the accuracy of the data generated.

3. *Guidelines.* EPA has issued guidance on: (1) Sample collection and homogenization of the sample, (2) addition of surrogate compounds to the sample, (3) extraction and cleanup, (4) concentration or dilution of the extract, (5) analysis of the final extract, (6) reporting the results of the chemical analysis as specific PCB isomers or total PCBs, (7) developing a QAP, and (8) performing a theoretical assessment. In addition, the "RCRA Guidance for Hazardous Waste Incineration" is also available. These guidance documents are support documents for this rulemaking and are available by contacting the Industry Assistance Office (see FOR FURTHER INFORMATION CONTACT).

F. Relationship of the Final Rule to Other PCB Rules

1. *Disposal and marking rule.* The Disposal and Marking Rule, published in the **Federal Register** of February 17, 1978 (43 FR 7150), as Part 761 of Title 40 of the Code of Federal Regulations, requires that when PCBs and PCB items are removed from service, disposal be in accordance with specific criteria. Briefly, PCBs in concentrations below 50 ppm are not required to be disposed of in any special manner; liquid PCBs in concentrations between 50 ppm and 500 ppm are required to be disposed of in an incinerator which complies with certain standards, in a chemical waste landfill, or in a high efficiency boiler; non-liquid PCBs are required to be disposed of in an incinerator which complies with certain standards or in a chemical waste landfill; and liquid PCBs in concentrations at or above 500 ppm are required to be disposed of in an incinerator which complies with certain standards.

This rule has no direct effect on the existing marking and disposal regulations. PCBs created in other than closed and controlled waste manufacturing processes in concentrations between the LOQ and 50 ppm are not required by this rule to be disposed of in any special manner. This rule simply excludes PCBs generated in controlled waste manufacturing processes from the section 6(e) ban when all PCBs generated and released above the LOQ are handled in a manner specified in this rule.

2. *Regulatory exclusion at 50 ppm.* The PCB Manufacturing, Processing, Distribution in Commerce, and Use Prohibition rule, published in the **Federal Register** of May 31, 1979, (44 FR 31514), as Part 761 of Title 40 of the Code of Federal Regulations basically prohibits the manufacture, processing, distribution in commerce and use of PCBs in concentrations above 50 ppm in other than a totally enclosed manner. As discussed under the Background unit in this preamble, this exclusion of PCBs in concentrations below 50 ppm was successfully challenged by the Environmental Defense Fund. The court granted a stay of mandate with respect to the 50 ppm cutoff, and persons manufacturing, processing, distributing in commerce and using PCBs in concentrations below 50 ppm were permitted to continue these activities. The initial stay of mandate was scheduled to expire on October 13, 1982. However, in its report to the court on uncontrolled PCBs, filed in March of 1982, EPA requested and was subsequently granted an extension of this stay of mandate until December 1, 1982. Prior to that time (but no later than November 1, 1982), EPA will submit a plan to the court for rulemaking on uncontrolled PCBs. EPA anticipates that its plan will include a schedule for rulemaking for uncontrolled PCBs and a request for an additional extension of the stay of mandate for processes covered by the rulemaking until it is completed.

V. Official Rulemaking Record PCB Regulations for Closed and Controlled Waste Manufacturing Processes

In accordance with the requirements of section 19(a)(3)(E) of TSCA, EPA is publishing the following list of documents constituting the record of this rulemaking. This list does not include public comments, the transcript of the rulemaking hearing, or submissions made at the rulemaking hearing or in connection with it. These documents are exempt from **Federal Register** listing under section 19(a)(3).

A. Previous Rulemaking Records

1. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Disposal and Marking Final Regulation," 43 FR 7150, February 17, 1978.

2. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions Rule," 44 FR 31514, May 31, 1979.

3. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Use in Electrical Equipment," 47 FR 37342, August 25, 1982.

B. Federal Register Notices

1. 46 FR 27617, May 20, 1981, USEPA, "Polychlorinated Biphenyls (PCBs); Manufacture of PCBs in Concentrations Below 50 Parts Per Million; Possible Exclusion From Manufacturing Prohibition; Advance Notice of Proposed Rulemaking."

2. 46 FR 27615, May 20, 1981, USEPA, "Polychlorinated Biphenyls (PCBs); Court Order Regarding PCBs in Concentrations Below 50 Parts Per Million."

3. 47 FR 24976, June 8, 1982, USEPA, "Polychlorinated Biphenyls (PCBs); Manufacture, Processing, Distribution in Commerce, and Use in Closed and Controlled Waste Manufacturing Processes, Proposed Rule."

4. 47 FR 25555, June 14, 1982, USEPA, "Polychlorinated Biphenyls (PCBs): Manufacture, Processing, Distribution, and Use in Closed and Controlled Waste Manufacturing Processes, Correction."

5. 47 FR 30082, July 12, 1982, USEPA, "Notice of Availability of Guidelines for the Analysis of PCBs."

C. Support Documents

1. USEPA, OPTS, CCD, "Summary of Comments [on ANPR] Received Concerning the Exclusion of PCBs in Concentrations Below 50 ppm, and in Closed Manufacturing Processes from Regulation Under Sections 6(e)(2) and 6(e)(3) of Toxic Substances Control Act" (undated).

2. USEPA, OPTS, EED, "Occupational Exposure to Inadvertently Produced PCBs—Preliminary Report" (April 22, 1982).

3. USEPA, OPTS, EED, "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations. Draft Interim Report, Revision 2" (April 21, 1982).

4. USEPA, OPTS, ETD, "Draft: Cost Analysis for the Proposal to Exclude Controlled Processes from the PCB Ban" (April 1982).

5. USEPA, OPTS, ETD, "Cost Analysis for the Proposal to Exclude Controlled Processes from the PCB Ban–2nd Draft" (May, 1982).

6. USEPA, OPTS, ETD, "Economic Analysis for the Final Rule to Exclude Closed and Controlled Processes from the PCB Ban" (September 1982).

7. USEPA, OPTS, HERD, "Review of Studies of Health Effects of PCBs" (December 31, 1981).

8. USEPA, OPTS, HERD, "Proposed Rule on (PCBs) Use in Electrical Equipment. Review of Potential Health Effects in Humans from Exposure to PCBs and Related Impurities" (April 12, 1982).

9. USEPA, OPTS, EED, "Quality Assurance Guidelines" (April 22, 1982).

10. USEPA, OPTS, EED, Memo from Redford to Halper, "Rationale for Levels of Quantitation for CGC/EIMS" (April 21, 1982).

11. USEPA, OPTS, EED, "Estimation of Releases from Spills of Inadvertently Produced PCBs" (April, 1982).

12. USEPA, OPTS, EED, "Analytical Methods for Incidentally Generated PCBs—Intitial Validation and Interim Protocols. Preliminary Draft, Draft Interim Report #4" (June 24, 1982).

13. USEPA, OPTS, EED, "Guidance for Sample Collection, Preliminary Draft" (July 8, 1982).

14. USEPA, OPTS, CCD, "Response to Comments on the Closed and Controlled Waste Rule" (October 12, 1982).

15. USEPA, OPTS, EED, Memo from Redford to Kutz, "Rationale for Choosing a Reasonable Sample Size and Matrix Interference Allowance for the PCB Analytical Method" (September 13, 1982).

16. USEPA, OPTS, EED, Telephone Communication between David Redford of EPA and Ben Heyden of Finnigan MAT, "Sensitivity of CGC/EIMS" (August 11, 1982).

17. USEPA, OPTS, ETD, Telephone Communication between Amy Moll of EPA and Ben Heyden of Finnigan MAT, "Cost of CGC/EIMS" (September 2, 1982).

18. USEPA, OPTS, "Guidance for Conducting a Theoretical Assessment" (October 6, 1982).

19. USEPA, OPTS, HERD, "Response to Comments on Health Effects of PCBs" (August 19, 1982).

20. USEPA, OPTS, EED, Memo from Martin Halper to Don Clay, "Disposal Requirements for Polychlorinated Biphenyls (PCBs) from Controlled Waste Manufacturing Processes" (August 3, 1982).

21. USEPA, OPTS, EED, "Analytical Methods for Incidentally Generated PCBs—Preliminary Validation and Interim Methods-Draft Interim Report #4, Revision #1" (September 13, 1982).

22. USEPA, OPTS, EED, Peer Review and Author's Replies to "Methods of Analysis for Incidentally Generated PCBs—Literature Review and Preliminary Recommendations, Draft Interim Report #2" (June 11, 1982).

23. USEPA, OPTS, EED, Response to Peer Review of "Analytical Methods for Incidentally Generated PCBs Initial Validation and Interim Protocols" (August 16, 1982).

24. USEPA, OPTS, EED, Memo to CMA from Smith "Sample Collection" (July 26, 1982).

25. USEPA, OPTS, EED, "List of Products That May Contain PCBs Generated as Impurities or Byproducts" (August 11, 1982).

26. USEPA, OPTS, EED, "Evaluation of PCB Isomers Identified in Chemical Manufacturing Processes Producing PCBs as Impurities" (September 2, 1982).

27. USEPA, OPTS, EED, "Investigation of Personal Protective Equipment in Relation to Occupational Exposure to PCBs Generated as Impurities" (August 4, 1982).

28. USEPA, OPTS, EED "Update on Protective Garment Materials Resistant to PCBs" (August 17, 1982).

29. USEPA, OPTS, EED, "Revised Materials Balance for Inadvertently Produced PCBs" (April 22, 1982).

30. USEPA, OSW, "Working Paper: Problems with POHCS" (Undated).

31. USEPA, OPTS, EED, "List of Plants and Chemical Manufacturing Processes Known or Suspected to Generate PCBs as Impurities" (September 9, 1982).

32. USEPA, OSW, "Comparison of Ranking Methods" (May 14, 1982).

33. USEPA, OSW, "A Method for Designation of the Principal Organic Hazardous Waste Incineration" (Undated).

34. Reid and Sherwood, ed. "Methods of Handrick Used to Calculate Heats of Combustion," The Properties of Gases and Liquids (1966).

35. USEPA, OSW, Memo from the Mitre Corporation to Robert Olexsey (EPA), "Logic for Defining Incinerability as Relative Ease of Flame Oxidation" (January 21, 1981).

36. USEPA, OPTS, EED, Memo from Erickson and Stanley to Redford, "PCB Quantitation List Parameters" (September 24, 1982).

37. USEPA, OPTS, EED, Memo from Redford to Halper, "Transmittal of MRI's PCB Quantitation List Parameters Memorandum with Additional Comments" (September 30, 1982).

38. USEPA, OPTS, EED, Memo from Redford to Kutz, "Rationale for Choosing a Reasonable Sample Size and Matrix Interference Allowance for the PCB Analytical Method" (September 13, 1982).

39. USEPA, OPTS, ETD, Memo from Kingsley to Moll, "Cost Estimates for Implementation of MRI Analytical Protocol for Incidentally Generated PCBs" (August 23, 1982).

40. USEPA, OPTS, Memo to the Record, "Schedule for PCB Rule on Closed and Controlled Processes" (April 29, 1982).

41. USEPA, OPTS, EED, Memo from Guimond to Cox, "Response to CMA's Questions" (August 3, 1982).

42. USEPA, OPTS, "Response to CMA's Request for Cross Examination" (August 17, 1982).

43. USEPA, OPTS, "Response to CMA's Request for Dr. Erickson to Testify at the July 26 PCB Hearing" (July 22, 1982).

44. USEPA, "EPA Report in Accordance with this Court's April 13, 1982 Order Concerning EPA Proposal for Action on Polychlorinated Biphenyls in Concentrations Below 50 Parts Per Million Resulting From Uncontrolled PCBs and Motion for Extension of Stay of Mandate as to EPA Action on Uncontrolled PCBs Until December 1, 1982" (March 11, 1982).

45. CMA, Letter to Gunter (EPA) from Fensterheim (CMA), "Summary of Discussion on Erickson Testimony" (July 13, 1982).

46. CMA, Letter to Clay (EPA) from Zoll (CMA), "Request for Cross Examination and an Informal Hearing on EPA's Proposed Rule Concerning PCBs in Closed and Controlled Waste Manufacturing Processes" (August 9, 1982).

47. USEPA, OPTS, EED, "Guidance for Sample Collection" (October 1982).

48. USEPA, OSW, "RCRA Guidance for Hazardous Waste Incineration."

49. USEPA, OPTS, EED, "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations, Draft Interim Report" (April 6, 1982).

50. USEPA, OPTS, EED, "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations, Draft Interim Report, Revision #1" (April 16, 1982).

51. USEPA, OPTS, EED, "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations, Draft Interim Report, Revision #3" (June 17, 1982).

52. USEPA, OPTS, EED, "Methods of Analysis for Incidentally Generated PCBs Literature Review and Preliminary Recommendations, Final Report" (October 12, 1982).

53. USEPA, OPTS, EED, "Methods of Analysis for Incidentally Generated PCBs-Synthesis of ^{13}C-PCB Surrogates, Draft Interim Report #3" (June 29, 1982).

54. USEPA, OPTS, EED, "Methods of Analysis for Incidentally Generated PCBs Preliminary Validation and Interim Methods" (October 12, 1982).

55. USEPA, Memo from R.G. Bell to Don Clay, "OTS Obligations Under the Environmental Research, Development and Demonstration Authorization Act of 1978" (July 30, 1982).

D. Reports

1. Chemical Manufacturers Association, "A Report of a Survey on the Incidental Manufacture, Processing, Distribution, and Use of Polychlorinated Biphenyl at Concentrations Below 50 ppm."

2. Chemical Manufacturers Association, "The Analysis of Chlorinated Biphenyls."

3. Ecology and Environment, Incorporated, "Summary of the Health Effects of PCBs."

VI. Authority

Section 6(e) of TSCA [15 U.S.C. 2605]. The Administrator of EPA has authority to amend or modify the PCB Manufacturing, Processing, Distribution in Commerce and Use Prohibition Rule (40 CFR Part 761), published in the Federal Register (44 FR 31514, May 31, 1979).

VII. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this final rule is not a major rule as the term is defined in section 1(b) of the Executive Order. Therefore, EPA has not prepared a Regulatory Impact Analysis for this proposed rule.

EPA has concluded that this final rule is not "major" under the criteria of section 1(b) because the annual effect of the rule on the economy will be less than $100 million; it will not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States enterprises to compete with foreign enterprises in domestic or foreign markets. In fact, this final rule allows certain uses of PCBs that would otherwise be prohibited by section 6(e) of TSCA and, therefore, reduces the overall costs and economic impact of section 6(e).

VIII. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, the Administrator may certify that a rule will not, if promulgated, have a significant impact on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis. The amendment to the PCB rule excludes persons who manufacture PCBs in closed and controlled waste manufacturing processes from the ban on manufacture of PCBs. For those persons who qualify for the exclusion, the effect of this rule is to avoid the economic impact associated with the ban. Since no negative economic effect is expected upon any business entity from the promulgation of this rule, I certify that this rule will not have a significant economic impact on small entities.

IX. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq* (the Act), authorized the Director of the OMB to review certain information collection requests by Federal agencies. EPA has determined that the recordkeeping and reporting requirements of this rule constitute a "collection of information," as defined in 44 U.S.C. 3502(4). In accordance with the Act, the recordkeeping and reporting requirements of this rule have been submitted to OMB under section 3504(b) of the Act. OMB has assigned the control number 2070–0008 to this final rule.

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: October 12, 1982.

Anne M. Gorsuch,

Administrator.

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS

Therefore, 40 CFR Part 761 is amended as follows:

1. Paragraph (f) is added to § 761.1, to read as follows:

§ 761.1 Applicability.

* * * * *

(f) Persons who manufacture, process, distribute in commerce, or use PCBs generated as byproducts, impurities or intermediates in closed and controlled waste manufacturing processes (as defined in § 761.3 (jj) and (kk)) are exempt from the requirements of Subpart B. To qualify for this exclusion, such processes must also fully comply with § 761.185.

2. Paragraphs (jj), (kk), (mm), and (nn) are added to § 761.3, to read as follows:

§ 761.3 Definitions

* * * * *

(jj) "Closed manufacturing process" means a manufacturing process in which PCBs are generated but from which less than 10 micrograms per cubic meter from any resolvable gas chromatographic peak are contained in any release to air; less than 100 micrograms per liter from any resolvable gas chromatographic peak are contained in any release to water; and less than 2 micrograms per gram from any resolvable gas chromatographic peak are contained in any product, or any process waste.

(kk) "Controlled waste manufacturing process" means a manufacturing process in which PCBs are generated but from which less than 10 micrograms per cubic meter from any resolvable gas chromatographic peak are contained in any release to air; less than 100 micrograms per liter from any resolvable gas chromatographic peak are contained in any release to water; less than 2 micrograms per gram from any resolvable gas chromatographic peak are contained in any product, and the remainder of PCBs generated are incinerated in a qualified incinerator, landfilled in a landfill approved under the provisions of § 761.75, or stored for such incineration or landfilling in accordance with the requirements of § 761.65(b)(1).

(ll) [Reserved]

(mm) "Manufacturing process" means all of a series of unit operations operating at a site, resulting in the production of a product.

(nn) "Qualified incinerator" means one of the following:

(1) An incinerator approved under the provisions of § 761.70.

(2) A high efficiency boiler approved under the provisions of § 761.60(a)(3).

(3) An incinerator approved under section 3005(c) of the Resource Conservation and Recovery Act (42 U.S.C. 6925(c)) (RCRA). The manufacturer seeking to qualify a process as a controlled waste process by disposing of wastes in a RCRA-approved incinerator must make a determination that the incinerator is capable of destroying less readily burned compounds than the PCB homologs to be destroyed. The manufacturer may use the same guidance used by EPA in making such a determination when issuing an approval under section 3005(c) of RCRA. The manufacturer is also responsible for obtaining reasonable assurances that the incinerator, when burning PCB wastes, will be operated under conditions which have been shown to enable the incinerator to destroy the less readily burned compounds.

3. Section 761.185 is added to read as follows:

§ 761.185 Certification program and retention of special records by persons generating PCBs in closed manufacturing processes and controlled waste manufacturing processes.

(a) In addition to meeting the basic requirements of § 761.1(f), PCB-generating manufacturing processes shall be considered "closed manufacturing processes" or "controlled waste manufacturing processes" (and thus, be excluded from the TSCA section 6(e) ban on manufacture), only if the owner/operator of the manufacturing facility:

(1) Performs either a theoretical analysis of PCB levels in releases or conducts actual sampling of PCB levels in releases.

(2) Determines that the disposal facility is qualified for the disposal of controlled wastes under § 761.3(nn) (for controlled waste processes only).

(3) Maintains (for a period of 3 years after a process ceases operations or for 7 years, whichever is shorter) records containing the following information on the processes:

(i) *Theoretical analysis.* (A) The reaction or reactions believed to be producing the PCBs, the levels of PCBs generated, and the levels of PCBs released.

(B) The basis for all estimations of PCB concentrations.

(C) The name and qualifications of the person or persons performing the theoretical analysis.

(ii) *Actual monitoring.* (A) The method of analysis.

(B) The results of the analysis, including data from the Quality Assurance Plan.

(C) The name of the analyst or analysts.

(D) The date and time of the analysis.

(iii) *Qualifications of the disposal facility.* (A) The type of disposal facility.

(B) The name of the disposal facility.

(C) The location of the disposal facility.

(D) If the disposal facility is a RCRA-approved incinerator, the basis for the determination that the incinerator qualifies for the destruction of the PCB wastes to be destroyed.

(b) The data collected, and the analysis performed under paragraph (a) of this section must support the following certification if the processes are to be excluded under the closed manufacturing process and controlled waste manufacturing process exclusion. Persons desiring exclusion of a PCB-generating process under the closed and controlled waste process exclusion shall certify that:

(1) An analysis of the manufacturing process for PCB levels and releases (either theoretical or through actual monitoring for PCBs) has been completed.

(2) The analysis of the manufacturing process is on record at the facility.

(3) The concentration of PCBs in air emissions is below 10 micrograms per cubic meter per resolvable gas chromatographic peak; in water effluents, below 100 micrograms per liter per resolvable gas chromatographic peak; and in products, below 2 micrograms per gram per resolvable gas chromatographic peak.

(4) Either:

(i) The concentration of PCBs in process wastes is below 2 micrograms per gram resolvable gas chromatographic peak.

(ii) All process wastes are either incinerated in a qualified incinerator (see § 761.3(nn)), landfilled in a landfill approved under § 761.75, or stored for such incineration or landfilling in accordance with the requirements of § 761.65(b)(1).

(c) The certification must be signed by a responsible corporate officer. This certification must be filed at each facility in which a closed or controlled waste process is operating for a period of three years after a process ceases operation or for seven years, whichever is shorter, and must be made available to EPA upon request. For the purpose of this section, a responsible corporate officer means:

(1) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.

(2) The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(d) This certification process must be repeated whenever process conditions are significantly modified to make the previous certification no longer valid. Significant modifications include changing disposal mechanisms or facilities for the disposal of controlled wastes.

(e) Any person signing a document under paragraph (b) (1) through (4) of this section shall also make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate information. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for falsifying information, including the possibility of fines and imprisonment for knowing violations.

Dated: ———————.

Signature ———————.

(f) Manufacturers operating closed and controlled waste manufacturing processes shall transmit a letter to EPA notifying EPA of:

(1) The number, the type, and the location of the closed and controlled waste manufacturing processes.

(2) Whether the determinations that the processes qualify for exclusion are based on theoretical assessments or on actual monitoring of PCB levels in releases.

(3) The type, the name, and the location of the waste disposal facility, if the process is a controlled waste manufacturing process.

[FR Doc. 82-28779 Filed 10-20-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 5662 / Pub. L. 97–347 To extend until October 1, 1983, the authority and authorization of appropriations for certain programs under the Fish and Wildlife Act of 1956. (Oct. 18, 1982; 96 Stat. 1652) Price: $1.75.

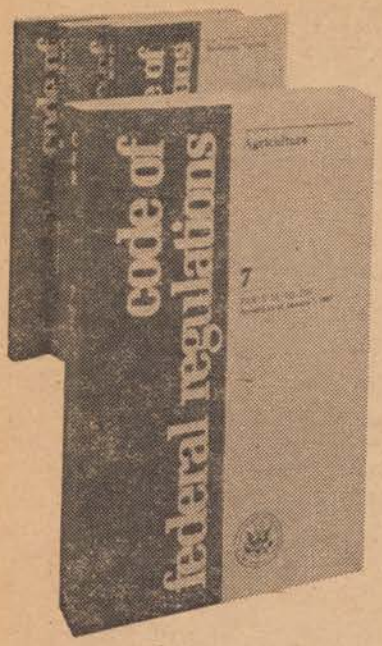
S. 1018 / Pub. L. 97–348 Coastal Barrier Resources Act. (Oct. 18, 1982; 96 Stat. 1653) Price: $2.00.

S.J. Res. 261 / Pub. L. 97–349 To designate "National Housing Week". (Oct. 18, 1982; 96 Stat. 1660) Price: $1.75.

S. 1210 / Pub. L. 97–350 To authorize appropriations for the operations of the Office of Environmental Quality and the Council on Environmental Quality during fiscal years 1982, 1983, and 1984, and withdraw certain lands within the Mount Baker-Snoqualmie National Forest from leasing under mineral and geothermal leasing laws. (Oct. 18, 1982; 96 Stat. 1661) Price: $1.75.

H.R. 5228 / Pub. L. 97–351 Convention on the Physical Protection of Nuclear Material Implementation Act of 1982. (Oct. 18, 1982; 96 Stat. 1663) Price: $1.75.

H.R. 6865 / Pub. L. 97–352 To amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such Act, and for other purposes. (Oct. 18, 1982; 96 Stat. 1667) Price: $1.75.



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