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Monday
December 6, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Reserve System

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Government Property
General Services Administration

Hazardous Materials Transportation
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Income Tax
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Health Care Financing Administration

Navigation (Water)
Engineers Corps

Privacy
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Federal Communications Commission

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Selected Subjects

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R-0438]

Interest on Deposits; Regulation Q; Depositors Eligible To Maintain NOW Accounts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rules.

SUMMARY: The Board of Governors has amended Regulation Q—Interest on Deposits (12 CFR Part 217) to provide that all governmental units are eligible to maintain NOW (Negotiable Order of Withdrawal) accounts at member banks. This action conforms Regulation Q with provisions of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320, 96 Stat. 1469).

EFFECTIVE DATE: October 15, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), Paul S. Pilecki, Senior Attorney (202/452-3281), or Beverly A. Belcamino, Legal Assistant (202/452-3623), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20051.

SUPPLEMENTARY INFORMATION: The Consumer Checking Account Equity Act of 1980 (Title III of Pub. L. 96-221) ("Act") authorized depository institutions nationwide, effective December 31, 1980, to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties ("NOW accounts") (12 U.S.C. 1832(a)(1)). Under this statute, NOW accounts were available only to individuals and certain organizations operated primarily for religious, charitable, philanthropic, educational and other similar purposes and not for profit. On September 16, 1981, the Board adopted an interpretation to clarify the rules concerning the class of depositors eligible to maintain NOW accounts (12 CFR 217.157). This interpretation provides that governmental units generally are not permitted to maintain NOW accounts.

Section 706 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320, 96 Stat. 1469) ("Garn-St Germain Act"), which was enacted on October 15, 1982, provides that "deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof" may be maintained in NOW accounts at member banks. Consequently, the Board is amending its September 16, 1981 interpretation and § 217.1(e)(3) of Regulation Q (12 CFR 217.1(e)(3)) to implement section 706 of the Garn-St Germain Act.

Because this action implements the explicit terms of a statute, which was effective on October 15, 1982, the Board believes that good cause exists for not following the notice and public participation provisions of 5 U.S.C. 553(b) and for making this action effective with the date of enactment of the Garn-St Germain Act.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

Effective October 15, 1982, pursuant to its authority under section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)), the Board amends Regulation Q (12 CFR Part 217) as follows:

1. By revising paragraph (e)(3) of § 217.1 to read as follows:

§ 217.1 Definitions.

* * * * *

(e) *Savings deposits.* * * *

(3) (i) Deposits subject to negotiable orders of withdrawal may be maintained if such deposits consist of funds in which the entire beneficial interest is held by (A) one or more individuals; (B) a corporation, association, or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes and not operated for profit; or (C) the United States, any State of the United States, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

(ii) Deposits in which any beneficial interest is held by a corporation, partnership, association or other organization that is operated for profit or is not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes, or that is not a governmental unit described in subparagraph (i) (C) may not be classified as deposits subject to negotiable orders of withdrawal.

* * * * *

2. By revising paragraph (a) (1) and (2) and (d) of § 217.157 to read as follows:

§ 217.157 Eligibility for NOW Accounts.

(a) *Background.* (1) Effective December 31, 1980, the Consumer Checking Account Equity Act of 1980 (Title III of the Depository Institutions Deregulation and Monetary Control Act of 1980; Pub. L. 96-221; 94 Stat. 146) ("Act") authorizes depository institutions nationwide to offer interest-bearing checking (NOW) accounts to depositors where the "entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit." (12 U.S.C. 1832(a)(2)). The purpose of the Act is to extend the availability of NOW accounts throughout the nation. Previously, as an experiment, NOW accounts were authorized to be offered by depository institutions only in New England, New York, and New Jersey.

(2)(i) The NOW account experiment established by Congress in 1973 did not specify the types of customers that could maintain NOW accounts. As a result, the rules of the Federal Reserve and Federal Deposit Insurance Corporation specified the types of depositors eligible to maintain NOW accounts at member and insured nonmember banks. In enacting the NOW account provision in 1980, Congress adopted virtually the same language concerning NOW

account eligibility that previously had been adopted by the Board and the Federal Deposit Insurance Corporation with regard to the types of customers permitted to maintain NOW accounts in institutions located in the NOW account experiment region. (12 CFR 217.1(e)(3) and 12 CFR 329.1(e)(2)). This definition was based upon longstanding regulatory provisions concerning eligibility criteria for savings deposits.

(ii) Effective October 15, 1982, section 706 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320; 96 Stat. 1540) specifically extended NOW account eligibility to funds deposited by governmental units.

(3) * * *

* * * * *

(d) *Governmental Units.* Governmental units are generally eligible to maintain NOW accounts at member banks. NOW accounts may consists of funds in which the entire beneficial interest is held by the United States, any State of the United States, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

* * * * *

By order of the Board of Governors, November 29, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-32985 Filed 12-3-82; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations; Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule effective date; correction.

SUMMARY: On November 19, 1982, the Farm Credit Administration published the effective date of a final regulation implementing approval requirements for certain types of loans and specifying which Farm Credit System bank is responsible for approving loans to directors, officers, and employees of System institutions (47 FR 52128). This document corrects an error in the numerical designation of the final rule contained in the last paragraph of the final rule effective date notice.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Duputy Governor, Office of Administration, Governor, Farm credit Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578 (202–755–2181).

Donald E. Wilkinson,

Farm Credit Administration.

The language contained in the last paragraph of the final rule effective date notice is corrected to read as follows:

"Accordingly, the Farm Credit Administration is correcting the effective date for 12 CFR 614.4470 as follows:

Effective Date: February 1, 1983."

[FR Doc. 82-33137 Filed 12-3-82; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CEF-8-AD; Amdt. 39-4510]

Airworthiness Directives; Government Aircraft Factories (GAF); Nomad Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Government Aircraft Factories GAF) Nomad Models N22B and N24A airplanes. This AD requires inspection and replacement (if required) of the pilot and co-pilot wheel subassemblies because structural cracking of the control wheel back plate has occurred. A loss of airplane control may result if this condition is not detected and corrected.

DATE: Effective December 9, 1982. Compliance: As prescribed in the body of the AD.

ADDRESSES: GAF Nomad Alert Service Bulletin ANMD–27–27, may be obtained from Government Aircraft Factories, 226 Lorimer Street, Port Melbourne, 3207 Victoria, Australia. A copy of it is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Gary K. Nakagawa, Manager, Aircraft Certification Field Office, ANM–170H, Federal Aviation Administration, P.O. Box 50246, Honolulu, Hawaii 96850; Telephone (808) 546–8650.

SUPPLEMENTARY INFORMATION: Government Aircraft Factories (GAF—Australia has advised that reports have been received of the partial failure of the pilot and co-pilot control wheel subassemblies on both Nomad Models N22B and N24A airplanes. Subsequent investigation attributed the failure to cracking in the area of the weld joining the spigot shaft to the back plate. Reports have also been received of a partially failed control wheel back plate on U.S. registered N24A model airplanes. These reports cite structural cracks along and adjacent to the weld (back plate to spigot shaft) on the captain's control wheel. Structural cracking and complete failure of the back support plate and/or circumferential weld to the spigot shaft could lead to separation of the control wheel and result in loss of airplane control. To ensure continued airworthiness, the manufacturer has issued Nomad Alert Service Bulletin ANMD–27–27. Recommended therein is an inspection for possible cracking and, when necessary, replacement of the defective part(s) before further flight on certain in service GAF Nomad Models N22B and N24A airplanes. Accordingly, since the condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued which requires mandatory compliance with GAF Nomad Alert Service Bulletin ANMD 27–27.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure thereon 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 AD.

Government Aircraft Factories (GAF): Applies to Nomad Models N22B and N24A airplanes certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To preclude failure of the pilot and co-pilot control wheels, accomplish the following:

(A) Within the next 50 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours time-in-service from the last inspection:

(1) Visually inspect, using at least a 5 power magnifier and supplemental lighting as necessary, the pilot's and co-pilot's control wheel subassemblies for structural cracking in the area adjacent to the circumferential weld joining the shaft spigot to each control

wheel back support plate. (To gain access to the forward face of the control wheel subassembly, pull control column fully back.)

(2) If cracks are found, before further flight, replace with new or serviceable parts verified to be free from cracks.

(B) A special flight permit may be issued in accordance with FAR 21.197 to allow flight of the airplane to a location where this AD may be accomplished.

(C) The intervals between repetitive inspections required by this AD may be adjusted up to plus 10 percent of the specified intervals to allow accomplishing these inspections during an established inspection.

(D) An alternate means of compliance with this AD may be used when approved by the Manager, Honolulu Aircraft Certification Field Office, Northwest Mountain Region, Federal Aviation Administration, 300 Ala Moana Boulevard, Honolulu, Hawaii.

GAF Nomad Alert Service Bulletin ANMD 27-27 covers the subject matter of this AD.

This amendment becomes effective on December 9, 1982.

(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)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

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

Issued in Kansas City, Mo., on November 19, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-33055 Filed 12-3-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-42; Amdt. 39-4511]

Airworthiness Directives; Avco Lycoming Turbofan Engine Models ALF502-L/L2 and ALF502-R3/R4

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection of first stage compressor stator and fourth stage turbine blade for cracks and defects. The AD further requires eventual retrofit of existing first stage compressor stators and fourth stage turbine nozzles with improved parts.

The AD is necessary to prevent failure of first stage compressor stators, fourth stage turbine blades, and fourth stage turbine nozzles which could result in engine power loss, uncontained failure, or in-flight engine shutdown.

DATES: Effective date—December 16, 1982. Compliance schedule—As prescribed in the body of the AD. Comments must be received on or before February 16, 1983.

ADDRESSES: The applicable service bulletins [1] may be obtained from Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06497. Send comments on the rule to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 82-ANE-42, 12 New England Executive Park, Burlington, Massachusetts 01803.

A copy of each of the service bulletins is contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. The service bulletins and all comments received may be examined in the Rules Docket weekdays, except Federal holidays, betwen 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Leo P. Boucher, General Aviation Engine Section (ANE-142), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7347.

SUPPLEMENTARY INFORMATION: There have been reports of engine failures and loss of power on Avco Lycoming ALF502L and L-2 engines caused by the separation of first stage compressor stator vane airfoils and fourth stage turbine blade airfoils. Additionally, there was an incident of noncontainment of an ALF502L-2 fourth stage turbine blade failure in a test cell. This noncontainment was due to nonconforming welds in the fourth stage turbine nozzle. Since this condition is likely to exist or develop on other ALF502L and L-2 engines and may also develop on ALF502R-3 and R-4 engines which use these same components, an AD is being issued which requires a borescope inspection until first stage compressor stator vanes are replaced, replacement of fourth stage turbine nozzles, and the eddy current inspection of fourth stage turbine blades on Avco Lycoming ALF502L, L-2, R-3, and R-4 engines.

[1] The service bulletins are filed with the original document.

Request for Comments on the Rule

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

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

List of Subjects in 14 CFR Part 39

Engines, Aircraft, and Aviation safety.

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 AD:

Avco Lycoming: Applies to Avco Lycoming ALF502L, L-2, R-3, and R-4 Turbofan Engines

Compliance is required as indicated unless already accomplished.

To prevent engine power loss, uncontained engine failure, and in-flight engine shutdown, caused by separation of first stage compressor stator vane airfoils and/or separation of fourth stage turbine blade airfoils, one of which was not contained, accomplish the following:

(a) Prior to December 16, 1982, and thereafter at intervals not to exceed 50 operating cycles since the last inspection, perform borescope inspections of first stator vane segments in accordance with Avco Lycoming Service Bulletin ALF502-72-0012, Revision 2, dated June 17, 1982, until paragraph (b) is accomplished.

(b) Prior to July 1, 1983, replace first stage compressor stator vane assembly with the improved first stage compressor stator vane assembly in accordance with Avco Lycoming Service Bulletin ALF502–72–0025, Revision 1, dated June 17, 1982.

(c) Prior to December 16, 1982, conduct eddy current inspections of fourth stage turbine blades in accordance with Avco Lycoming Service Bulletin ALF502–72–0027 dated May 26, 1982.

(d) Prior to July 1, 1983, replace fourth stage turbine nozzle with the improved fourth stage turbine nozzle in accordance with Avco Lycoming Service Bulletin ALF502–72–0021, dated April 16, 1982.

(e) Later FAA approved revisions of the service bulletins, referred to in this AD, and/or equivalent means approved by the Manager, Engine Certification Branch, FAA, New England Region, may be used in lieu of the above listed service bulletins.

(f) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Manager, Engine Certification Branch, FAA, New England Region, may adjust the compliance date specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(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)); Sec. 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note. Avco Lycoming has proposed to absorb the cost of the inspection and replacement of the engine parts required by this AD, and therefore, the FAA has determined the AD will not have a significant economic impact on the engine owners. This regulation is an emergency regulation that is not a major regulation under Section 8 of Executive Order 12291 and is not a significant regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A regulatory evaluation has been prepared for this regulation and has been placed in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts on November 24, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–33143 Filed 12–3–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–ASO–49]

Alteration of Transition Area, Tupelo, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Tupelo, Mississippi, Transition Area by increasing the size of the basic radius area. This action will provide additional controlled airspace for containment of aircraft operating under Instrument Flight Rule conditions in the vicinity of C. D. Lemons Municipal Airport and the Industrial Airpark.

EFFECTIVE DATE: 0901 GMT, January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Monday, October 4, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Tupelo, Mississippi, Transition Area to provide additional controlled airspace for aeronautical operations in the vicinity of C. D. Lemons Municipal Airport and the Industrial Airpark (47 FR 43714). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received in response to publication. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations increases the size of the Tupelo, Mississippi, Transition Area to accommodate aeronautical operations at both the C. D. Lemons Municipal Airport and the Industrial Airpark.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, January 20, 1983, as follows:

Tupelo C. D. Lemons Municipal Airport, MS—Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of C. D. Lemons Municipal Airport (lat. 34°15'32" N., long. 88°45'32" W.); within 3 miles each side of the Tupelo VOR 214° radial, extending from the 6.5-mile radius area to 8.5 miles southwest of the VOR; within 5.5-mile radius of Industrial Airpark (lat. 34°10'36" N., long. 88°41'18" W.).

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

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

Issued in East Point, Georgia, on November 22, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82–33142 Filed 12–3–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–ANE–33]

Sanford, Maine, 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends the Sanford, Maine, 700-foot transition area to provide additional airspace protection for aircraft executing a Very High Frequency Omni Range (VOR) original Standard Instrument Approach Procedure (SIAP).

DATE: Effective January 3, 1983.

FOR FURTHER INFORMATION CONTACT: David Hurley, Manager, Operations, Procedures and Airpsace Branch, ANE–530, New England Region, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION:

History

On Thursday, September 23, 1982, a Notice of Proposed Rulemaking was published in the **Federal Register** (47 FR 27373) stating the FAA proposed to amend the 700-foot transition area at

Sanford Municipal Airport, Sanford, Maine, so as to provide additional controlled airspace protection for aircraft executing the VOR original SIAP. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations [14 CFR Part 71] by revising the 700-foot transition area at Sanford Municipal Airport, Sanford, Maine, as follows:

Sanford, Maine

Add to existing text:
"and within 3.5 miles each side of the Kennebunk, Maine VOR 243° radial, extending from the 7-mile radius area to 24.5 miles SW of the VOR; excluding the portion within the Portsmouth, New Hampshire (Pease AFB) transition area."

(Sec. 307(a), Federal Aviation Act of 1958 [49 U.S.C. 1348 (a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); § 11.61, Federal Aviation Regulations (14 CFR 11.61))

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. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on November 22, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-33053 Filed 12-3-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANE-23]

Block Island, Rhode Island, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends the Block Island, Rhode Island 700-foot transition area to provide additional airspace protection for aircraft executing Very High Frequency Omni Range (VOR) Runway 10 or VOR Runway 28 original Standard Instrument Approach Procedure (SIAP).

DATE: Effective January 3, 1983.

FOR FURTHER INFORMATION CONTACT: David Hurley, Manager, Operations, Procedures and Airspace Branch, ANE-530, New England Region, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION:

History

On Thursday, September 23, 1982, an Amendment to Notice of Proposed Rulemaking was published in the **Federal Register** (47 FR 27373) stating the FAA proposed to amend the 700-foot transition area so as to provide airspace protection for aircraft executing the VOR Runway 28 original Standard Instrument Approach Procedure at Block Island State Airport, Block Island, Rhode Island. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends Section 71.181 of the Federal Aviation Regulations [14 CFR Part 71] by amending the 700-foot transition area at Block Island State Airport, Block Island, Rhode Island, as follows:

Block Island, Rhode Island

Remove:
"within a 5 mile radius."
Insert in lieu thereof:
"within a 8.5 mile radius."

(Sec. 307(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.61, Federal Aviation Regulations (14 CFR 11.61))

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. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures [44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on November 22, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-33054 Filed 12-3-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71, 73, and 75

Airspace Regulations; Advisory Circular; Availability

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability.

SUMMARY: Last year, the FAA published Advisory Circular (AC) 70-3 which replaced the annual Compilation of Regulations previously published in the **Federal Register**. The AC contains current airspace designations in Parts 71, 73, and 75 and is published for the benefit of the public, since airspace designations are not carried in the Code of Federal Regulations or the Federal Aviation Regulations. In January we are planning to publish AC 70-3A which will replace AC 70-3 and will contain all the airspace descriptions that will be in effect on December 31, 1982. We will have a limited supply and request that anyone interested in receiving a copy of AC 70-3A contact the person identified below in order to be placed on the mailing list. Once on the mailing list, you will receive all subsequent annual Compilations of Airspace Regulations.

DATE: Please respond by December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Mary Ann Webb, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

Issued in Washington, D.C. on November 23, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-33052 Filed 12-3-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[Regulation ER-1309; Amdt. 1]

Terms of Contract of Carriage; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the reporting requirements contained in new Part 253 of the Board's Economic Regulations, "Notice of Terms of Contract of Carriage." This approval has been granted through September 30, 1984. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: December 1, 1982; effective: November 22, 1982.

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

PART 253—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 253 of its Economic Regulations (14 CFR Part 253) by adding a note at the end of the table of contents to Part 253 to read:

Note.—The notice requirements contained in §§ 253.4(b), 253.4(c), 253.5, 253.6 and 253.7 have been approved by the Office of Management and Budget under number 3024-0061.

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

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-33154 Filed 12-3-82; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 210, 229, 230, 239, 240, 249 and 260

[Release Nos. 33-6437, 34-19258, 39-774, IC-12832; FR-7; S7-915]

Adoption of Foreign Issuer Integrated Disclosure System

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today announced the adoption of a comprehensive revision to the rules and forms applicable to foreign private issuers registering securities under the Securities Act of 1933 and the Securities Exchange Act of 1934. Specifically, this action involves (1) the adoption of three registration forms that constitute the basic framework for registration statements of foreign private issuers under the Securities Act; (2) the revision of Form 20-F (the consolidated registration and annual report form for foreign private issuers under the Exchange Act); (3) the adoption of a rule relating to the age of financial statements included in filings of foreign private issuers; (4) the adoption of a rule relating to the currency in which the financial statements of foreign private issuers are to be presented in filings with the Commission; and (5) the revision of various other rules to implement these rules and to reflect other changes.

DATES: Effective December 4, 1982. Compliance with these amendments may begin as follows:

(1) Registration statements may be filed using Forms F-2 or F-3 as soon as a Form 20-F complying with the revisions adopted in this release has been filed. The latest Form 20-F filed may be amended to comply with such revisions;

(2) Annual reports on Form 20-F relating to fiscal years ending after December 15, 1982 shall comply with the revisions adopted in this release; annual reports relating to earlier fiscal years are not required to comply with such revisions;

(3) Filings on any form made prior to the publication of these rules and forms in the **Federal Register** may comply with either these rules and forms or the ones in effect at the date of filing;

(4) If Rule 3-20 of Regulation S-X requires a change in reporting currency, that change shall be made in the next filing that includes financial statements except filings on Forms 10-Q, 8-K >or 6-K.

FOR FURTHER INFORMATION CONTACT: Carl T. Bodolus (202) 272-3246, or Ronald Adee (202) 272-3250, Office of International Corporate Finance, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Questions on accounting matters may be directed to Howard P. Hodges, Jr. (202) 272-3243, Chief Accountant, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting various rules and forms relating to filings by foreign private issuers under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq. (1976 and Supp. III 1979), and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. (1976 and Supp. III 1979)]. This action constitutes the development of an integrated disclosure system for foreign private issuers. Recently, the Commission adopted an integrated disclosure system for United States ("U.S.") issuers.[1] These two systems are designed and intended to operate separately.

Specifically, the Commission has adopted: (1) Three new registration forms, Forms F-1, F-2, and F-3 (17 CFR 239.31, 239.32 and 239.33) that will serve as the basic framework for the registration of securities by non-Canadian foreign private issuers under the Securities Act; (2) Rule 3-19 of Regulation S-X [17 CFR 210.3-19] relating to the age of financial statements included in filings of foreign private issuers; (3) Rule 3-20 of Regulation S-X [17 CFR 210.3-20] relating to the currency in which the financial statements of foreign private issuers should be presented; (4) various other rules and revisions to existing rules that are necessitated by the adoption of the forms and rules mentioned above or that clarify the requirements applicable to foreign private issuers.

The Commission solicited public comments on proposed rules and forms in Release Nos. 33-6360 (November 30, 1981), 33-6361 (November 20, 1981), and 33-6362 (November 20, 1981) [46 FR 58505]. Those releases contained detailed discussions of rules and forms and their development, including the Commission's rationale and objectives regarding various aspects of the integrated disclosure system for foreign private issuers that such issuers may find relevant to an understanding of the Commission's requirements.[2] Rather than repeat those discussions, this release explains the differences from the proposals. Attention is directed to the discussion in the proposing releases and to the text of the rules and forms for a more complete understanding.

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[1] *See* Release Nos. 33-6383 (March 3, 1982), 33-6384 (March 3, 1982), 33-6385 (March 3, 1982), and 33-6386 (March 3, 1982) [47 FR 11380].

[2] See generally: Barbara S. Thomas, *Internationalization of the Securities Markets: An Empirical Analysis*, 50 Geo. Wash. L. Rev. 155 (1982) and an address by Thomas, *The Integrated Disclosure System for Foreign Issuers: An Introduction for Foreign Lawyers*, NYU School of Law (July 1981).

General

The Commission received over sixty letters of comment on the proposals from foreign registrants, foreign and domestic stock exchanges, foreign and domestic accounting firms, securities firms, law firms, bar associations, accounting associations, and others.[3] All but one of the commentators expressed general support of the proposals, but nevertheless most also urged the Commission to make significantly more accommodations in the requirements applicable to foreign issuers. As explained in the prior release, in developing the proposals the Commssion sought to balance the policies of protecting investors by requiring substantially the same disclosure from domestic and foreign issuers and of promoting the public interest by encouraging foreign issuers to register their securities with the Commission.

The Commission believes that the proposals, for the most part, represented a satisfactory balance of these competing policies. The Commission has considered and evaluated the reasoning and comments presented in the letters received in response to the general concept release and the proposing releases. Based on the comments received and its own experience, the Commission has concluded to adopt the proposals with a few changes explained below and with revisions to clarify the requirements or to conform to the changes made upon the adoption of the domestic integrated disclosure system.

Form 20–F[4]

The form is adopted basically as proposed with a few changes for clarity. The general instruction relating to the use of Form 20–F has been revised and simplified with no major substantive change.[5] Few commentators addressed the proposal to add the requirements for Selected Financial Data and a Management's Discussion and Analysis of Financial Conditions and Results of Operations so they are adopted with only the changes necessary to conform to the corresponding requirements in Regulation S–K [17 CFR Part 229].[6]

Several changes are made in Items 17 and 18, the alternative financial statement requirements. These changes clarify the requirements, and allow more flexibility in the presentation of information about the balance sheet effect of using accounting principles other than U.S. generally accepted accounting principles reflected in the balance sheet.

Forms F–1, F–2, and F–3

The Commission is revising its traditional distinction between North American foreign issuers (Canadian and Mexican) and all other foreign issuers so that Canadian issuers only are distinguished from other foreign issuers. The basis for the traditional distinction was explained in the previous releases and comments were solicited. Many commentators stated that Mexican issuers should be treated the same as other foreign issuers because the accounting and disclosure practices in Mexico significantly differ from those in the U.S. and Canada. A number of commentators stated that there was little need to eliminate the distinction of Canadian issuers because they have had substantial experience complying with U.S. disclosure standards.

For most purposes Canadian issuers are subject to the same regulation as U.S. issuers but are eligible to file on Forms 20–F and 6–K instead of Forms 10, 10–K, 10–Q, and 8–K for registration under Section 12(g) of the Exchange Act and subsequent periodic reporting. Forms F–1, F–2, and F–3 have been revised to allow such a Canadian registrant to use them for one offering. Thereafter, the registrant would be required to file the same periodic reports under the Exchange Act as a U.S. registrant and would use Form S–1, S–2, or S–3 as appropriate. Moreover, a Canadian registrant that had been reporting on Form 20–F could use that time in determining whether it had been reporting for at least 36 months which is an eligibility criterion for Forms S–2 and S–3.

The float test, which is one of the eligibility criteria for Forms F–2 and F–3, has been revised from the proposed dual test of $500 million float worldwide and $150 million float in the U.S. Many commentators stated that the float tests were too high and would exclude all but a few registrants from the short-forms. A number of commentators questioned the need for a requirement relating to float in the U.S. They reasoned that the size of the U.S. float depends on arbitrage and other market factors; they asserted that large foreign registrants with a certain worldwide float are followed by financial analysts in the U.S. Accordingly, the float test is revised to require only a worldwide float of $300 million.

The forms have been revised to clarify the disclosure requirements in the situation in which a parent registrant guarantees the securities issued by a majority-owned subsidiary. Both the guarantee and the underlying security must be registered. Any form the parent is eligible to use is available to the subsidiary as well. Both the parent and subsidiary must furnish the information that would be required as if each were the sole registrant.[7] This is consistent with practice for domestic registrants.

For some offerings, more disclosure is required by Form F–1, F–2, or F–3 than required in Form 20–F, *e.g.*, financial statements in compliance with Item 18 of Form 20–F are required in many filings under the Securities Act but financial statements in compliance with Item 17 of Form 20–F are acceptable in annual reports under the Exchange Act. Many commentators suggested that the registrant should be allowed to include the additional information in the Securities Act prospectus or in the Exchange Act annual report. The Forms as proposed and adopted require that the Form 20–F be amended to include the additional information. The Commission believes that, under these circumstances, permitting additional information to be included in the prospectus could result in "dangling reconciliations," *e.g.*, part of the financial statements in one document and part in another. This could be

[3] Copies of the comment letters received are located in File S7–915 and are available for public inspection and copying at the Commission's Public Reference Room. In Release No. 33–6235 (September 2, 1980) [45 FR 63693], the Commission solicited comments on the general concept of an integrated disclosure system for foreign private issuers. Those comments are in File S7–849.

[4] The instructions as to the use of Form 18 [17 CFR 249.218] and Form 18–K [17 CFR 249.318] are revised to delete references to obsolete forms. The revisions are technical and correct an overrsight in failing to make the revisions in 1967 when Form 21 was repealed. The Commission finds that these revisions are editorial in nature and comments need not be solicited.

[5] *See* Items 8 and 9 of Form 20–F and Items 301, 303, and 502 of Regulation S–K.

[6] The provisions relating to "essentially U.S. issuers" have been moved to the definition of foreign issuer in Rule 3b–4 [17 CFR 240.3b–4]. Rule 3a12–3 [17 CFR 240.3a12–3] has been revised similarly. It is intended that a similar revision will be made to Rule 12g3–2 [17 CFR 240.12g3–2] in connection with the project concerning that rule.

[7] *See* Rule 3–10 of Regulation S–X [17 CFR 210.3–10] for the financial statements requirement.

especially confusing for filings on Form F–3.

Age of Financial Statements

The few changes made in Rule 3–19 of Regulation S–X relating to the age of financial statements included in filings are mainly for clarification and are self-explanatory. Forms F–2 and F–3 have been amended to allow the incorporation by reference of required interim financial statements and other information disclosed in submissions on Form 6–K if the financial statements and other information comply with the relevant requirements of the registration form and Regulation S–X. There is no explicit requirement for the registrant to state that there have been no material adverse developments since the date of the latest financial statements because the Commission believes such a requirement would duplicate the provisions of Rule 408 [17 CFR 230.408] requiring the disclosure of additional material information necessary to make the required disclosure not misleading.

Convenience Translations

As several commentators suggested, the Commission's policy on convenience translators is stated in the Rule.[8] Under proposed Rule 3–20, foreign private issuers would have been required to present their financial statements in the currency of the country in which they were incorporated. The issuer would have the option of using a different currency if several conditions were met.

One proposed condition was that the primary books and records were kept in the other currency. This condition is deleted because computerized recordkeeping permits records to be kept in multiple currencies making the condition irrelevant. The second condition, which relates to the absence of exchange controls and restrictions, is revised to include a materiality standard.

Many commentators criticized the third condition, which would have required the issuer to conduct a majority of its business in the other currency as too rigid. Most commentators addressing this point recommended the use of the "functional currency" concept as articulated in Statement of Financial Accounting Standard No. 52. The adopted rule uses a condition that is more flexible than the proposal. The final condition is that the registrant use the other currency for the financial statements for all its shareholders. This condition helps to ensure that the currency used is the one the registrant believes is the best presentation.

The Commission proposed two versions of Rule 3–20(c) relating to supplementary information on the effects of changing prices for issuers from countries with hyperinflation. One alternative would require separate supplemental information on the effects of inflation. The other would require full financial statements indicating the effects of inflation. The Commission also solicited comments on whether particular principles or methods should be specified. All the commentators on this topic preferred the first alternative but did not request the specification of particular inflation accounting principles. Rules 3–20(c), as adopted, contains the first alternative and does not require a particular method of inflation accounting.

Consents

The Commission solicited comments on inquiries concerning the general concept of requiring consents from foreign registrants and their officers, and directors, the need to define the term "authorized representative," and other matters regarding the enforceability of the federal securities laws against foreign entities. The comments received are being analyzed and the Commission will consider issuing a release on this topic in the near future.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release 1 (April 15, 1982) [47 FR 21028] is updated to:

1. Add a new subsection to Section 102 "Integrated Disclosure System," entitled as follows:

102.04 Foreign Private Issuers

2. Include in Section 102.04 the section of this release entitled "Supplementary Information."

Note.—The Codification is a separate publication issued by the SEC. It will not appear in the **Federal Register**/Code of Federal Regulations system.

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Securities.

17 CFR Parts 210, 229, 239, 240, 249, and 260

Reporting requirements, Securities.

Text of Forms, Regulations and Rules

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION, CONDUCT AND ETHICS, AND INFORMATION AND REQUESTS

1. In § 200.800(b), by revising the entries for Forms F–1 proposed, F–2 proposed, and F–3 proposed, to read as follows:

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

Information collection requirement	17 CFR part or section where identified and described	Current OMB control No.	Expiration date
*	*	*	*
Form F–1	§ 239.31	3235–0258	Dec. 31, 1984.
Form F–2	§ 239.32	3235–0257	Dec. 31, 1984.
Form F–3	§ 239.33	3235–0256	Dec. 31, 1984.
*	*	*	*

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Part 210 of 17 CFR Chapter II is amended as follows:

2. By adding new paragraph (h) to § 210.3–01.

§ 210.3–01 Consolidating balance sheets.

* * * * *

(h) Any foreign private issuer, other than a registered management investment company or an employee plan, eligible to file on Form 20–F (§ 249.220f of this chapter) may file the financial statements required by § 210.3–19 in lieu of the financial statements specified in this rule.

3. By adding new paragraph (d) to § 210.3–02.

§ 210.3–02 Consolidated statements of income and changes in financial position.

* * * * *

(d) Any foreign private issuer, other than a registered management investment company or an employee plan, eligible to file on Form 20–F (§ 249.220f of this chapter) may file the financial statements required by § 210.3–19 in lieu of the financial statements specified in this rule.

4. By adding new paragraph (e) to § 210.3–12.

[8] Rule 3–20(b) of Regulation S–X [17 CFR 210.3–20(b)].

§ 210.3-12 Age of financial statements at effective date of registration statement or at mailing date of proxy statement.

* * * * *

(e) Any foreign private issuer, eligible to file on Form 20-F (§ 249.220f of this chapter) may file financial statements whose age is specified in § 210.3-19.

5. By adding new § 210.3-19 to read as follows:

§ 210.3-19 Special provisions as to financial statements for foreign private issuers.

(a) A foreign private issuer, as defined in Rule 405 (§ 240.405 of this chapter), eligible to use Form 20-F (§ 249.220f of this chapter) other than a registered management investment company or an employee plan, shall include the following financial statements for the registrant and its subsidiaries consolidated and, where appropriate, its predecessors:

(1) Audited balance sheets as of the end of each of the two most recent fiscal years.

(2) Audited statements of income and changes in financial position for each of the three fiscal years preceding the date of the most recent audited balance sheet being filed.

(b) If the filing, other than an annual report on Form 20-F, is made within six full months after the end of the registrant's fiscal year and if the audited balance sheet for the most recent fiscal year is not available, the audited balance sheets in the filing may be as of the end of the two preceding fiscal years; *Provided,* That on the effective date the filing shall include a balance sheet as of an interim date within six months of the effective date (except as permitted in paragraph (e) of this section), and *Provided Further,* That if the effective date falls after five months subsequent to the end of the most recent fiscal year, the filing shall include an audited balance sheet for the most recent fiscal year.

(c) If the filing is made after six full months subsequent to the end of the most recent fiscal year, the filing shall include a balance sheet, which may be unaudited, as of an interim date within six months (except as permitted in paragraph (e) of this section) of the effective date.

(d) If the interim balance sheet is required by this rule, statements of income and changes in financial position for the interim period between the latest audited balance sheet and the date of the interim balance sheet being filed and for the corresponding period of the preceding fiscal year shall also be filed. Such interim financial statements may be unaudited and need not be presented in greater detail than is required by Rule 10-01 (§ 210.10-01 of this chapter).

(e) The balance sheet shall be as of a date within one year of the effective date if the only securities to be offered are (1) upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach; or (2) pursuant to a dividend or interest reinvestment plan; or (3) upon the conversion of oustanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer. The provisions of this paragraph are not applicable if securities are to be offered or sold in a standby underwriting in the United States or similar arrangement.

(f) Notwithstanding the above provisions of this rule if a foreign private issuer prepares and discloses to its shareholders or otherwise makes public, pursuant to applicable foreign laws or regulations or stock exchange requirements or otherwise, interim financial information relating to revenues and income that is more current than the financial statements required by this rule, such information shall be included in the filing and reconciled according to the provisions of either Item 17 or Item 18 of Form 20-F, whichever applies to the audited financial statements in the filing.

6. By adding § 210.3-20 to read as follows:

§ 210.3-20 Currency for financial statements for foreign private issuers.

(a) A foreign private issuer, as defined in Rule 405 (§ 230.405 of this chapter), shall state its primary financial statements only in the currency of the country in which the issuer is incorporated or organized, except that a different currency may be used if all the following conditions are met:

(1) The other currency is the currency of the primary economic environment in which the operations of such issuer and its subsidiaries are conducted; normally that is the currency of the environment in which such issuer primarily generates and expends cash. (The practice of linking or indexing transactions to a particular currency is not determinative that such currency is the reporting currency.);

(2) There are no material exchange restrictions or controls relating to that currency; and

(3) The issuer publishes its financial statements for all of its shareholders in the other currency.

(b) The currency in which the financial statements are prepared shall be disclosed prominently on the face of the financial statements. Dollar-equivalent financial statements or convenience translations shall not be presented except a translation may be presented of the most recent fiscal year and any subsequent interim period presented using the exchange rate as of the most recent balance sheet included in the filing except a rate as of the most recent practicable date shall be used if materially different.

(c) If the financial statements of a foreign private issuer (1) are denominated in a currency of a country that has experienced cumulative inflationary effects exceeding a total of 100 percent over the most recent three year period, and (2) have not been recast or otherwise supplemented to include information on a constant currency or current cost basis prescribed or permitted by appropriate authoritative standards, the issuer shall present supplementary information to quantify the effects of changing prices upon its financial condition and results of operations.

7. By revising paragraphs (a)(2) of § 210.4-01 to read as follows:

§ 210.4-01 Form, order, and terminology.

(a) * * *

(2) In all filings of foreign private issuers (see § 230.405 of this chapter), except as stated otherwise in the applicable form, the financial statements may be prepared according to a comprehensive body of accounting principles other than those generally accepted in the United States if a reconciliation to United States generally accepted accounting principles and the provisions of Regulation S-X of the type specified in Item 18 of Form 20-F (§ 249.220f of this chapter) is also filed as part of the financial statements. Alternatively, the financial statements may be prepared according to United States generally accepted accounting principles.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

8. By adding Instruction 5 to § 229.201 (Item 201) as follows:

§ 229.201 (Item 201) Market price of and dividends on the registrant's common equity and related stockholder matters.

* * * * *

Instructions to Item 201.

* * * * *

5. If the registrant is a foreign private issuer whose common equity of the class being registered is wholly or partially in bearer form, the response to this Item shall so indicate together with as much information as the registrant is able to provide with respect to security holdings in the United States. If the securities being registered trade in the United States in the form of American Depositary Receipts or similar certificates, the response to this Item shall so indicate together with the name of the depositary issuing such receipts and the number of shares or other units of the underlying security representing the trading units in such receipts.

* * * * *

9. By adding paragraph (f) and Instruction 5 to § 229.202 (Item 202) as follows:

§ 229.202 (Item 202) Description of registrant's securities.

* * * * *

(f) *American Depositary Receipts.* If Depositary Shares represented by American Depositary Receipts are being registered, furnish the following information:

(1) The name of the depositary and the address of its principal executive office.

(2) State the title of the American Depositary Receipts and identify the deposited security. Describe briefly the terms of deposit, including the provisions, if any, with respect to: (i) The amount of deposited securities represented by one unit of American Depositary Receipts; (ii) the procedure for voting, if any, the deposited securities; (iii) the collection and distribution of dividends; (iv) the transmission of notices, reports and proxy soliciting material; (v) the sale or exercise of rights; (vi) the deposit or sale of securities resulting from dividends, splits or plans of reorganization; (vii) amendment, extension or termination of the deposit; (viii) rights of holders of receipts to inspect the transfer books of the depositary and the list of holders of receipts; (ix) restrictions upon the right to deposit or withdraw the underlying securities; (x) limitation upon the liability of the depositary.

(3) Describe all fees and charges which may be imposed directly or indirectly against the holder of the American Depositary Receipts, indicating the type of service, the amount of fee or charges and to whom paid.

Instructions to Item 202. * * *

5. The response to paragraph (f) shall include information with respect to fees and charges in connection with (A) the deposit or substitution of the underlying securities; (B) receipt and distribution of dividends; (C) the sale or exercise of rights; (D) the withdrawal of the underlying security; and (E) the transferring, splitting or grouping of receipts. Information with respect to the right to collect the fees and charges against dividends received and deposited securities shall be included in response to this item.

10. By revising Instruction 3, and adding Instructions 6, 7, and 8 to § 229.301 to read as follows:

§ 229.301 (Item 301) Selected financial data.

* * * * *

Instructions to Item 301. * * *

3. Those registrants that are required to provide five year summary information in accordance with Statement of Financial Accounting Standard No. 33, "Financial Reporting and Changing Prices," or inflation adjustments pursuant to Rule 3-20(c) of Regulation S-X (§ 210.3-20(c) of this chapter) may combine such information with the selected financial data appearing pursuant to this Item.

* * * * *

6. A foreign private issuer shall disclose also the following information in all filings containing financial statements:

A. In the forepart of the document and as of the latest practicable date, the exchange rate into U.S. currency of the foreign currency in which the financial statements are denominated;

B. A history of exchange rates for the five most recent years and any subsequent interim period for which financial statements are presented setting forth the rates for period end, the average rates, and the range of high and low rates for each year; and

C. If equity securities are being registered, a five year summary of dividends per share stated in both the currency in which the financial statements are denominated and United States currency based on the exchange rates at each respective payment date.

7. A foreign private issuer shall present the selected financial data in the same currency as its financial statements. The issuer may present the selected financial data on the basis of the accounting principles used in its primary financial statements but in such case shall present this data also on the basis of any reconciliations of such data to United States generally accepted accounting principles and Regulation S-X made pursuant to Rule 4-01 of Regulation S-X (§ 210.4-01 of this chapter).

8. For purposes of this rule, the rate of exchange means the noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York. The average rate means the average of the exchange rates on the last day of each month during a year.

* * * * *

11. By revising paragraph (a)(5) of § 229.302 (Item 302) to read as follows:

§ 229.302 (Item 302) Supplementary financial information.

(a) * * *

(5) This paragraph (a) applies to any registrant, except a foreign private issuer eligible to use Form 20-F, that meets both of the following tests:

* * * * *

12. By revising Instructions 8 and 9 and adding Instruction 12 to § 229.303(a) to read as follows:

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.

* * * * *

Instructions to Paragraph 303(a)

* * * * *

8. Registrants that are required to provide narrative explanations of supplementary information disclosed in accordance with paragraph 37 of Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices" (SFAS 33) may combine such explanations with the registrant's discussion and analysis required pursuant to this Item or may supply such information separately. If such statement is combined, the supplementary information required by SFAS 33 shall be located in reasonable proximity to the discussion and analysis. If such statement is not combined, the discussion of the impact of inflation otherwise required by this Item may be omitted but an appropriate cross reference to the explanation required by paragraph 37 of SFAS 33 shall be made. Foreign registrants normally are not subject to SFAS 33. If a foreign registrant otherwise discusses information on the effects of changing prices, then such information shall be given.

9. Registrants that are not required to provide supplementary information in accordance with SFAS 33 (including foreign private issuers) may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 33 is encouraged, it is not required. All that is required is a brief textual presentation of management's views. No specific numerical financial data need be presented except as Rule 3-20(c) of Regulation S-X (§ 210.3-20(c) of this chapter) otherwise requires.

* * * * *

12. If the registrant is a foreign private issuer, the discussion shall focus on the primary financial statements presented in the registration statement or report. There shall be a reference to the reconciliation to United States generally accepted accounting principles, and a discussion of any aspects of the difference between foreign and United States generally accepted accounting principles, not discussed in the reconciliation, that the registrant believes is necessary for an understanding of the financial statements as a whole.

13. By revising Instruction 1 to § 299.402 to read as follows:

§ 229.402 (Item 402) Management remuneration and translations.

* * * * *

Instructions to Paragraph (a) of Item 402

1. *Foreign private issuers.* A non-Canadian foreign private issuer may respond to all of Item 402 by indicating the aggregate payments or benefits paid to or accrued on behalf of all directors and executive officers as a group unless such registrants disclose to their security holders or otherwise make public the information specified in this Item for individually named directors and officers, in which case such information shall also be disclosed.

* * * * *

14. By adding paragraph (d)(10) to § 229.503 (Item 503) as follows:

§ 229.503 (Item 503) Summary information, risk factors and ratio of earnings to fixed charges.

* * * * *

(d) * * *

(10) If the registrant is a foreign private issuer, the ratio shall be computed on the basis of the primary financial statements and, if materially different, their reconciliations.

15. By adding paragraphs (a)(4) and (f)(4) to § 229.512 to read as follows:

§ 229.512 (Item 512) Undertakings.

* * * * *

(a) * * *

(4) If the registrant is a foreign private issuer, to file a post-effective amendment to the registration statement to include any financial statements required by 3–19 of Regulation S–X (§ 210.3–19 of this chapter) at the start of any delayed offering or throughout a continuous offering.

* * * * *

(f) * * *

(4) If the registrant is a foreign private issuer eligible to use Form 20–F, then the registrant shall undertake to deliver or cause to be delivered with the prospectus to each employee to whom the prospectus is sent or given a copy of the registrant's latest filing of Form 20–F in lieu of the annual report to stockholders.

* * * * *

16. By adding Forms F–1, F–2, and F–3 to the Exhibit Table in § 229.601 (Item 601) as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

EXHIBIT TABLE

	Securities Act forms			Exchange Act forms			
	F–1	F–2	F–3	*	*	*	*
(1) Underwriting agreement	X	X	X				
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X	X				
(3) Articles of incorporation and by-laws	X						
(4) Instruments defining the rights of security holders, including indentures	X	X	X				
(5) Opinion re legality	X	X	X				
(6) Opinion re discount on capital shares	X	X					
(7) Opinion re liquidation preference	X	X					
(8) Opinion re tax matters	X	X	X				
(9) Voting trust agreement	X						
(10) Material contracts	X	X					
(11) Statement re computation of per share earnings	X	X					
(12) Statement re computation of ratios.[1]	X	X					
(13) Annual report [2] to security holders, Form 10–Q or quarterly report to security holders.							
(14) Material foreign patents	X						
(15) Letter re unaudited interim financial information	X	X	X				
(16) Letter re change in certifying accountant							
(17) Letter re director resignation							
(18) Letter re change in accounting principles							
(19) Previously unfiled documents							
(20) Report furnished to security holders							
(21) Other documents or statements to security holders							
(22) Subsidiaries of the registrant	X						
(23) Published report regarding matters submitted to vote of security holders							
(24) Consents of experts and counsel	X	X	X				
(25) Power of attorney	X	X	X				
(26) Statement of eligibility of trustee	X	X	X				
(27) Invitations for competitive bids	X	X	X				
(28) Additional exhibits	X	X	X				

[1] Where incorporated by reference into the text of the prospectus as permitted by the registration statement.
[2] Where incorporated by reference into a previously filed Securities Act registration statement.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

17. By revising § 230.138 to read as follows:

§ 230.138 Definition of "offer for sale" and "offer to sell" in sections 2(10) and 5(c) in relation to certain publications.

(a) Where a registrant which meets all of the conditions for the use of Form S–2 (§ 239.12 of this chapter) or Form F–2 (§ 234.32 of this chapter) has filed or proposes to file a registration statement under the Act relating solely to a nonconvertible debt security or to a nonconvertible, nonparticipating preferred stock, publication or distribution in the regular course of its business by a dealer of information, opinions or recommendations relating solely to common stock or to debt or preferred stock convertible into common stock of such issuer shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for purposes of sections 2(10) and 5(c) of the Act even though such dealer is or will be a member of the underwriting syndicate or dealer group in connection with the distribution of the security to which such registration statement relates.

(b) Where a registrant which meets all of the conditions for the use of Form S–2 (§ 239.12 of this chapter) or Form F–2 (§ 234.32 of this chapter) has filed or proposes to file a registration statement under the Act relating solely to common stock or to debt or preferred stock convertible into common stock, the publication or distribution in the regular course of its business by a dealer of information, opinions or recommendations relating solely to a nonconvertible debt security, or to a nonconvertible nonparticipating preferred stock shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for

purposes of sections 2(10) and 5(c) of the Act, even though such dealer is or will be a member of the underwriting syndicate or dealer group in connection with the distribution of the security to which such registration statement relates.

18. By revising paragraphs (b)(1)(i), (b)(2), and (c)(3) of § 230.175 to read as follows:

§ 230.175 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K or Form 20–F; or if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to Section 12(b) or (g) of the Securities Exchange Act of 1934, and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter), or Item 9 of Form 20–F (§ 249.220f of this chapter), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information, or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter), and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, or in an annual report to shareholders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3(a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) or Item 9 of Form 20–F; or

* * * * *

19. By amending § 230.405 by removing the definition of *North American Issuer* and by revising the definition of *Foreign Private Issuer* to read as follows:

§ 230.405 Definition of terms.

* * * * *

Foreign private issuer. The term "foreign private issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions: (1) More than 50 percent of the outstanding voting securities of such issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and (2) the business of such issuer is administered principally in the United States or 50 percent or more of the members of the Board of Directors are resident of the United States. For the purpose of this paragraph, the term "resident," as applied to security holders, shall mean any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.

* * * * *

20. By revising the introductory paragraph in § 230.406 to read as follows:

§ 230.406 Contracts in general.

Public disclosure will not be made of the provisions of any material contract or portion thereof if the Commission determines that such disclosure would impair the value of the contract and is not necessary for the protection of investors. Except for requests made on or in connection with filings of Form S–8 or on Forms S–3, F–2, or F–3 relating to a dividend or interest reinvestment plan, in any case where the registrant desires the Commission to make such a determination, the procedure set forth below shall be followed:

* * * * *

21. By revising paragraph (a)(1)(ii) of § 230.431 to read as follows:

§ 230.431 Summary prospectuses.

(a) * * *

(1) * * *

(ii) The registrant is a foreign private issuer eligible to use Form F–2 (§ 239.32 of this chapter);

* * * * *

22. By revising § 230.464 to read as follows:

§ 230.464 Effective date of post-effective amendments on Form S–8 or on Forms S–3, F–2, or F–3 for registration statements relating to a dividend or interest reinvestment plan.

Provided. That the issuer continues to meet the requirements for filing on Form S–8 (§ 239.16b of this chapter) or on Forms S–3 (§ 239.13 of this chapter) or F–2 (§ 239.32 of this chapter), or F–3 (§ 239.33 of this chapter) for a registration statement relating to a dividend or interest reinvestment plan at the time of filing of each post-effective amendment on such Form with the Commission:

(a) The post-effective amendment shall become effective upon filing with the Commission: and

(b) With respect to securities sold on or after the filing date pursuant to a prospectus which forms a part of a Form S–8 registration statement or Forms S–3, F–2, or F–3 registration statement relating to a dividend or interest reinvestment plan and which has been amended to include or incorporate new full year financial statements or to comply with the provisions of section 10(a)(3) of the act, the effective date of the registration statement shall be deemed to be the filing date of the post-effective amendment.

23. By revising paragraph (d) of § 230.473 to read as follows:

§ 230.473 Delaying amendments.

* * * * *

(d) No amendments pursuant to paragraph (a) of this section may be filed with a registration statement on Form S–8 or on Forms S–3, F–2, or F–3 relating to a dividend or interest reinvestment plan.

24. By revising § 230.475a to read as follows:

§ 230.475a Pre-effective amendments on Form S–8 and certain pre-effective amendments on Froms S–3, F–2, or F–3 deemed filed with consent of Commission.

Amendments to a registration statement on Form S–8 or to a registration statement on Forms S–3, F–2, or F–3 relating to a dividend or interest reinvestment plan filed prior to the effectiveness of such registration statement shall be deemed to have been filed with the consent of the Commission and shall accordingly be treated as part of the registration statement.

25. By revising paragraph (b) of § 230.477 to read as follows:

§ 230.477 Withdrawal of registration statement or amendment.

* * * * *

(b) Any application for withdrawal of a registration statement filed on Form S–8 or on Forms S–3, F–2 or F–3 relating to a dividend or interest reinvestment plan, and/or any pre-effective amendment thereto, will be deemed granted upon filing if such filing is made prior to the effective date.

* * * * *

§ 230.501 through § 230.506 [Amended]

26. By adding a new preliminary note 7 to Regulation D, §§ 230.501 through 230.506, to read as follows:

Regulation D—Rules Governing the Limited Offer and Sale of Securities Without Registration Under the Securities Act of 1933

Preliminary Notes

* * * * *

7. Offers and sales of securities to foreign persons made outside the United States effected in a manner that will result in the securities coming to rest abroad generally need not be registered under the Act. See Release No. 33–4708 (July 9, 1964) [29 FR 828]. This interpretation may be relied on for such offers and sales even if coincident offers and sales are made under Regulation D inside the United States. Thus, for example, persons who are not citizens or residents of the United States would not be counted in the calculation of the number of purchasers. Similarly, proceeds from sales to foreign purchasers would not be included in the aggregate offering price. The provisions of this note, however, do not apply if the issuer elects to rely solely on Regulation D for offers or sales to foreign persons.

27. By revising the Note to paragraph (a) and adding paragraphs (b)(2)(i)(C) and (b)(2)(ii)(D) to § 230.502 to read as follows:

§ 230.502 General conditions to be met.

* * * * *

(a) * * *

Note.—The term "offering" is not defined in the Act or in Regulation D. If the issuer offers or sells securities for which the safe harbor rule in paragraph (a) of this § 230.502 is unavailable, the determination as to whether separate sales of securities are part of the same offering (i.e. are considered "integrated") depends on the particular facts and circumstances. Generally, transactions otherwise meeting the requirements of an exemption will not be integrated with simultaneous offerings being made outside the United States effected in a manner that will result in the securities coming to rest abroad. See Release No. 33–4708 (July 9, 1964) [29 FR 828].

The following factors should be considered in determining whether offers and sales should be integrated for purposes of the exemptions under Regulation D:

(a) Whether the sales are part of a single plan of financing;

(b) Whether the sales involve issuance of the same class of securities;

(c) Whether the sales have been made at or about the same time;

(d) Whether the same type of consideration is received; and

(e) Whether the sales are made for the same general purpose. See Release No. 33–4552 (November 6, 1962) [27 FR 11316].

(b) * * *

(2) * * *

(i) * * *

(C) If the issuer is a foreign private issuer eligible to use Form 20–F (§ 249.220f of this chapter) the issuer shall disclose the same kind of information required to be included in a registration statement filed under the Act on the form that the issuer would be entitled to use. The financial statements need be certified only to the extent required by paragraphs (b)(2)(i)(A) or (B) as appropriate.

(ii) * * *

(D) If the issuer is foreign private issuer eligible to use Form 20–F, the issuer may provide in lieu of the information specified in paragraphs (b)(2)(ii) (A) or (B) of this section, the information contained in its most recent filing on Form 20–F or Form F–1 (§ 239.31 of the chapter).

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

28. By removing General Instruction I.D. from § 239.13.

§ 239.13 Form S–3, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

Form S–3 General Instructions

I. Eligibility Requirements for Use of Form S–3.

* * * * *

D. [Removed].

* * * * *

29. By adding General Instruction E to § 239.16b to read as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

E. Foreign Registrant.

A non-Canadian foreign private issuer eligible to file annual reports on Form 20–F (§ 249.220f of this chapter) is eligible to use this Form if it meets the requirements of General Instruction A except that it may furnish shareholders a copy of the annual report on Form 20–F in lieu of the annual report that complies with Rule 14a–3. Reoffers or resales may be made under the procedure described in General Instruction C except that a prospectus on either Forms F–3 or F–2 may be used by a foreign private issuer eligible to use the respective form.

* * * * *

30. By adding General Instruction E to § 239.18 to read as follows:

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

E. Foreign Issuers.

A non-Canadian foreign private issuer eligible to use Form 20–F may comply with Items 19, 20, 21, 22 and 26 of this Form by furnishing the information specified in Items 3, 4, 10, 11 and 18, respectively, of Form 20–F (§ 249.220f of this chapter).

* * * * *

31. By adding §§ 239.31 through 239.33, registration statement Forms F–1, F–2 and F–3.

239.31 Form F–1, registration statement under the Securities Act of 1933 for securities of certain foreign private issuers.

(a) Form F–1 shall be used for registration under the Securities Act of 1933 ("Securities Act") of securities of all foreign private issuers, as defined in Rule 405 (§ 230. 405 of this chapter) eligible to use Form 20–F (§ 249.220f of this chapter) for which no other form is authorized or prescribed.

(b) If a registrant is a majority-owned subsidiary, which does not itself meet the conditions of these eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest.

Note.—In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on Form 20–F after the effective date of the registration statement, then it shall disclose the information specified in Form S–1 (§ 239.11 of this chapter). Rule 3–10 of Regulation S–X (§ 210.3–10 of this chapter) specifies the financial statements required.

Note.—Form F–1 and instructions will not appear in the Code of Federal Regulations.

Securities and Exchange Commission Form F–1 Registration Statement Under the Securities Act of 1933

(Exact name of Registrant as specified in its charter)

(Translation of Registrant's name into English)

(State or other juridiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address and telephone number of Registrant's principal executive offices)

(Name, address, and telephone number of agent for service)

Approximate date of commencement of proposed sale to the public

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, please check the following box. ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Form F-1—General Instructions

I. Eligibility Requirements for Use of Form F-1

A. Form F-1 shall be used for registration under the Securities Act of 1933 ("Securities Act") of securities of all foreign private issuers, as defined in Rule 405 (§ 230.405 of this chapter) eligible to use Form 20-F (§ 249.220f of this chapter) for which no other form is authorized or prescribed.

B. If a registrant is a majority-owned subsidiary, which does not itself meet the conditions of these eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest. Note: In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on Form 20-F after the effective date of the registration statement, then it shall disclose the information specified in Forms S-1 (§ 239.11 of this chapter). Rule 3-10 of Regulation S-X (§ 210.3-10 of this chapter) specifies the financial statements required.

II. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly Regulation C (§ 230.400 et seq. of this chapter) thereunder. That Regulation contains general requirements regarding the preparation and filing of registration statements.

B. Attention is directed to Regulation S-K (§ 229.22 of this chapter) and Form 20-F (§ 249.220f of this chapter) for the requirements applicable to the content of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S-K or Form 20-F and the item of Regulation S-K or Form 20-F so provides, information need only be furnished to the extent appropriate.

III. Exchange Offers

If any of the securities being registered are to be offered in exchange for securities of any other issuer the prospectus shall also include the information which would be required by Item 11 if the securities of such other issuer were registered on this Form. If such other issuer is not eligible to use this Form F-1, then the prospectus shall include the information which would be required by Item 11 of Form S-1 (§ 239.11 of this chapter) if the securities of such other issuer were being registered on Form S-1. There shall also be included the information concerning such securities of such other issuer which would be called for by Item 9 if such securities were being registered. In connection with this instruction, reference is made to Rule 409 (§ 229.501 of this chapter).

Part I. Information Required in Prospectus

Item 1. *Forepart of Registration Statement and Outside Front Cover Page of Prospectus.* Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S-K (§ 229.501 of this chapter).

2. *Inside Front and Outside Back Cover Pages of Prospectus.* Set forth in the inside front cover page of the prospectus or, where permitted, on the outside back cover page the information required by Item 502 of Regulation S-K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.* Furnish the information required by Item 503 of Regulation S-K (§ 229.503 of this chapter).

Item 4. *Use of Proceeds.* Furnish the information required by Item 504 of Regulation S-K (§ 229.504 of this chapter).

Item 5. *Determination of Offering Price.* Furnish the information required by Item 505 of Regulation S-K (§ 229.505 of this chapter).

Item 6. *Dilution.* Furnish the information required by Item 506 of Regulation S-K (§ 229.506 of this chapter).

Item 7. *Selling Security Holders.* Furnish the information required by Item 507 of Regulation S-K (§ 229.507 of this chapter).

Item 8. *Plan of Distribution.* Furnish the information required by Item 508 of Regulation S-K (§ 229.508 of this chapter).

Item 9. *Description of Securities to be Registered.* Furnish the information required by Item 202 of Regulation S-K (§ 229.202 of this chapter).

Item 10. *Interests of Named Experts and Counsel.* Furnish the information required by Item 509 of Regulation S-K (§ 229.509 of this chapter).

Item 11. *Information with respect to the Registrant.* Furnish the following information with respect to the Registrant:

(a) Information required by Part I of Form 20-F (§ 249.220f of this chapter);

(b) Information required by Item 18 of Form 20-F (Schedules required under Regulation S-X shall be filed as "Financial Statement Schedules Pursuant to Item 16, Exhibit and Financial Statement Schedules, of this Form), as well as any information required by Rule 3-05 and Article 11 of Regulation S-X (§ 210 of this chapter), except as permitted by (c) below;

(c) Information required by Item 17 of Form 20-F may be furnished in lieu of the information specified by Item 18 thereof if the only securities being registered are to be offered: (1) Upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted on a pro rata basis to all existing security holders of the class of securities to which the rights attach and there is no standby underwriting in the United States or similar arrangement; or (2) pursuant to a dividend or interest reinvestment plan; or (3) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer.

Instruction

Attention is directed to Section 10(a)(3) of the Securities Act.

Item 12. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.* Furnish the information required by Item 510 of Regulation S-K (§ 229.510 of this chapter).

PART II. INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. *Other Expenses of Issuance and Distribution.* Furnish the information required by Item 511 of Regulation S-K (§ 229.511 of this chapter).

Item 14. *Indemnification of Directors and Officers.* Furnish the information required by Item 702 of Regulation S-K (§ 229.702 of this chapter).

Item 15. *Recent Sales of Unregistered Securities.* Furnish the information required by Item 701 of Regulation S-K (§ 229.701 of this chapter).

Item 16. *Exhibits and Financial Statement Schedules.* (a) Subject to the rules regarding incorporation by reference, furnish the exhibits required by Item 601 of Regulation S-K (§ 229.601 of this chapter).

(b) Furnish financial statement schedules required by Regulation S-X (§ 210 of this chapter) and Item 11 (b) of this Form. These schedules shall be lettered or numbered in the manner described for exhibits in paragraph (a).

Item 17. *Undertakings.* Furnish the undertakings required by Item 512 of Regulation S-K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F-1 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ——, 19—.

(Registrant) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions

1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal

financial officer, its controller or principal accounting officer, at least a majority of the board of directors or persons performing similar functions, and its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

Instructions as to Summary Prospectuses

1. A summary prospectus used pursuant to Rule 431 (§ 230.431 of this chapter), shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public;

(b) As to Item 2, a statement concerning the enforceability of civil liabilities against foreign persons (Item 502(f) of Regulation S–K (§ 229.502 of this chapter));

(c) As to Item 4, a brief statement of the principal purposes for which the proceeds are to be used;

(d) As to Item 7, a statement as to the amount of the offering, it any, to be made for the account of security holders;

(e) As to Item 8, the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; if any securities to be registered are to be offered otherwise than through underwriters, a brief statement as to the manner of distribution; and, if securities are to be offered otherwise than for cash, a brief statement as to the general purposes for the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution and by whom they are to be borne;

(f) As to Item 9, a brief statement as to dividend rights, voting rights, conversion rights, interest, maturity, exchange controls, tax treaties, limitations on ownership or voting;

(g) As to Item 11, a brief statement of the general character of the business done and intended to be done, the Selected Financial Data (Item 8 of Form 20–F (§ 249.220f of this chapter)) and a brief statement of the nature and present status of any material pending legal proceedings; and

(h) A tabular presentation of notes payable, long term debt, deferred credits, minority interests, if material, and the equity section of the latest balance sheet filed, as may be appropriate.

2. The summary proposectus shall not contain a summary or condensation of any other required financial information except as provided above.

3. Where securities being registered are to be offered in exchange for securities of any other issuer, the summary prospectus also shall contain that information as to Items 9 and 11 specified in paragraphs (f) and (g) above which would be required if the securities of such other issuer were registered on this Form or Form S–1 according to General Instruction III.

4. The Commission may, upon request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution thereof of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

§ 239.32 Form F–2, for registration under the Securities Act of 1933 for securities of certain foreign private issuers.

Any foreign private issuer, as defined in Rule 405 (§ 230.405 of this chapter), which meets the following conditions may use this form for the registration of securities under the Securities Act of 1933 ("Securities Act") which are offered or to be offered in any transaction other than an exchange offer for securities of another person:

(a) The Registrant has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or has a class of equity securities registered pursuant to Section 12(g) of the Exchange Act or is required to file reports pursuant to Section 15(d) of the Exchange Act and is eligible to file and has filed annual reports on Form 20–F (§ 249.220f of this chapter) under the Exchange Act.

(b)(1) The Registrant (i) has been subject to the requirements of Section 12 or 15(d) of the Exchange Act and has filed all the information required to be filed pursuant to Section 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (ii) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the issuer has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or portion of a report, that report or portion thereof has actually been filed within the time period prescribed by the Rule.

(2) The provisions of paragraph (b)(1)(i) of this section do not apply to any registrant if: (i) The aggregate market value worldwide of the voting stock of the registrant held by non-affiliates is the equivalent of $300 million or more, or if non-convertible debt securities that are "investment grade debt securities," as defined below, are being registered and (ii) the registrant has filed at least one Form 20–F that is the latest required to have been filed.

Instructions to paragraph (b)

1. The aggregate market value of the registrant's outstanding voting stock shall be computed by use of the price at which the stock was last sold, or the average of the bid and asked prices of such stock in the principal market for such stock, as of a date within 60 days prior to the date of filing [See the definition of "affiliate" in Securities Act Rule 405 (§ 230.405 of this chapter)].

2. A non-convertible debt security is an "investment grade debt security" if, at the time of effectiveness of the registration statement, at least one nationally recognized statistical rating organization (as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Exchange Act (§240.15c3–1(c)(2)(vi)(F) of this chapter)) has rated the security in one of its generic rating categories that signifies investment grade; typically, the four highest rating categories (within which there may be sub-categories or gradations indicating relative standing) signify investment grade.

(c) Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of their last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to Section 13(a) or 15(d) of the Exchange Act: (1) Failed to pay any dividend or sinking fund installment on preferred stock; or (2) defaulted (A) on any installment or installments on indebtedness for borrowed money, or (B) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

(d) The financial statements in the registrant's latest filing on Form 20–F comply with Item 18 thereof.

(e) The provisions of paragraphs (b)(1)(i) and (d) do not apply if the Registrant has filed at least one Form 20–F that is the latest required to have been filed and if the only securities being registered are to be offered: (1) Upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach; or (2) pursuant to a dividend or interest reinvestment plan; or (3) upon

the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer. The exemptions in this paragraph (e) are unavailable if securities are to be offered or sold in a standby underwriting in the United States or similar arrangement.

(f) If a registrant is a successor registrant it shall be deemed to have met conditions, (a), (b), (c), (d) and (e) above if: (1) Its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state or other jurisdiction of incorporation of the predecessor of forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(g) If a registrant is a majority-owned subsidiary which does not meet the conditions of these eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest.

Note.—In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on Form 20–F after the effective date of the registration statement, then it shall disclose the information specified in Form S–2 (§ 239.12 of this chapter). Rule 3–10 of Regulation S–X (§ 210.3–10 of this chapter) specifies the financial statements required.

Note.—Form F–2 and instructions will not appear in the Code of Federal Regulations.

Securities and Exchange Commission

Form F–2 Registration Statement Under the Securities Act of 1933

(Exact name of Registrant as specified in its charter)

(Translation of Registrant's Name into English)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address and telephone number of registrant's principal executive offices)

(Name, address and telephone number of agent for service)

Approximate date of commencement of proposed sale to the public

If the only securities being registered on this Form are to be offered pursuant to dividend or interest reinvestment plans, please check the following box. [ ]

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. [ ]

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

General Instructions

I. Eligibility Requirements for Use of Form F–2

Any foreign private issuer, as defined in Rule 405 (§ 230.405 of this chapter), which meets the following conditions may use this form for the registration of securities under the Securities Act of 1933 ("Securities Act") which are offered or to be offered in any transaction other than an exchange offer for securities of another person:

A. The Registrant has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or has a class of equity securities registered pursuant to Section 12(g) of the Exchange Act or is required to file reports pursuant to Section 15(d) of the Exchange Act and is eligible to file and has filed annual reports on Form 20–F (§ 249.220f of this chapter) under the Exchange Act.

B. 1. The Registrant (a) has been subject to the requirements of section 12 or 15(d) of the Exchange Act and has filed all the information required to be filed pursuant to sections 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (b) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the issuer has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or portion of a report, that report or portion thereof has actually been filed within the time period prescribed by the Rule.

2. The provisions of this paragraph (B)(1)(a) do not apply to any registrant if: (i) The aggregate market value worldwide of the voting stock of the registrant held by non-affiliates is the equivalent of $300 million or more, or if non-convertible debt securities that are "Investment grade debt securities," as defined below, are being registered and (ii) the registrant has filed at least one Form 20–F that is the latest required to have been filed.

Instructions

1. The aggregate market value of the registrant's outstanding voting stock shall be computed by use of the price at which the stock was last sold, or the average of the bid and asked prices of such stock in the principal market for such stock, as of a date within 60 days prior to the date of filing [See the definition of "affiliate" in Securities Act Rule 405 (§ 230.405 of this chapter)].

2. A non-convertible debt security is an "investment grade debt security" if, at the time of effectiveness of the registration statement, at least one nationally recognized statistical rating organization (as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Exchange Act (§ 240.15c3–1(c)(2)(vi)(F) of this chapter) has rated the security in one of its generic rating categories that signifies investment grade; typically, the four highest rating categories (within which there may be sub-categories or gradations indicating relative standing) signify investment grade.

C. Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of their last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to Section 13(a) or 15(d) of the Exchange Act: (1) Failed to pay any divident or sinking fund installment on preferred stock; or (2) defaulted (a) on any installment or installments on indebtedness for borrowed money, or (b) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

D. The financial statements in the registrant's latest filing on Form 20–F comply with Item 18 thereof.

E. The provisions of paragraphs (B)(1)(a) and (D) do not apply if the Registrant has filed at least one Form 20–F that is the latest required to have been filed and if the only securities being registered are to be offered: (1) Upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach; or (2) pursuant to a dividend or interest reinvestment plan; or (3) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer. The exemptions in this paragraph (E) are unavailable if securities are to be offered or

sold in a standby underwriting in the United States or similar arrangement.

F. If a registrant is a successor registrant it shall be deemed to have met conditions, A, B, C, D, and E above if: (1) Its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state or other jurisdiction of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

G. If a registrant is a majority-owned subsidiary which does not meet the conditions of these eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest. Note: In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on Form 20–F after the effective date of the registration statement, then it shall disclose the information specified in Form S–2 (§ 239.12 of this chapter). Rule 3–10 of Regulation S–X (§ 210.3–10 of this chapter) specifies the financial statements required.

II. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly Regulation C (§ 230.400 et seq. of this chapter) thereunder. That Regulation contains general requirements regarding the preparation and filing of registration statements.

B. Attention is directed to Regulation S–K (§ 229 of this chapter) and Form 20–F (§ 249.220f of this chapter) for the requirements applicable to the content of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S–K or Form 20–F and the Item of Regulation S–K or Form 20–F so provides, information need only be furnished to the extent appropriate.

III. Dividend or Interest Reinvestment Plans: Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment

Original registration statements on this Form F–2 solely with respect to securities offered pursuant to dividend or interest reinvestment plans will become effective automatically on the twentieth day after the date of filing (Rule 456, § 230.456 of this chapter), pursuant to Section 8(a) of the Act. Rule 459 (§ 230.459 of this chapter). Pre-effective amendments to such registration statements may be filed prior to effectiveness, and such amendments will be deemed to have been filed with the consent of the Commission (Rule 475a, § 230.475a of this chapter). Accordingly, the filing of a pre-effective amendment to such a registration statement will not commence a new twenty-day period. Post-effective amendments to such a registration statement on this form shall become effective upon the date of filing (Rule 464, § 230.464 of this chapter). Delaying amendments are not permitted in connection with either original filings or amendments on such a registration statement (Rule 473(d), § 230.473(d) of this chapter), and any attempt to interpose a delaying amendment of any kind will be ineffective. All filings made on or in connection with this Form become public upon filing with the Commission. As a result, requests for confidential treatment made under Rule 406 (§ 230.406 of this chapter) must be processed with the Commission staff prior to the filing of the registration statement. The number of copies of the registration statement and of each amendment required by Rules 402 and 472 (§§ 230.402 and 230.472 of this chapter) shall be filed with the Commission; *Provided however*, that the number of additional copies referred to in Rule 402(b) may be reduced from ten to three and the number of additional copies referred to in Rule 472(a) may be reduced from eight to three one of which shall be marked clearly and precisely to indicate changes.

Part I. Information Required in Prospectus

Item 1. *Forepart of the Registration Statement and Outside Front Cover Page of Prospectus.* Set forth on the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 502 of Regulation S–K (§ 229.501 of this chapter).

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.* Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.* Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *Use of Proceeds.* Furnish the information required by Item 504 of Regulation S–K (§ 229.504 of this chapter).

Item 5. *Determination of Offering Price.* Furnish the information required by Item 505 of Regulation S–K (§ 229.505 of this chapter).

Item 6. *Dilution.* Furnish the information required by Item 506 of Regulation S–K (§ 229.506 of this chapter).

Item 7. *Selling Security Holders.* Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

Item 8. *Plan of Distribution.* Furnish the information required by Item 508 of Regulation S–K (§ 229.508 of this chapter).

Item 9. *Description of Securities to be Registered.* Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Item 10. *Interests of Named Experts and Counsel.* Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 11. *Material Changes.* (a) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest filing on Form 20–F under the Exchange Act.

(b)(1) Include in the prospectus, if not included in the reports filed under the Exchange Act which are incorporated by reference into the prospectus pursuant to Item 12: (i) Information required by Rule 3–05 and Article 11 of Regulation S–X (§ 210 of this chapter); (ii) restated financial statements if there has been a change in accounting principles or a correction of an error where such change or correction requires material retroactive restatement of financial statements; (iii) restated financial statements where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant under Rule 11–01(b); or (iv) any financial information required because of a material disposition of assets outside the normal course of business.

(2) If the financial statements incorporated by reference from the registrant's latest Form 20–F in accordance with Item 12 are not sufficiently current to comply with the requirements of Rule 3–19 of Regulation S–X (§ 210.3–19 of this chapter), financial statements necessary to comply with that rule shall be presented either in the prospectus or in an amended Form 20–F.

Instruction. Financial statements or information required to be furnished by this Item shall be reconciled pursuant to either Item 17 or 18 of Form 20–F, whichever is applicable to the primary financial statements.

Item 12. *Information with Respect to the Registrant.* The registrant shall incorporate by reference and deliver with the prospectus the latest Form 20–F filed pursuant to the Exchange Act that contains certified financial statements for the registrant's latest fiscal year for which a Form 20–F was required to have been filed. The registrant may incorporate by reference and deliver with the prospectus any Form 6–K containing information meeting the requirements of this Form.

Instructions

1. Reference is made to General Instruction I.D. that, in some cases, requires the financial statements in the Form 20–F to comply with Item 18 thereof as a condition for eligibility to use Form F–2.

2. Attention is directed to the requirements of Section 10(a)(3) of the Securities Act.

3. Attention is directed to Rule 439 (§ 230.439 of this chapter) regarding consent to use material incorporated by reference.

4. The Form 20–F shall be delivered with the preliminary prospectus but need not be redelivered with the final prospectus to a recipient that had previously received the Form 20–F with the preliminary prospectus.

Item 13. *Disclosure of Commission Position of Indemnification for Securities Act Liabilities.* Furnish the information required

by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information Not Required in Prospectus

Item 14. *Other Expenses of Issuance and Distribution.* Furnish the information required by Item 511 of Regulation S–K (§ 229.511 of this chapter).

Item 15. *Indemnification of Directors and Officers.* Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 16. *Exhibits.* Subject to the rules regarding incorporation by reference, furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

Item 17. *Undertakings.* (a) Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

(b) The registration statement shall contain an undertaking substantially as follows: The undersigned registrant hereby undertakes to deliver or cause to be delivered with the prospectus, to each person to which the prospectus is sent or given, the registrants's latest filing of Form 20–F.

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F–2 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19–.

(Registrant) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions

1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, at least a majority of the board of directors or persons performing similar functions and its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

3. Where eligibility for use of the Form is based on the assignment of a security rating under General Instruction I.B.2., the registrant may sign the registration statement notwithstanding the fact that such security rating has not been assigned by the filing date, if the registrant reasonably believes, and so states, that the security rating requirement will be met by the time of effectiveness.

Instructions as to Summary Prospectuses

1. A summary prospectus used pursuant to Rule 431 (§ 230.431 of this chapter) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public;

(b) As to Item 2, a statement concerning the enforceability of civil liabilities against foreign persons (Item 502(f) of Regulation S–K, § 229.502(f) of this chapter);

(c) As to Item 4, a brief statement of the principal purposes for which the proceeds are to be used;

(d) As to Item 7, a statement as to the amount of the offering, if any, to be made for the account of security holders;

(e) As to Item 8, the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; if any securities to be registered are to be offered otherwise than through underwriters, a brief statement as to the manner of distribution;

(f) As to Item 9, a brief statement as to dividend rights, voting rights, conversion rights, interest, maturity, exchange controls, tax treaties, limitations on ownership or voting;

(g) As to Item 12, a brief statement of the general character of the business done and intended to be done and the Selected Financial Data (Item 8 of Form 20–F); and

(h) A tabular presentation of notes payable, long term debt, deferred credits, minority interests, if material, and the equity section of the latest balance sheet filed, as may be appropriate.

2. The summary prospectus shall not contain a summary or condensation of any other required financial information except as provided above.

3. The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

§ 239.33 Form F–3, for registration under the Securities Act of 1933 of securities of certain foreign private issuers offered pursuant to certain types of transactions.

This instruction sets forth registrant requirements and transaction requirements for the use of Form F–3. Any foreign private issuer, as defined in Rule 405 (§ 230.405 of this chapter), which meets the requirements of paragraph (a) of this section ("Registrant Requirements") may use this Form for the registration of securities under the Securities Act of 1933 (the "Securities Act") which are offered in any transaction specified in paragraph (b) of this section ("Transaction Requirements"), provided that the requirements applicable to the specified transaction are met. With respect to majority-owned subsidiaries, see Instruction (a)(6) below.

(a) *Registrant Requirements.* All registrants must meet the following conditions in order to use this Form F–3 for registration under the Securities Act of securities offered in the transactions specified in paragraph (b) of this section:

(1) The registrant has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or a class of equity securities registered pursuant to Section 12(g) of the Exchange Act or is required to file reports pursuant to Section 15(d) of the Exchange Act and is eligible to file and has filed annual reports on Form 20–F (§ 249.220f of this chapter) under the Exchange Act.

(2) The registrant (i) has been subject to the requirements of Section 12 or 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to Sections 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this Form; and (ii) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by a Rule.

(3) Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of their last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to Section 13(a) or 15(d) of the Exchange Act: (i) Failed to pay any dividend or sinking fund installment on preferred stock; or (ii) defaulted (A) on any installment or installments on

indebtedness for borrowed money, or (B) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

(4) The aggregate market value worldwide of the voting stock held by non-affiliates of the registrant is the equivalent of $300 million or more, except that the provisions of this paragraph do not apply if the only securities being registered are to be offered in a transaction of the type described in (b)(2) of the Transaction Requirements.

Instructions To Paragraph (a)(4)

The aggregate market value of the registrant's outstanding voting stock shall be computed by use of the price at which the stock was last sold, or the average of the bid and asked prices of such stock, in the principal market for such stock as of a date within 60 days prior to the date of filing. [See the definition of "affiliate" in Securities Act Rule 405 (§ 230.405 of this chapter).]

(5) If the registrant is a successor registrant, it shall be deemed to have met conditions 1, 2, 3 and 4 above if: (i) Its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state or other jurisdiction of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (ii) all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(6) *Majority Owned Subsidiaries.* If a registrant is a majority-owned subsidiary, security offerings may be registered on this Form if:

(i) The registrant-subsidiary itself meets the Registrant Requirements and the applicable Transaction Requirement;

(ii) The parent of the registrant-subsidiary meets the Registrant Requirements and the conditions of Transaction Requirement (b)(2) (Primary Offerings of Certain Debt Securities) are met; or

(iii) The parent of the registrant-subsidiary meets the Registrant Requirements and the applicable Transaction Requirement and fully guarantees the securities being registered as to principal and interest.

Note.—In the situations described in (i), (ii), and (iii) above, the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on Form 20–F after the effective date of the registration statement, then it shall disclose the information specified in Form S–3 (§ 239.13 of this chapter). Rule 3–10 of Regulation S–X (§ 210.3–10 of this chapter) specifies the financial statements required.

(b) *Transaction Requirements.* Security offerings meeting any of the following conditions and made by registrants meeting the Registrant Requirements above may be registered on this Form:

(1) *Primary Offerings By Certain Registrants.* Securities to be offered for cash by or on behalf of registrant, if the financial statements in the registrant's latest filing on Form 20–F comply with Item 18 thereof.

(2) *Offerings of Certain Debt Securities.* Non-convertible debt securities to be offered for cash if such debt securities are "investment grade debt securities," as defined below. A non-convertible debt security is an "investment grade debt security" if, at the time of effectiveness of the registration statement, at least one nationally recognized statistical rating organization (as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Exchange Act (§ 240.15c3–1(c)(2)(vi)(F) of this chapter) has rated the security in one of its generic rating categories that signifies investment grade; typically, the four highest rating categories (within which there may be subcategories or gradations indicating relative standing) signify investment grade.

(3) *Transactions Involving Secondary Offerings.* Outstanding securities to be offered for the account of any person other than the issuer, including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities. In addition, Form F–3 may be used by affiliates to register securities for resale pursuant to the conditions specified in General Instruction C to Form S–8 (§ 239.16b of this chapter) if the financial statements in the registrant's latest filing on Form 20–F comply with Item 18 thereof.

(4) *Rights Offerings, Dividend or Interest Reinvestment Plans, and Conversions or Warrants.* Securities to be offered: (i) Upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach; or (ii) pursuant to a dividend or interest reinvestment plan; or (iii) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer. The registration of securities to be offered or sold in a standby underwriting in the United States or similar arrangement is not permitted pursuant to this paragraph. See paragraphs (b) (1), (2), and (3) of this section.

Note.—Form F–3 and instructions will not appear in the Code of Federal Regulations.

Securities and Exchange Commission

Form F–3 Registration Statement Under the Securities Act of 1933

_____

(Exact name of Registrant as specified in its charter)

_____

(Translation of Registrant's name into English)

_____

(State or other jurisdiction of incorporation or organization)

_____

(I.R.S. Employer Identification Number)

_____

(Address and telephone number of Registrant's principal executive offices)

_____

(Name, address, and telephone number of agent for service)

Approximate date of commencement of proposed sale to the public _____. If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. [ ]

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, please check the following box. [ ]

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum aggregate price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Form F–3 General Instructions

I. *Eligibility Requirements for Use of Form F–3.* This instruction sets forth registrant requirements and transaction requirements for the use of Form F–3. Any foreign private issuer, as defined in Rule 405 (§ 230.405 of this chapter), which meets the requirements of I.A. below ("Registrant Requirements") may use this Form for the registration of securities under the Securities Act of 1933 (the "Securities Act") which are offered in any transaction specified in I. B. below ("Transaction Requirements"), provided that the requirements applicable to the specified transaction are met. With respect to majority-owned subsidiaries, see Instruction I.A.6. below.

A. *Registrant Requirements.* All registrants must meet the following conditions in order to use this Form F–3 for registration under the Securities Act of securities offered in the transactions specified in I.B. below:

1. The registrant has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or a class of equity securities registered pursuant to Section 12(g) of the Exchange Act or is required to file reports pursuant to Section 15(d) of the Exchange Act and is eligible to file and has filed annual reports on Form 20–F (§ 249.220f of this chapter) under the Exchange Act.

2. The registrant (a) has been subject to the requirements of Section 12 or 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to Sections 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this Form; and (b) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by the Rule.

3. Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of their last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to Section 13(a) or 15(d) of the Exchange Act: (a) Failed to pay any dividend or sinking fund installment on preferred stock; or (b) defaulted (i) on any installment or installments on indebtedness for borrowed money, or (ii) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

4. The aggregate market value worldwide of the voting stock held by non-affiliates of the registrant is the equivalent of $300 million or more, except that the provisions of this paragraph do not apply if the only securities being registered are to be offered in a transaction of the type described in B.2. of the Transaction Requirements.

Instructions

The aggregate market value of the registrant's outstanding voting stock shall be computed by use of the price at which the stock was last sold, or the average of the bid and asked prices of such stock, in the principal market for such stock as of a date within 60 days prior to the date of filing. [See the definition of "affiliate" in Securities Act Rule 405 (§ 230.405 of this chapter).]

5. If the registrant is a successor registrant, it shall be deemed to have met conditions 1, 2, 3 and 4 above if: (a) Its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state or other jurisdiction of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (b) all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

6. *Majority owned Subsidiaries.* If a registrant is a majority-owned subsidiary, security offerings may be registered on this Form if:

a. The registrant-subsidiary itself meets the Registrant Requirements and the applicable Transaction Requirement;

b. The parent of the registrant-subsidiary meets the Registrant Requirements and the conditions of Transaction Requirement B.2. (Primary Offerings of Certain Debt Securities) are met; or

c. The parent of the registrant-subsidiary meets the Registrant Requirements and the applicable Transaction Requirement and fully guarantees the securities being registered as to principal and interest.

Note.—In the situations described in (i), (ii), and (iii) above, the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on Form 20–F after the effective date of the registration statement, then it shall disclose the information specified in Form S–3 (§ 239.13 of this chapter). Rule 3–10 of Regulation S-X (§ 210.3–10 of this chapter) specifies the financial statements required.

B. Transaction Requirements

Security offerings meeting any of the following conditions and made by registrants meeting the Registrant Requirements above may be registered on this Form:

1. *Primary Offering by Certain Registrants.* Securities to be offered for cash by or on behalf of a registrant; if the financial statements in the registrant's latest filing on Form 20–F comply with Item 18 thereof.

2. *Offerings of Certain Debt Securities.* Non-convertible debt securities to be offered for cash if such debt securities are "investment grade debt securities," as defined below. A non-convertible debt security is an "investment grade debt security" if, at the time of effectiveness of the registration statement, at least one nationally recognized statistical rating organization (as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Exchange Act (§ 240.15c3–1(c)(2)(vi)(F) of this chapter) has rated the security in one of its generic rating categories that signifies investment grade; typically, the four highest rating categories (within which there may be subcategories or gradations indicating relative standing) signify investment grade.

3. *Transactions Involving Secondary Offerings.* Outstanding securities to be offered for the account of any person other than the issuer, including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities. In addition, Form F–3 may be used by affiliates to register securities for resale pursuant to the conditions specified in General Instruction C to Form S–8 (§ 239.16b of this chapter) if the financial statements in the registrant's latest filing on Form 20–F comply with Item 18 thereof.

4. *Rights Offerings, Dividend or Interest Reinvestment Plans, and Conversions or Warrants.* Securities to be offered: (a) Upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach; or (b) pursuant to a dividend or interest reinvestment plan; or (c) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer. The registration of securities to be offered or sold in a standby underwriting in the United States or similar arrangement is not permitted pursuant to this paragraph. See paragraphs (1), (2), and (3) above.

II. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly Regulation C (§ 230.400 et seq. of this chapter) thereunder. That Regulation contains general requirements regarding the preparation and filing of registration statements.

B. Attention is directed to Regulation S–K (§ 229 of this chapter) and Form 20–F (§ 249.220f of this chapter) for the requirements applicable to the content of registration statements under the Securities Act. Where this Form directs the Registrant to furnish information required by Regulation S–K or Form 20–F and the Item of Regulation S–K or Form 20–F so provides, information need only be furnished to the extent appropriate. Notwithstanding Items 501 and 502 of Regulation S–K, no table of contents and cross-reference sheet are required to be included in the prospectus or the registration statement prepared on this Form. In addition to the information expressly required to be included in a registration statement on this

Form F–3, registrants also may provide such other information as they deem appropriate.

III. Dividend or Interest Reinvestment Plans: Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment

Original registration statements on this Form F–3 solely with respect to securities offered pursuant to dividend or interest reinvestment plans will become effective automatically on the twentieth day after the date of filing (Rule 456, § 230.456 of this chapter) pursuant to the provisions of Section 8(a) of the Act (Rule 459, § 230.459 of this chapter). Pre-effective amendments to such a registration statement may be filed prior to effectiveness, and such amendments will be deemed to have been filed with the consent of the Commission (Rule 475a, § 230.475a of this chapter). Accordingly, the filing of a pre-effective amendment to such a registration statement will not commence a new twenty-day period. Post-effective amendments to such a registration statement on this Form shall become effective upon the date of filing (Rule 464, § 230.464 of this chapter). Delaying amendments are not permitted in connection with either original filings or amendments on such a registration statement (Rule 473(d), § 239.473(d) of this chapter), and any attempt to interpose a delaying amendment of any kind will be ineffective. All filings made on or in connection with this Form become public upon filing with the Commission. As a result, requests for confidential treatment made under Rule 406 (§ 230.406 of this chapter) must be processed with the Commission staff prior to the filing of the registration statement. The number of copies of the registration statement and of each amendment required by Rules 402 and 472 (§§ 230.402 and 230.472 of this chapter) shall be filed with the Commission; *Provided however,* that the number of additional copies referred to in Rule 402(b) may be reduced from ten to three and the number of additional copies referred to in Rule 472(a) may be reduced from eight to three, one of which shall be marked clearly and precisely to indicate changes.

Part I. Information Required in Prospectus

Item 1. *Forepart of the Registration Statement and Outside Front Cover Page of Prospectus.* Set forth in the forepart of the registration statement and on outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.* Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.* Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *Use of Proceeds.* Furnish the information required by Item 504 of Regulation S–K (§ 229.504 of this chapter).

Item 5. *Determination of Offering Price.* Furnish the information required by Item 505 of Regulation S–K (§ 229.505 of this chapter).

Item 6. *Dilution.* Furnish the information required by Item 506 of Regulation S–K (§ 229.506 of this chapter).

Item 7. *Selling Security Holders.* Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

Item 8. *Plan of Distribution.* Furnish the information required by Item 508 of Regulation S–K (§ 229.508 of this chapter).

Item 9. *Description of Securities to be Registered.* Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter), unless capital stock is to be registered and securities of the same class are registered pursuant to Section 12 of the Exchange Act.

Item 10. *Interests of Named Experts and Counsel.* Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 11. *Material Changes.* (a) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest filing on Form 20–F under the Exchange Act.

(b)(1) Include in the prospectus, if not included in the reports filed under the Exchange Act which are incorporated by reference into the prospectus pursuant to Item 12 or a prospectus previously filed pursuant to Rule 424 (b) or (c) under the Securities Act: (i) information required by Rule 3–05 and Article 11 of Regulation S–X (§ 210 of this chapter) where the registrant has effected or is about to effect a transaction for which such information is required; (ii) restated financial statements if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements; (iii) restated financial statements where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, are significant under Rule 11–01(b); or (iv) any financial information required because of a material disposition of assets outside the normal course of business.

(2) If the financial statements incorporated by reference from the registrant's latest Form 20–F in accordance with Item 12 are not sufficiently current to comply with the requirements of Rule 3–19 of Regulation S–X (§ 210.3–19 of this chapter), financial statements necessary to comply with that rule shall be presented either in the prospectus or in an amended Form 20–F in which case the prospectus shall disclose that the Form 20–F has been so amended.

Instruction

Financial statements or information required to be furnished by this Item shall be reconciled pursuant to either Item 17 or 18 of Form 20–F, whichever is applicable to the primary financial statements.

Item 12. *Incorporation of Certain Information by Reference.* (a) The registrant's latest Form 20–F filed pursuant to the Exchange Act that contains certified financial statements for the registrant's latest fiscal year for which a Form 20–F was required to have been filed shall be incorporated by reference and if capital stock is to be registered and securities of the same class are registered under Section 12 of the Exchange Act, the description of such class of securities which is contained in a registration statement filed under the Exchange Act, including any amendment or reports filed for the purpose of updating such description.

Instruction

If the registrant's latest filing on Form 20–F is amended to include the information specified in Item 18 thereof, the prospectus shall state that the Form 20–F has been so amended. Reference is made to the Transaction Requirements in General Instruction I.B. that, in some cases, require the financial statements in the Form 20–F to comply with Item 18 thereof as a condition for eligibility to use Form F–3.

(b) The prospectus shall also state that all subsequent filings on Form 20–F filed by the registrant pursuant to the Exchange Act, prior to the termination of the offering, shall be deemed to be incorporated by reference into the prospectus.

(c) The registrant may incorporate by reference any Form 6–K meeting the requirements of this Form.

Instructions

1. Attention is directed to the requirements of Section 10(a)(3) of the Securities Act.

2. Attention is directed to Rule 439 (§ 230.439 of this chapter) regarding consent to use material incorporated by reference.

Item 13. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.* Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information Not Required in Prospectus

Item 14. *Other Expenses of Issuance and Distribution.* Furnish the information required by Item 511 of Regulation S–K (§ 229.511 of this chapter).

Item 15. *Indemnification of Directors and Officers.* Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 16. *Exhibits.* Subject to the rules regarding incorporation by reference, furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

Item 17. *Undertakings.* Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form F–3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of ———, State of ———, on ———, 19—.

(Registrant) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration

statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) _____

(Title) _____

(Date) _____

Instructions

1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, at least a majority of the board of directors or persons performing similar functions, and its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

3. Where eligibility for use of the Form is based on the assignment of a security rating pursuant to Transaction Requirement B.2., the registrant may sign the registration statement notwithstanding the fact that such security rating has not been assigned by the filing date, if the registrant reasonably believes, and so states, that the security rating requirement will be met by the time of effectiveness.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

32. By revising paragraph (b) and removing paragraph (c) of § 240.3a12–3 to read as follows:

§ 240.3a12–3 Exemption from sections 14(a), 14(b), 14(c), 14(f) and 16 for securities of certain foreign issuers.

* * * * *

(b) Securities registered by a foreign private issuer, as defined in Rule 3b–4 (§ 240.3b–4 of this chapter), eligible to use Form 20–F (§ 240.220f of this chapter) shall be exempt from sections 14(a), 14(b), 14(c), 14(f) and 16 of the Act.

33. By revising paragraph (c) of § 240.3b–4 to read as follows:

§ 240.3b–4 Definition of "foreign government," "foreign issuer" and "foreign private issuer."

* * * * *

(c) The term "foreign private issuer" means any foreign issuer other than a foreign government except an issuer meeting the following conditions: (1) More than 50 percent of the outstanding voting securities of such issuer are held of record either directly or through voting trust certificates or depositary receipts by residents of the United States; and (2) the business of such issuer is administered principally in the United States or 50 percent or more of the members of its Board of Directors are residents of the United States. For the purpose of this paragraph, the term "resident," as applied to security holders, shall mean any person whose address appears on the records of the issuer, the voting trustee, or the depositary as being located in the United States.

34. By revising paragraphs (b)(1)(i), (b)(2), and (c)(3) of § 240.3b–6 to read as follows:

§ 240.3b–6 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K or Form 20–F; or if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 12 (b) or (g) of the Securities Act of 1934, and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) or Item 9 of Form 20–F (§ 249.220f of this chapter), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information, or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter), and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) or Item 9 of Form 20–F or

* * * * *

§ 240.12b–2 [Amended]

35. By removing the definition of *North American Issuer* from § 240.12b–2.

36. By adding § 240.12h–4 to read as follows:

§ 240.12h–4 Suspension of section 15(d) for foreign private issuers.

(a) Except as provided under paragraph (b) of this section the duty of a foreign private issuer to file the reports required by section 13(a) as to any class of securities pursuant to section 15(d) shall be immediately suspended as to that class of securities upon the filing of a certification on Form 12g–4/15d–6 with respect to such class of securities confirming that the class has fewer than 300 holders resident in the United States; but if such certification is subsequently withdrawn or denied, the registrant shall, within 60 days after the date of such withdrawal or denial, file with the Commission all reports which would have been required to be filed had such certification not been filed.

(b) The suspension shall not be in effect for any subsequent fiscal year at the beginning of which securities of such class are held by 300 or more holders resident in the United States or are not exempt by Rule 15d–6.

(c) All duties arising under section 15(d), other than the duty to file reports required by section 13(a), shall remain in effect under paragraph (b) of this section unless otherwise suspended under section 15(d).

(d) For the purposes of this rule, the number of holders resident in the United States shall be computed as provided by Rule 12g3–2(a) (§ 240.12g3–2 of this chapter).

37. By revising Instruction B(4) to paragraph (d) of § 240.13e–4 as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(d) * * *

Instruction * * *

B. * * *

(4)

If material, pro forma data for the summarized financial information described in B (1), (2) and (3) above, disclosing the effect of the tender offer, should be provided for the most recent fiscal year and latest year to date interim period. If the information required by Item 7 is summarized, appropriate instructions should be included stating how more complete financial information can be obtained. If the financial statements are prepared according to a comprehensive body of accounting principles other than those generally accepted in the United States, the summary financial information shall be accompanied by a

reconciliation to generally accepted accounting principles of the United States.

* * * * *

* * * * *

38. By adding paragraph (e)(1)(ix) of § 240.14d–6 to read as follows:

§ 240.14d–6 Disclosure requirements with respect to tender offers.

* * * * *

(e) * * *

(1) * * *

(ix) If the financial statements are prepared according to a comprehensive body of accounting principles other than those generally accepted in the United States, the summary financial information shall be accompanied by a reconciliation to generally accepted accounting principles of the United States.

* * * * *

§§ 240.13a–16 and 240.15d–16 [Amended]

39. By revising paragraph (c) of § 240.13a–16 and § 240.15d–16, both to read as follows:

* * * * *

(c) Reports furnished pursuant to this rule shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section.

40. By revising Instruction 1(b) of Item 9 of § 240.14d–100 to read as follows:

§ 240.14d–100 Schedule 14D–1. Tender offer statement pursuant to Section 14(d)(1) of the Securities Exchange Act of 1934.

* * * * *

Item 9. *Financial Statements of Certain Bidders.* * * *

Instructions

1. * * *

(b) Financial statements prepared in accordance with Item 17 of Form 20–F [§ 249.200f of this chapter] for a foreign bidder that is otherwise eligible to use such form.

* * * * *

§ 240.15d–14 [Removed]

41. By removing § 240.15d–14.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

42. By revising § 249.218 to read as follows:

§§ 249.218 Form 18, for foreign governments and political subdivisions thereof.

This form shall be used for the registration of securities of any foreign government or political subdivision thereof.

§ 249.219 and 249.319 [Removed]

43. By removing § 249.219 and § 249.319.

§ 249.220f [Amended]

44. By revising § 249.220f, Form 20–F to read as follows:

§ 249.220f Registration of securities of foreign private issuers pursuant to Section 12(b) or (g) and annual reports pursuant to Sections 13 and 15(d).

(a) Any non-Canadian foreign private issuer may use this form as a registration statement under section 12 of the Securities Exchange Act (the "Exchange Act") or as an annual report filed under section 13(a) or 15(d) of the Exchange Act.

(b) A Canadian foreign private issuer may use this form as a registration statement under section 12(g) of the Exchange Act and as an annual report under section 13(a) for a class of securities registered under section 12(g) only if such issuer does not have or has not had during the twelve months prior to the filing of the registration statement or annual report any class of securities registered under section 12(b) of the Exchange Act or a reporting obligation (suspended or active) under section 15(d) of the Exchange Act and if such issuer has not issued its securities in a transaction to acquire by merger, consolidation, exchange of securities or acquisition of assets another issuer that filed or was required to file an annual report on Form 10-K (§ 240.310 of this chapter).

(c) An annual report on this form shall be filed within six months after the end of the fiscal year covered by such report.

Note.—Form 20–F and instructions will not appear in the Code of Federal Regulations.

Form 20–F

(Mark One)

[ ] Registration Statement Pursuant to Section 12(B) or (G) of the Securities Exchange Act of 1934

Or

[ ] Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the fiscal year ended ——————

Commission file number ——————

(Exact name of registrant as specified in its charter)

(Translation of registrant's name into English)

(Jurisdiction of incorporation or organization)

(Address of principal executive offices)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class ——————

Name of each exchange on which registered

Securities registered or to be registered pursuant to Section 12(g) of the Act.

(Title of Class)

(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

(Title of Class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes—— No——.

Indicate by check mark which financial statement item the registrant has elected to follow. Item 17 —— Item 18 ——. (Applicable Only to Issuers Involved in Bankruptcy Proceedings During the Past Five Years)

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court. Yes —— No ——.

Form 20–F—General Instructions

A. Rule as To Use of Form 20–F

(a) Any non-Canadian foreign private issuer may use this form as a registration statement under section 12 of the Securities Exchange Act (the "Exchange Act") or as an annual report filed under section 13(a) or 15(d) of the Exchange Act.

(b) A Canadian foreign private issuer may use this form as a registration statement under section 12(g) of the Exchange Act and as an annual report under section 13(a) for a class of securities registered under section 12(g) only if such issuer does not have or has not had during the twelve months prior to the filing of the registration statement or annual report any class of securities registered under section 12(b) of the Exchange Act or a reporting obligation (suspended or active) under section 15(d) of the Exchange Act and if such issuer has not issued its securities in a transaction to acquire by merger, consolidation, exchange of securities or acquisition of assets another issuer that filed or was required to file an annual report on Form 10–K (§ 240.310 of this chapter).

(c) An annual report on this form shall be filed within six months after the end of the fiscal year covered by such report.

B. Application of General Rules and Regulations

(a) The General Rules and Regulations under the Act contain certain general requirements which are applicable to registration on any form. These general requirements should be carefully read and observed in the preparation and filing of

registration statements and reports on this form.

(b) Particular attention is directed to Regulation 12B which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the registration statement or report, the information to be given whenever the title of securities is required to be stated, language to be used, and the filing of the registration statement or report. The definitions contained in Rule 12b–2 [17 CFR 240.12b–2] should be especially noted.

C. Preparation of Registration Statements and Reports

(a) This form is not to be used as a blank form to be filled in but only as a guide in the preparation of the registration statement or annual report. See General Instruction G as to the items to be responded to in the registration statement or annual report, respectively. The statement or report shall contain the numbers and captions of all items, but the text of the items may be omitted if the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or instructions thereto. However, where any item requires information to be given in tabular form, it shall be given in substantially the tabular form specified in the item. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) With respect to a registration statement, the information required shall be given as of a date reasonably close to the date of filing the registration statement, and with respect to an annual report, the information shall be given as of the latest praticable date except where the information is required by the item to be given for the fiscal year or as of a specified date.

(c) Attention is directed to Rule 12b–20 (§ 240.12b–20 of this chapter) which states: "In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any , as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading."

(d) Attention is directed to Rule 12b–21 (§ 240.12b–21 of this chapter) which refers to the omission of information which is unknown or not reasonably available.

D. Signature and Filing of Registration Statements and Reports

Three complete copies of the registration statement or report, including financial statements, exhibits and all other papers and documents filed as part thereof, and five additional copies which need not include exhibits, shall be filed with the Commission. At least one complete copy of the registration statement or report, including financial statements, exhibits and all other papers and documents filed as a part thereof, shall be filed with each exchange on which any class of securities is to be registered or is registered. At least one complete copy of the registration statement or report filed with the Commission and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

E. Omission of Information Regarding Foreign Subsidiaries

Information required by any item or other requirement of this form with respect to any subsidiary outside the registrant's country of domicile or organization may be omitted to the extent that the required disclosure would be detrimental to the registrant. However, financial statements, otherwise required, shall not be omitted pursuant to this instruction. Where information is omitted pursuant to this instruction, a statement shall be made that such information has been omitted and the names of the subsidiaries involved shall be separately furnished to the Commission. The Commission may, in its discretion, call for justification that the required disclosure would be detrimental and may require its inclusion if such justification is determined not to be consistent with the public interest or the protection of investors.

F. Incorporation by Reference

Attention is directed to Rule 12b–23 (§ 240.12b–23 of this chapter) which provides for the incorporation by reference of information contained in certain documents in answer or partial answer to any item of the registration statement or report.

G. Items To Be Responded to in Registration Statements and Annual Reports

(a) A registration statement on this form shall include the information specified in Parts I, II and IV of this Form.

(b) Subject to the provisions in Part III regarding the omission of previously reported information, an annual report on this form shall include the information specified in Parts I, III and IV. If the information required by Item 3 would be unchanged from that given in a previous report, a reference to the previous report which includes the required information will be sufficient. Copies of such previous report need not be filed with the report currently being filed on this form.

(c) A registration statement or annual report on this form shall contain the financial statements and related information specified in Item 17 of this form. All registrants are encouraged, but not required, to provide the financial statements and related information specified in Item 18 in lieu of Item 17. In certain circumstances, Forms F–3 (§ 239.33 of this chapter) or F–2 (§ 239.32 of this chapter) for registration of securities under the Securities Act of 1933 require that the registrant's annual report on Form 20–F contain the financial statements and information specified in Item 18. Registrants should consult those forms for the specific requirements and should consider the potential advantages of complying with Item 18 in lieu of Item 17 of this form.

Part I

Item 1. *Description of Business.* (a) Describe the business done and intended to be done by the registrant and its subsidiaries. Such description shall include, if material to an understanding of the registrant's business, a discussion of:

(1) The general development of the business of the registrant, its subsidiaries and any predecessor(s) during the past five years, or such shorter period as the registrant may have been engaged in business. Information shall be disclosed for earlier periods if material to an understanding of the general development of the business. In describing developments, information shall be given as to matters such as the following: the year in which the registrant was organized and its form of organization; the nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other material reclassification, merger or consolidation of the registrant or any of its significant subsidiaries; the acquistion or disposition of any material amount of assets otherwise than in the ordinary course of business; and any material changes in the mode of conducting the business.

(2) Registrants, (i) filing a registration statement on Form F–1 (§ 239.31 of this chapter) under the Securities Act or on Form 20–F under the Exchange Act, (ii) not subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act immediately prior to the filing of such registration statement, and (iii) that (including predecessors) have not received revenue from operations during each of the three fiscal years immediately prior to the filing of the registration statement, shall provide the following information: (A) if the registration statement is filed prior to the end of the registrant's second fiscal quarter, a description of the registrant's plan of operation for the remainder of the fiscal year; or (B) if the registration statement is filed subsequent to the end of the registrant's second fiscal quarter, a description of the registrant's plan of operation for the remainder of the fiscal year and for the first six months of the next fiscal year. If such information is not available, the reasons for its not being available shall be stated. Disclosure relating to any plan shall include such matters as:

(*1*) In the case of a registration statement on Form F–1, a statement in narrative form indicating the registrant's opinion as to the period of time that the proceeds from the offering will satisfy cash requirements and whether in the next six months it will be necessary to raise additional funds to meet the expenditures required for operating the business of the registrant; the specific reasons for such opinion shall be set forth and categories of expenditures and sources of cash resources shall be identified; however, amounts of expenditures and cash resources need not be provided; in addition, if the narrative statement is based on a cash budget, such budget shall be furnished to the Commission as supplemental information, but not as a part of the registration statement.

(*2*) An explanation of material product research and development to be performed during the period covered in the plan;

(3) Any anticipated material acquisition of plant and equipment and the capacity thereof;

(4) Any anticipated material changes in number of employees in the various departments such as research and development, production, sales or administration; and

(5) Other material areas which may be peculiar to the registrant's business.

(3) The principal products produced and services rendered and the principal markets for and methods of distribution of such products and services.

(4) The breakdown of total sales and revenue during the past three fiscal years by categories of activity and into geographical markets (with sales to unaffiliated customers and sales transfers to other categories of activity of the registrant show separately). Any relatively homogeneous activity which contributes significantly to total sales and revenue shall be considered a separate category of activity.

Instruction

If the contribution to total operating profit (or loss) from each of the registrant's categories of activity materially differs from their respective contributions to total sales and revenue, such categories of activity shall be identified and appropriate narrative disclosure made concerning the significance of the contributions to total operating profit (or loss) from such category of activity. The actual operating profit (or loss) attributable to each category of activity is not required to be presented unless otherwise required to be disclosed by applicable foreign law or regulations or by foreign stock exchange requirements or is otherwise disclosed.

(5) The status of a product or service if the registrant has made public information about a new product or service which would require the investment of a material amount of the assets of the registrant or is otherwise material.

(6) The research and development policy including the estimated amount spent during each of the last three fiscal years on company-sponsored research and development activities.

(b) The registrant shall also describe those distinctive or special characteristics of the registrant's operations or industry which may have a material impact upon the registrant's future financial performance. The registrant shall briefly describe any material country risks which are unlikely to be known or anticipated by investors and could materially affect the registrant's operations. Examples of factors which might be discussed include dependence on one or a few major customers or suppliers (including suppliers of raw materials or financing), existing or probable governmental regulation; expiration of material labor contracts, patents, trademarks, licenses, franchises, concessions or royalty agreements; unusual competitive conditions in the industry, cyclicality of the industry and anticipated raw material or energy shortages to the extent management may not be able to secure a continuing source of supply.

Instruction

Furnish the information specified in any industry guide listed in Part 9 of Regulation S-K (§ 299.802 of this chapter) applicable to the registrant except that a registrant that furnishes the information specified in Appendix A to Item 2(b) of this Form need not furnish any additional information specified in Guide 2 relating to oil and gas operations.

Item 2. *Description of Property.* (a) State briefly the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. If any such property is not held in fee or is held subject to any major encumbrance, so state and briefly describe how held.

Instructions

1. What is required is such information as reasonably will inform investors as to the suitability, adequacy, productive capacity and extent of utilization of the facilities used by the registrant. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and shall not be given.

2. In determining whether properties should be described, the registrant shall take into account both quantitative and qualitative factors.

3. In the case of an extractive enterprise, material information shall be given as to production, reserves, locations, developments, and the nature of the registrant's interest. If individual properties are of major significance to the registrant: (i) more detailed information concerning these matters shall be furnished; and (ii) appropriate maps shall be used to disclose location data of significant properties except in cases for which numerous maps would be required.

4. (i) If reserve estimates are referred to in the document, the staff of the Office of Engineering, Division of Corporation Finance, of the Commission shall be consulted. That office may request that a copy of the full report of the engineer or other expert who estimated the reserves be furnished as supplemental information and not as part of the filing. See Rule 148 of Regulation C (§ 230.418 of this chapter) and Rule 12b–4 of Regulation 12B (§ 240.12b–4 of this chapter) with respect to the submission to, and return by, the Commission of supplemental information.

(ii) If the estimates of reserves, or any estimated valuation thereof, are represented as being based on estimates prepared or reviewed by independent consultants, those independent consultants shall be named in the document.

5. Estimates of oil or gas reserves other than proved or, in the case of other extractive reserves estimates other than proved or probable reserves, and any estimated values of such reserves shall not be disclosed in any document publicly filed with the Commission, unless such information is required to be disclosed in the document by foreign law; if, however, such estimates have been previously provided to a person (or any of its affiliates) that is offering to acquire, merge, or consolidate with the registrant or otherwise to acquire the registrant's securities, such estimates may be included in documents relating to such acquisition.

(b) If oil and gas operations are material to the registrant's and its subsidiaries' business operations or financial position, disclose the information specified in Appendix A to this item.

Item 3. *Legal Proceedings.* Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions

1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding that involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described.

4. Any material proceedings to which any director, officer or affiliate of the registrant, or any associate of any such director, officer, or affiliate of the registrant is a party adverse to the registrant or any of its subsidiaries or has a material interest adverse to the registrant or any of its subsidiaries, also shall be described.

5. With respect to annual reports, information relating to pending litigation shall be furnished in accordance with the provisions of Item 3, except that the report shall include also a description of the disposition of any previously reported litigation which occurred during the last fiscal year.

Item 4 *Control of Registrant.* (a) As far as known to the registrant, state whether the registrant is directly or indirectly owned or controlled by another corporation(s) or by any foreign government and, if so, give the name(s) of such controlling corporation(s) or government and briefly describe the nature of such control.

(b) If the registrant's outstanding voting securities are in registered form, furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to: (1) any person who is known to the registrant to be the owner of more than ten percent of any class of the registrant's voting securities and

(2) the total amount of any class of the registrant's voting securities owned by the officers and directors as a group, without naming them.

(1) Title of class	(2) Identity of person or group	(3) Amount owned	(4) Percent of class

(c) Describe any arrangements, known to the registrant, the operation of which may at a subsequent date result in a change in control of the registrant.

Item 5. *Nature of Trading Market.* As to each class of securities registered or to be registered, indicate briefly the nature and extent of the principal non-United States trading market for such securities, and also the nature of the trading market in the United States. State the high and low sales prices for the securities in both such markets for each full quarterly period within the two most recent fiscal years. If practicable, indicate what portion of the outstanding securities in each such class is held in the United States and the number of record holders thereof in the United States.

Instructions

1. If the registrant's outstanding equity securities of the class being registered are wholly or partially in bearer form, the response to this item shall so indicate together with as much information as the registrant is able to provide with respect to security holdings in the United States.

2. If the securities being registered trade in the United States in the form of American Depositary Receipts or similar certificates, the response to this item shall so indicate together with the name of the depositary issuing such receipts and the number of shares or other units of the underlying security representing the trading unit in such receipts. If the primary market in the United States involves the American Depositary Receipts, the market price information specified in this item shall relate to that market.

Item 6. *Exchange Controls and Other Limitations Affecting Security Holders.* (a) Describe briefly any governmental laws, decrees or regulations in the country in which the registrant is organized that restrict the export or import of capital, including, but not limited to, foreign exchange controls, or that affect the remittance of dividends, interest or other payments to nonresident holders of the registrant's securities.

(b) As to each class of securities registered or to be registered hereunder, describe briefly any limitations on the right of nonresident or foreign owners to hold or vote such securities imposed by foreign law or by the charter or other constituent document of the registrant, or if no such limitations are applicable, so state.

Item 7. *Taxation.* Outline briefly all taxes, including withholding provisions, to which United States securityholders are subject under existing laws and regulations of the foreign country in which the registrant is organized. Include a brief description of pertinent provisions of any reciprocal tax treaty between such foreign country and the United States regarding withholding. If there is no such treaty, so state.

Item 8. *Selected Financial Data.* Furnish in comparative columnar form the selected financial data for the registrant, referred to below, for

(a) Each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(b) Any additional fiscal years necessary to keep the information from being misleading.

Instructions

1. The purpose of the selected financial data shall be to supply in a convenient and readable format selected financial data which highlight certain significant trends in the registrant's financial condition and results of operations.

2. Subject to appropriate variation to conform to the nature of the registrant's business, the following items shall be included in the table of financial data: net sales or operating revenues; income (loss) from continuing operations; income (loss) from continuing operations per common share; total assets; long-term obligations and redeemable preferred stock (including long-term debt, capital leases, and redeemable preferred stock as defined in Rule 5–02.28(a) of Regulation S–X (§ 210.5–02.28(a) of this chapter); and cash dividends declared per common share. Registrants may include additional items which they believe would enhance an understanding of and would highlight other trends in their financial condition and results of operations. Briefly describe, or cross-reference to a discussion thereof, factors such as accounting changes, business combinations or dispositions of businesss operations, that materially affect the comparability of the information reflected in the selected financial data. Discussion of, or reference to, any material uncertainties shall be included where such matters might cause the data reflected herein not to be indicative of the registrant's future financial condition or results of operations.

3. Those registrants that are required to provide inflation information pursuant to Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter) may combine such information with the selected financial data appearing pursuant to this Item.

4. All references to the registrant in the table of selected financial data and in this Item shall mean the registrant and its subsidiaries consolidated.

5. If interim period financial statements are included, or are required to be included by § 210.3–19 of Regulation S–X in a registration statement filed under the Securities Act of 1933, registrants should consider whether any or all of the selected financial data need to be updated for such interim periods to reflect a material change in the trends indicated; where such updating information is necessary, registrants shall provide the information on a comparative basis unless not necessary to an understanding of such updating information.

6. Disclose the following information:

(a) In the forepart of the document and as of the latest practicable date, the exchange rate into United States currency of the foreign currency in which the financial statements are denominated;

(b) A history of exchange rates for the five most recent years and any subsequent interim period for which financial statements are presented setting forth the rates for period end, the average rates, and the range of high and low rates for each year; and

(c) If the registration statement or report relates to a class of equity securities, a five year summary of dividends per share stated in both the currency in which the financial statements are denominated and United States currency based on the exchange rates at each respective payment date.

7. The selected financial data shall be pesented in the same currency as the financial statements. The issuer may present the selected financial data on the basis of the accounting principles used in its primary financial statements but in such case shall present this data also on the basis of any reconciliations of such data to United States generally accepted accounting principles and Regulation S–X made pursuant to Item 17 or 18 of this Form.

8. For purposes of this rule, the rate of exchange means the noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York. The average rate means the average of the exchange rates on the last day of each month during a year.

Item 9. *Management's Discussion and Analysis of Financial Condition and Results of Operations.* Discuss registrant's financial condition, changes in financial condition and results of operations for each year and subsequent interim periods for which financial statements are required to be presented. The discussion shall provide information as specified in paragraphs (a), (b) and (c) of this section with respect to liquidity, capital resources, and results of operations, and shall provide such other information that the registrant believes to be necessary to an understanding of its financial condition, changes in financial condition, and results of operations. Discussions of liquidity and capital resources may be combined whenever the two topics are interrelated. Where in the registrant's judgment a discussion of categories of activity or of other subdivisions of the registrant's business would be appropriate to an understanding of such business, the discussion shall focus on each relevant category of activity or other subdivision of the business and on the registrant as a whole.

(a) Liquidity.

Identify any known trends or any known demands, commitments, events or uncertainties that will result in or that are reasonably likely to result in the registrant's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action that the registrant has taken or proposes to take to remedy the deficiency. Also identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets.

(b) Capital resources.

(1) Describe the registrant's material commitments for capital expenditures as of the end of the latest fiscal period and any subsequent interim periods for which financial statements are presented and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments.

(2) Describe any known material trends, favorable or unfavorable, in the registrant's capital resources. Indicate any expected material changes in the mix and the relative cost of such resources. The discussion shall consider changes between equity, debt, and any off balance sheet financing arrangements.

(c) Results of operations.

(1) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of revenues or expenses that, in the registrant's judgment, should be described in order to understand the registrant's results of operations.

(2) Describe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the registrant knows of events that will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments), the change in the relationship shall be disclosed.

(3) To the extent that the financial statements disclose material increases in net sales or revenues, provide a narrative discussion of the extent to which such increases are attributable to increases in prices or to increases in the volume or amount of goods or services being sold or to the introduction of new products or services.

(4) For the three most recent fiscal years of the registrant, or for those fiscal years beginning after December 25, 1979, or for those fiscal years in which the registrant has been engaged in business, whichever period is shortest, discuss the impact of inflation and changing prices on the registrant's net sales and revenues and on income from continuing operations.

Instructions

1. The registrant's discussion and analysis shall be of the financial statements and of other statistical data that the registrant believes will enhance a reader's understanding of its financial condition, changes in financial condition, and results of operations. Generally, the discussion shall cover the three year period covered by the financial statements and shall use year-to-year comparisons or any other formats that in the registrant's judgment enhance a reader's understanding. However, where trend information is relevant, reference to the five year selected financial data appearing in Item 8 may be necessary.

2. The purpose of the discussion and analysis shall be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the registrant as determined by evaluating the amounts and certainty of cash flows from operations and from outside sources. The information provided in this Item 9 need only include that which is available to the registrant without undue effort or expense and which does not clearly appear in the registrant's financial statements.

3. The discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include descriptions and amounts of (A) matters that would have an impact on future operations and have not had an impact in the past, and (B) matters that have had an impact on reported operations and are not expected to have an impact upon future operations.

4. Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes shall be described to the extent necessary to an understanding of the registrant's businesses as a whole; provided, however, that if the causes for a change in one line item also relate to other line items, no repetition is required and a line by line analysis of the financial statements as a whole is not required or generally appropriate. Registrants need not recite the amounts of changes from year to year which are readily computable from the financial statements. The discussion shall not merely repeat numerical data contained in the consolidated financial statements.

5. The term "liquidity" as used in this Item refers to the ability of an enterprise to generate adequate amounts of cash to meet the enterprise's needs for cash. Except where it is otherwise clear from the discussion, the registrant shall indicate those balance sheet conditions or income or cash flow items which the registrant believes may be indicators of its liquidity condition. Liquidity generally shall be discussed on both a long-term and short-term basis. The issue of liquidity shall be discussed in the context of the registrant's own business or businesses. For example, a discussion of working capital may be appropriate for certain manufacturing, industrial or related operations but might be inappropriate for a bank or public utility.

6. Where financial statements are required by Rule 4–08(e)(3) of Regulation S–X (§ 210.4–08(e)(3) of this chapter) to include disclosure of restrictions on the ability of both consolidated and unconsolidated subsidiaries to transfer funds to the registrant in the form of cash dividends, loans or advances, the discussion of liquidity shall include a discussion of the nature and extent of such restrictions and the impact such restrictions have had and are expected to have on the ability of the parent company to meet its cash obligations.

7. Registrants are encouraged, but not required, to supply forward-looking information. This is to be distinguished from presently-known data which will impact upon future operating results, such as known future increases in costs of labor or materials. This latter data may be required to be disclosed. Any forward-looking information supplied is expressly covered by the safe harbor rule for projections. See Rule 3b–6 under the Exchange Act (§ 240.3b–6 of this chapter).

8. Registrants need not comply with SFAS 33 but if the registrant otherwise discloses information on the effects of changing prices, then such information shall be given.

9. Registrants may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. All that is required is a brief textual presentation of management's views. No specific numerical financial data need be presented, except as Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter) otherwise requires.

10. All references to the registrant in the discussion and in this Item shall mean the registrant and its subsidiaries consolidated.

11. Registrants shall also discuss briefly any pertinent governmental economic, fiscal, monetary, or political policies or factors that have materially affected or could materially affect, directly or indirectly, their operations or investments by United States nationals.

12. The discussion shall focus on the primary financial statements presented in the registration statement or report. There shall be a reference to the reconciliation to United States generally accepted accounting principles, and a discussion of any aspects of the difference between foreign and United States generally accepted accounting principles, not discussed in the reconciliation, that the registrant believes is necessary for an understanding of the financial statements as a whole.

Item 10. *Directors and Officers of Registrant.* (a) List the names of all directors and executive officers of the registrant and all persons chosen to become directors or executive officers; indicate all positions and offices with the registrant held by each such person; state his term of office as director and/or as executive officer and the period during which he has served as such; and briefly describe any arrangement or understanding between him and any other person pursuant to which he was selected as a director or executive officer.

Instructions

1. Do not include arrangements or understandings with directors or executive officers of the registrant acting solely in their capacities as such.

2. The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) or any other person who performs similar policy making functions for the registrant. Where the registrant employs persons such as production managers, sales managers, or research scientists, who are not executive officers, but who make or are expected to make significant contributions to the business of the registrant, such persons shall be identified and their background

disclosed to the same extent as in the case of executive officers.

(b) State the nature of any family relationship between any director or executive officer and any other director or executive officer.

Instruction

The term "family relationship" means any relationship by blood, marriage or adoption, not more remote than first cousin.

Item 11. *Remuneration of Directors and Officers.*

General Instructions

If the registrant discloses to its shareholders or otherwise makes public the information specified in this Item for individually named directors and officers, then such information shall also be included in response to this Item.

(a) State the aggregate amount of remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to all directors and officers as a group, without naming them, for services in all capacities.

Instructions

1. The information is to be given on an accrual basis if practicable. The information required by this paragraph and paragraph (b) may be shown in a single table if the registrant so desires.

2. If any part of the remuneration shown in response to this Item was paid pursuant to a material bonus or profit-sharing plan, briefly describe the plan and the basis upon which directors or officers participate therein. See Instruction 1 to paragraph (b) for the meaning of the term "plan."

(b) State the aggregate amount set aside or accrued by the registrant and its subsidiaries during the last fiscal year of the registrant to provide pension, retirement or similar benefits for directors and officers of the registrant, pursuant to any existing plan provided or contributed to by the registrant or its subsidiaries.

Instructions

1. The term "plan" in this paragraph includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Information need not be furnished with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

Item 12. *Options to Purchase Securities From Registrant or Subsidiaries.*

General Instructions

1. If the registrant discloses to its shareholders or otherwise makes public the information specified in this Item for individually named directors and officers, then such information shall also be included in response to this Item.

2. Furnish the following information as to all options to purchase securities of the class registered or being registered from the registrant or any of its subsidiaries, which are outstanding as of a specified date within 30 days prior to the date of filing the registration statement, report, or filing as part of a registration statement under the Securities Act of 1933:

(a) State (1) the title and total amount of securities called for by the options; (2) the purchase price of the securities called for; and (3) the expiration dates of the options.

(b) State the total amount of securities called for by all such options held by directors and officers of the registrant as a group, without naming them.

Instruction

The term "option" as used in this Item includes all options, warrants or rights, other than those issued to securityholders as such on a pro rata basis.

Item 13. *Interest of Management in Certain Transactions.*

General Instructions

1. The information specified in this Item need be furnished only to the extent that the registrant discloses to its shareholders or otherwise makes public the information specified in this Item.

2. With respect to annual reports, information relating to these transactions shall be furnished in accordance with the provisions of this Item 13 except that the information may be limited to the period since the beginning of the last fiscal year up to the latest practicable date.

3. If the information called for by this Item has been reported previously in a report on Form 6-K, it may be incorporated by specific reference in the annual report to the previous filing.

(a) Describe briefly any material transactions during the last three fiscal years or any presently proposed transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person, such person's relationship to the registrant, the nature of the interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any security holder named in answer to Item 4(a);

(3) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant.

(b) State as to each of the following persons who was indebted to the registrant or its subsidiaries at any time during the last three years (i) the largest aggregate amount of indebtedness outstanding at any time during such period, (ii) the nature of the indebtedness and of the transaction in which it was incurred, (iii) the amount thereof outstanding as of the latest practicable date, and (iv) the rate of interest paid or charged thereon:

(1) Each director or officer of the registrant; and

(2) Each associate of any such director or officer.

Part II

Item 14. *Description of Securities to be Registered.*

(a) *Capital Stock To Be Registered.* If capital stock is to be registered, state the title of the class and furnish the following information:

(1) Outline briefly (i) dividend rights; (ii) voting rights; (ii) liquidation rights; (iv) pre-emptive rights; (v) conversion rights; (iv) redemption provisions; (vii) sinking fund provisions; and (viii) liability to further calls or to assessment by registrant.

(2) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(3) Outline briefly any restrictions on the repurchase or redemption of shares by the registrant while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

Instructions

1. This Item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the securities to be registered are materially limited or qualified by the rights evidenced by any other class of securities or by the provisions of any contract or other document, include such information regarding such limitation or qualification as will enable investors to understand the rights evidenced by the securities to be registered.

(b) *Debt Securities To Be Registered.* If debt securities are to be registered, outline briefly such of the following as are relevant:

(1) Provisions with respect to interest, conversions, maturity, redemption, amortization, sinking fund or retirement.

(2) Provisions with respect to the kind and priority of any lien securing the issue, together with a brief identification of the principal properties subject to each lien.

(3) Provisions restricting the declaration of dividends or requiring the creation or maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(4) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

(5) The name and address of the trustee and the nature of any material relationship with the registrant or any of its affiliates, the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

(6) The names and addresses of paying agents.

(7) The currency or currencies in which payable and, if payable in two or more currencies, state the basis of determination

for the currency conversion and at whose option.

(8) The provisions of any law or decree determining the extent to which the securities of the issuer may be serviced.

(9) The circumstances concerning any failure to pay principal, interest, or any sinking or amortization installment.

Instructions

1. The instructions to paragraph (a) shall also apply to this Item.

2. Provisions permitting the release of assests upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance monies, and similar provisions, need not be described in answer to paragraph (4).

3. If the securities to be registered are guaranteed, state the name of the guarantor and briefly outline the contract of guarantee.

(c) *American Depositary Receipts.* If Depositary Shares represented by American Depositary Receipts furnish the following information:

(1) the name of the depositary and the address of its principal executive office.

(2) State the title of the American Depositary Receipts and identify the deposited security. Describe briefly the terms of deposit, including the provisions, if any, with respect to: (i) The amount of deposited securities represented by one unit of American Depositary Receipts; (ii) the procedure for voting, if any, the deposited securities; (iii) the collection and distribution of dividends; (iv) the transmission of notices, reports and proxy soliciting material; (v) the sale or exercise of rights; (vi) the deposit or sale of securities resulting from dividends, splits or plans of reorganization; (vii) amendment, extension or termination of the deposit; (viii) rights of holders of receipts to inspect the transfer books of the depositary and the list of holders of receipts; (ix) restrictions upon the right to deposit or withdraw the underlying securities; (x) limitation upon the liability of the depositary.

(3) Describe all fees and charges which may be imposed directly or indirectly against the holder of the American Depositary Receipts, indicating the type of service, the amount of fee or charge, and to whom paid.

Instructions

1. The response to this paragraph shall include information with respect to fees and charges in connection with (a) the deposit or substitution of the underlying securities; (b) receipt and distribution of dividends; (c) the sale or exercise of rights; (d) the withdrawal of the underlying security; and (e) the transferring, splitting or grouping of receipts.

2. Information with respect to the right to collect the fees and charges against dividends received and deposited securities shall be included in response to this item.

(d) *Other Securities To Be Registered.* If securities other than capital stock or long-term debt are to be registered, outline briefly the rights evidenced thereby. If subscription warrants or rights are to be registered, state the title and amount of securities called for and the period during which and the price at which the warrants or rights are exercisable.

Instruction

The instructions to paragraph (a) shall also apply to this Item.

Part III

Item 15. *Defaults Upon Senior Securities.*

General Instruction

If the information called for by this Item has been reported previously in a report on Form 6–K, it may be incorporated by specific reference in the annual report to the previous report.

(a) If there has been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within 30 days, with respect to any indebtedness of the registrant or any of its significant subsidiaries exceeding 5 percent of the total assets of the registrant and its consolidated subsidiaries, identify the indebtedness and state the nature of the default. In the case of such a default in the payment of principal, interest or a sinking or purchase fund installment, state the amount of the default and the total arrearage on the date of filing this report.

Instruction

This paragraph refers only to events which have become defaults under the governing instruments, i.e., after the expiration of any period of grace and compliance with any notice requirements.

(b) If any material arrearage in the payment of dividends has occurred or if there has been any other material delinquency not cured within 30 days, with respect to any class of preferred stock of the registrant which is registered or which ranks prior to any class of registered securities, or with respect to any class of preferred stock of any significant subsidiary of the registrant, give the title of the class and state the nature of the arrearage or delinquency. In the case of an arrearage in the payment of dividends state the amount and the total arrearage on the date of filing this report.

Instruction

Item 15 need not be answered as to any default or arrearage with respect to any class of securities all of which is held by, or for the account of, the registrant or any of its totally held subsidiaries.

Item 16. *Changes in Securities and Changes in Security for Registered Securities.*

General Instruction

If the information called for by this Item has been reported previously in a report on Form 6–K, it may be incorporated by specific reference in the annual report to the previous report.

(a) If the constituent instruments defining the rights of the holders of any class of registered securities have been materially modified, give the title of the class of securities involved and state briefly the general effect of such modification upon the rights of holders of such securities.

(b) If the rights evidenced by any class of registered securities have been materially limited or qualified by the issuance or modification of any other class of securities, state briefly the general effect of the issuance or modification of such other class of securities upon the rights of holders of the registered securities.

Instruction

Working capital restrictions and other limitations upon payment of dividends are to be reported hereunder.

(c) If there has been a material withdrawal or substitution of assets securing any class of registered securities of the registrant, furnish the following information:

(1) Give the title of the securities.

(2) Identify and describe briefly the assets involved in the withdrawal or substitution.

(3) Indicate the provision in the underlying indenture, if any, authorizing the withdrawal or substitution.

Instruction

This paragraph need not be answered when the withdrawal or substitution is made pursuant to the terms of an indenture which has been qualified under the Trust Indenture Act of 1939.

(d) If the trustees or paying agents for any registered securities have changed during the last fiscal year, furnish the names and addresses of the new trustees or paying agents.

Part IV

[See General Instruction G(c)]

Item 17. *Financial Statements.*

(a) The registrant shall furnish financial statements for the same fiscal years, schedules, and accountants' certificates that would be required to be furnished if the registration statement were on Form 10 or the annual report on Form 10–K, except §§ 12–03 and 12–05 of this chapter are required only to the extent a response to Item 13 is made.

(b) The financial statements shall disclose an information content substantially similar to financial statements that comply with United States generally accepted accounting principles and Regulation S-X.

(c) The financial statements and schedules required by paragraph (a) above may be prepared according to United States generally accepted accounting principles. Alternatively, such financial statements and schedules may be prepared according to a comprehensive body of accounting principles other than those generally accepted in the United States if the following are disclosed:

(1) An indication, in the accountant's report or in a reasonably prominent headnote before the financial statements, of the comprehensive body of accounting principles used to prepare the financial statements.

(2) A discussion of the material variations in the accounting principles, practices, and methods used in preparing the financial statements from the principles, practices, and methods generally accepted in the United States and in Regulation S-X. Such material variations shall be quantified in the following format:

(i) For each year and any interim periods for which an income statement is presented, net income shall be reconciled in a tabular

format, substantially similar to the one shown below, on the face of the income statement or in a note thereto. Each material variation shall be described and quantified as a separate reconciling item, but several material variations may be combined on the face of the income statement if shown separately in a note.

Net income as shown in the financial statements	XXX
Description of items having the effect of increasing reported income:	
Item 1	XXX
Item 2, etc	XXX
Description of items having the effect of decreasing reported income:	
Item 1	(XXX)
Item 2, etc	(XXX)
Net income according to generally accepted accounting principles in the United States	XXX

(ii) For each balance sheet presented, indicate the amount of each material variation between an amount of a line appearing in a balance sheet and the amount determined using United States generally accepted accounting principles and Regulation S–X. Such amounts may be shown in parentheses, in columns, as a reconciliation of the equity section, as a restated balance sheet, or in any similar format that clearly presents the differences in the amounts.

(iii) For an issuer in a hyperinflationary economy that comprehensively includes the effects of price level changes in its primary financial statements, the quantification of variations required by this paragraph shall not include such effects. A reasonably prominent headnote to the financial statements shall describe the basis used to prepare the financial statements. The reconciliation shall state that such effects have not been included in the reconciliation.

Instructions

(1) If the variations quantified pursuant to paragraph (c) are significant, the registrant should consider presenting them on the face of the financial statements.

(2) Earnings per share computed according to generally accepted accounting principles in the United States shall be presented if materially different from the earnings per share otherwise presented.

(3) If the registrant presents its financial statements according to generally accepted accounting principles in the United States except for SFAS 14 and if it furnishes the information relating to categories of activity required by Item 1 of Form 20–F, then such financial statements will be considered to comply with this Item, even if the auditor's report is qualified for non-compliance with SFAS 14. Such report and financial statements, however, must comply with all other applicable requirements.

Item 18. *Financial Statements.*

(a) The registrant shall furnish financial statements for the same fiscal years, schedules, and accountants' certificates that would be required to be furnished if the registration statement were on Form 10 or the annual report on Form 10–K, except §§ 12–03 and 12–05 of this chapter are required only to the extent a response to Item 13 is made.

(b) The financial statements shall disclose an informational content substantially similar to financial statements that comply with United States generally accepted accounting principles and Regulation S–X.

(c) The financial statements and schedules required by paragraph (a) above may be prepared according to United States generally accepted accounting principles. Alternatively, such financial statements may be prepared according to a comprehensive body of accounting principles other than those generally accepted in the United States if the following are disclosed:

(1) An indication, in the accountant's report or in a reasonably prominent headnote before the financial statements, of the comprehensive body of accounting principles used to prepare the financial statements.

(2) A discussion of the material variations in the accounting principles, practices, and methods used in preparing the financial statements from the principles, practices and methods generally accepted in the United States and in Regulation S–X. Such material variations shall be quantified in the following format.

(i) For each year and any interim periods for which an income statement is presented, net income shall be reconciled in a tabular format, substantially similar to the one shown below, on the face of the income statement or in a note thereto. Each material variation shall be described and quantified as a separate reconciling item, but material variations may be combined on the face of the income statement if shown separately in a note.

Net income as shown in the financial statements	XXX
Description of items having the effect of increasing reported income:	
Item 1	XXX
Item 2, etc	XXX
Description of items having the effect of decreasing reported income:	
Item 1	(XXX)
Item 2, etc	(XXX)
Net income according to generally accepted accounting principles in the United States	XXX

(ii) For each balance sheet presented, indicate the amount of each material variation between an amount of a line item appearing in a balance sheet and the amount determined using United States generally accepted accounting principles and Regulation S–X. Such amounts may be shown in parentheses, in columns, as a reconciliation of the equity section, as a restated balance sheet, or in any similar format that clearly presents the differences in the amounts.

(iii) For an issuer in a hyperinflationary economy that comprehensively includes the effects of price level changes in its primary financial statements, the quantification of variations required by this paragraph shall not include such effects. A reasonably prominent headnote to the financial statements shall describe the basis used to prepare the financial statements. The reconciliation shall state that such effects have not been included in the reconciliation.

(3) All other information required by United States generally accepted accounting principles and Regulation S–X unless such requirements specifically do not apply to the registrant as a foreign issuer.

Instructions

1. If the variations quantified pursuant to paragraph (c) above are significant, the registrant should consider presenting them on the face of the financial statements.

2. Earnings per share computed according to generally accepted accounting principles in the United States shall be presented if materially different from the earnings per share otherwise presented.

Item 19. *Financial Statements and Exhibits.*

(a) List separately all financial statements filed as part of the registration statement or annual report.

(b) List all exhibits filed as part of the registration statement or annual report, including those incorporated by reference.

Instructions

1. Where any financial statement or exhibit is incorporated by reference, the incorporation by reference shall be set forth in the list required by this Item. See Rule 12b–23.

2. See the Instructions as to Exhibits herein.

Signatures

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant certifies that it meets all of the requirements for filing on Form 20–F and has duly caused this registration statement [annual report] to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant)

(Signature) *

* Print the name and title of the signing officer under this signature.

Date

Instructions as to Exhibits

A. Registration Statements. Subject to Rule 12b–32 (§ 240.12b–32 of this chapter) regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the registration statement. Each registration statement shall contain an exhibit index. For convenient reference, each exhibit shall be listed in the exhibit index according to the number assigned to it below. The exhibit index shall immediately precede the exhibits filed with such document and shall indicate in the manually signed original the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence.

1. The articles of incorporation and bylaws of the registrant or instruments corresponding thereto as currently in effect.

2. (i) All instruments defining the rights of holders of the equity or debt securities being registered.

(ii) Except as set forth in (iii) below all instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(iii) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial

statements are required to be filed, there need not be filed (A) any instrument with respect to long-term debt not being registered hereunder if the total amount of securities authorized thereunder does not exceed 10 percent of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such instrument to the Commission upon request, (B) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities to be registered, or (C) copies of instruments evidencing scrip certificates for fractions of shares.

3. (i) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before filing. Only contracts need be filed as to which the registrant or a subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest. See Rule 24b–2 (§ 240.24b–2 of this chapter) for the procedure to be followed in requesting confidential treatment of information required to be filed under the Act.

(ii) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it will be deemed to have been made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it shall be filed except where immaterial in amount or significance:

(A) Any contract to which directors, officers, promoters, voting trustees, or security holders named in the registration statement are parties other than contracts involving only the purchase or sale of current assets having a determinable market price, at such price;

(B) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(C) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15 percent of such fixed assets of the registrant on a consolidated basis; or

(D) Any material lease under which a part of the property described in the registration statement is held by the registrant.

4. Upon the request of the Commission for each material foreign patent for an invention not covered by a United States patent, a list showing the number and a brief identification of each such patent or patent right.

5. Upon request of the Commission, a list or diagram of all parents and subsidiaries of the registrant indicating as to each person named (a) country or other jurisdiction of incorporation or organization, (b) relationship to the registrant and (c) the percentage of voting securities owned or other basis of control by its immediate parent, if any.

B. Annual Reports. Subject to Rule 12b–32 (§ 240.12b–32 of this chapter) regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the annual report. Each report shall contain an exhibit index. For convenient reference, each exhibit shall be listed in the exhibit index according to the number assigned to it below. The exhibit index shall immediately precede the exhibits filed with such document and shall indicate in the manually signed original the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence.

1. Copies of all amendments or modifications, not previously filed, to all exhibits previously filed (or copies of such exhibits as amended or modified).

2. Copies of all contracts and other documents of a character required to be filed as an exhibit to an original registration statement which were executed or in effect during the fiscal year and not previously filed. See Rule 24b–2 for the procedure to be followed in requesting confidential treatment of information required to be filed.

3. Upon request of the Commission, a list or diagram of all parents and subsidiaries of the registrant indicating as to each person named (a) country or other jurisdiction of incorporation or organization, (b) relationship to the registrant and (c) the percentage of voting securities owned or other basis of control by its immediate parent, if any.

Appendix A to Item 2(b)—Oil and Gas

Reserve and Production Disclosure

Registrants specified in Item 2(b) shall furnish the following information under appropriate captions (in tabular form if practicable, and with cross references, where applicable, to related information disclosed in financial statements):

(a) *Reserves.* As of the end of each of the last three fiscal years (but not for fiscal years ending prior to December 31, 1979), estimated net quantities of: (i) proved oil and gas reserves; (ii) proved developed oil and gas reserves; and (iii) oil and gas applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer.

Instructions

1. The following definitions shall apply to this Appendix:

(i) Proved oil and gas reserves. Proved oil and gas reserves are the estimated quantities of crude oil, natural gas, and natural gas liquids which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions, i.e., prices and costs as of the date the estimate is made. Prices include consideration of changes in existing prices provided only by contractual arrangements, but not on escalations based upon future conditions.

(A) Reservoirs are considered proved if economic producibility is supported by either actual production or conclusive formation test. The area of a reservoir considered proved includes (1) that portion delineated by drilling and defined by gas-oil and/or oil-water contacts, if any, and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir.

(B) Reserves which can be produced economically through application of improved recovery techniques (such as fluid injection) are included in the "proved" classification when successful testing by a pilot project, or the operation of an installed program in the reservoir, provides support for the engineering analysis on which the project or program was based.

(C) Estimates of proved reserves do not include the following: (1) oil that may become available from known reservoirs but is classified separately as "indicated additional reserves;" (2) crude oil, natural gas, and natural gas liquids, the recovery of which is subject to reasonable doubt because of uncertainty as to geology, reservoir characteristics, or economic factors; (3) crude oil, natural gas, and natural gas liquids, that may occur in undrilled prospects; and (4) crude oil, natural gas, and natural gas liquids, that may be recovered from oil shales, coal, gilsonite and other such sources.

(ii) Proved developed oil and gas reserves. Proved developed oil and gas reserves are reserves that can be expected to be recovered through existing wells with existing equipment and operating methods. Additional oil and gas expected to be obtained through the application of fluid injection or other improved recovery techniques for supplementing the natural forces and mechanisms of primary recovery should be included as "proved developed reserves" only after testing by a pilot project or after the operation of an installed program has confirmed through production response that increased recovery will be achieved.

(iii) Other definitions. The definitions in Rule 210.4–10(a) of Regulation S–X (§ 210.4–10(a) of this chapter) shall apply to this Appendix.

2. If any foreign government restricts the disclosure of estimated reserves for properties under its governmental authority, or amounts under long-term supply, purchase, or similar agreements, or if the foreign government requires the disclosure of reserves other than proved, the registrant should notify the Office of Engineering, Division of Corporation Finance, of the Commission. If the required information is not disclosed or if categories of reserves other than proved are disclosed for these reasons, the document should identify the country, cite the law or regulation which restricts or requires such disclosure, and indicate that the reported reserve estimates or amounts do not include figures for the

named country or that the reserve estimates include reserves other than proved.

3. If these reserves are located entirely within the registrant's home country, that fact shall be disclosed. If some or all of the reserves are located in foreign countries, the disclosure of net quantities of reserves of oil and gas shall be separately reported for the entity's home country (if significant reserves are located there) and each foreign geographic area in which significant reserves are located. Foreign geographic areas are individual countries or groups of countries, as appropriate, for meaningful disclosure in the circumstances.

4. Disclosure shall be given of the effect on ownership of reserves of any takeover or nationalization within the most recent fiscal year by foreign governments of properties owned by the registrant, including any change of a property interest into a long-term supply, purchase, or similar agreement.

[end of Instructions to paragraph (a)]

(b) *Production.* Net quantities of oil (including condensate and natural gas liquids) and of gas produced for each of the last three fiscal years (but not for fiscal years ending prior to December 31, 1979) and the net quantities of each received during each of these years applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer, by areas no larger than the geographic areas used for estimated reserves in paragraph (a) above.

Instructions

1. Generally, net production should include only production that is owned by the registrant and produced to its interest, less royalties and production due others. However, in special situations (e.g., foreign production) net production before royalties may be provided if more appropriate. If "net before royalty" production figures are furnished, the change from the common usage of "net production" shall be noted.

2. Any part of natural gas liquids production obtained through or from plant ownership rather than through leasehold ownership should be reported separately, if material.

45. By revising § 249.318 to read as follows:

§ 249.318 Form 18-K, annual report for foreign governments and political subdivisions thereof.

This form shall be used for the annual reports of foreign governments or political subdivisions thereof.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

46. By revising paragraphs (b) (1)(i) and (2) and (c)(3) of § 260.0–11 to read as follows:

§ 260.0–11 Projections of future economic performance by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K or Form 20–F; or if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934, and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) or Item 9 of Form 20–F (§ 249.220f of this chapter), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information, or Rule 3–20(c) of Regulation S–X (§ 210.3–20(c) of this chapter), and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter) or Item 9 of Form 20–F; or

* * * * *

Statutory Basis

These amendments are adopted pursuant to authority in Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933; Sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934; Sections 8, 30, 31(c) and 38(a) of the Investment Company Act of 1940.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379, sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 82 Stat. 454, sec. 28(c), 84 Stat. 1435; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; secs. 8, 30, 31(c), 38(a), 54 Stat. 803, 836, 838, 841; 74 Stat. 201; 84 Stat. 1415; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78o(d), 78w(a), 80a–8, 80a–29, 80a–30(c), 80a–37(a).)

By the Commission.

George A. Fitzsimmons,

Secretary.

November 19, 1982.

[FR Doc. 82–32991 Filed 12–3–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 204, 213, 220, 221, 222, 226, 227, 233, 235, 237, 240, 804, 805, 812 and 841

[Docket No. N–82–1172]

Announcement of Effective Dates

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

ACTION: Notice of announcement of effective dates for certain recent interim and final rules.

SUMMARY: This notice announces the effective dates for certain recently published interim and final rules. Earlier-announced effective dates were stayed pursuant to an unanticipated early recess of Congress.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10278, 451 7th Street SW., Washington, D.C. 20410, telephone No. (202) 755–7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 7, 1982 (47 FR 44247), the Department published a Notice of Postponement of Effective Dates for certain interim and final rules. Pursuant to Section 7(o)(3) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o)(3), no interim or final rule issued by the Department may become effective until 30 calendar days of continuous session of Congress have passed following the rule's date of publication in the **Federal Register**. The Department recently published in the **Federal Register** the rules listed below. Effective dates were announced at the time of publication based on a projection of the necessary Congressional session-days and on an October 7, 1982 adjournment of the Congress. The Congress, however, recessed on October 1, 1982, and resumed its session on November 29, 1982. This unanticipated early recess of

Congress interrupted the necessary 30-day period required by Section 7(o)(3) for the rules listed below. Accordingly, the effective dates listed in these rules were stayed.

The purpose of this notice is to announce new effective dates for the rules listed below:

24 CFR Part 200: Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Interim rule published August 17, 1982, (47 FR 35760), Docket No. R–82–1004. Effective Date: December 2, 1982.

24 CFR Parts 203, 204, 213, 220, 221, 222, 226, 227, 233, 235, 237, and 240: Single Family Waiver Authority Final rule published August 18, 1982, (47 FR 35957), Docket No. R–82–952. Effective Date: December 3, 1982.

24 CFR Part 812: Definition of Family Income Final rule published August 31, 1982, (47 FR 38282), Docket No. R–82–772. Effective Date: December 6, 1982.

24 CFR Parts 804, 805 and 841: Low Rent Housing Homeownership Opportunities (Turnkey III); Indian Housing; Public Housing Development Phase; Maximum Limit on Total Development Cost Final rule published September 8, 1982, (47 FR 39480), Docket No. R–82–856. Effective Date: December 6, 1982.

Dated: December 1, 1982.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 82-33156 Filed 12-3-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7857]

Income Tax; Taxable Years Beginning After December 31, 1953; Requirements for Taxpayers Electing 11-Percent Investment Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to investment credit employee stock ownership plans ("TRASOP's"). Changes in the applicable tax law were made by the Tax Reduction Act of 1975 ("1975 TRA") and the Tax Reform Act of 1976 ("1976 TRA"). These final regulations are intended to provide guidance for the public in complying with the law. They affect all employees who participate in TRASOP's and employers who establish TRASOP's. This document does not reflect changes made by the Revenue Act of 1978, or subsequent legislation regarding TRASOP's.

DATE: The regulations are generally effective for taxable years ending after January 21, 1975.

FOR FURTHER INFORMATION CONTACT: John Khil of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–6212, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1976, the Internal Revenue Service published proposals in the **Federal Register** to amend the Income Tax Regulations (26 CFR Part 1) under section 46(a) of the Internal Revenue Code of 1954 and section 301(d) of the 1975 TRA (41 FR 31828).

By a notice published in the **Federal Register** on October 19, 1976, the public was invited to comment orally or in writing not only upon issues addressed in the proposals, but also upon issues addressed by section 803(h) of the Tax Reform Act of 1976 (90 Stat. 1590), and by the Conference Report of the Committee of Conference on H.R. 10612 (H.R. Rep. No. 94–1515, 94th Cong., 2d Sess. 539–542 (1976)). A public hearing was held on November 12, 1976.

After consideration of all comments, some of the proposals were revised and adopted as final regulations on January 19, 1979, under Treasury Decision 7590. Others were re-proposed on that date, together with proposals relating to the 1976 TRA. A hearing on these proposals was held on June 28, 1979. Most of the proposed provisions also appeared as temporary regulations. The January 19, 1979, proposals are revised and adopted as final regulations under this Treasury decision.

The final regulations change the proposals both substantively and structurally. Certain provisions are added or restructured. However, certain changes are designed solely to simplify the final regulations. Therefore, no substantive inference should be drawn solely from the fact that a particular proposal is either deleted or restructured.

Discussion of Issues

1. *Determination of applicable years.* Several comments requested elaboration on the applicable years concept. The regulations define a corporation's applicable year, generally, as the year in which qualified investment is made. However, under a carryover option, a corporation may identify its applicable year as the year in which the qualified investment is made or, if later, the year in which all or part of the TRASOP credit is claimed for that qualified investment. This option permits, but does not require, the deferral of certain necessary actions until the year in which the credit is used. This provision is unchanged from the proposals.

Questions have arisen concerning whether a corporation must apply the same method to determine applicable years for all years' qualified investment. The final regulations provide that a corporation may apply either one of the two methods for determining applicable years with respect to the additional credit for each year's qualified investment. All applicable years attributable to the additional credit for each year's qualified investment must be determined under the same method, but different methods may be used for different years' qualified investment.

2. *Section 415 priority rule.* The final regulations have been modified to simplify allocation procedures where an employer maintains a TRASOP and another defined contribution plan. Under the prior rule, TRASOP securities were to be fully allocated for an applicable year before allocations could be made under any other defined contribution plan for that year. The regulations now provide that no amount may be allocated under another defined contribution plan after the date on which the section 415 limitation would preclude TRASOP allocations, until all allocations have been made from an unallocated TRASOP suspense account. Thus, TRASOP securities may remain unallocated for an applicable year when allocations under other defined contribution plans have caused the annual additions to employees' accounts to reach the limits of section 415. However, after the date on which the accounts actually reach the section 415 limits, allocations must be made first from the unallocated TRASOP securities for a prior applicable year. Allocations would then be made under any other defined contribution plan and the TRASOP (for the current applicable year), again utilizing the suspense account if the employees' 415 limits are again reached. This rule is designed to accommodate a typical pattern of contributions to plans, to simplify plan administration, and to minimize the use of suspense accounts.

The final rule would not prevent the use of the allocation method required by the rule specified in temporary regulations for years prior to adoption of the final regulations.

3. *Identity of plan assets.* A TRASOP must be designed to invest primarily in employer securities. If trust assets are primarily invested in qualifying employer securities, the TRASOP will meet the investment requirements of section 301(d) of the 1975 Act. However, as a condition of receiving the credit, an employer must agree to transfer to the plan employer securities having a value equal to one percent of qualified investment for the applicable year. Thus, the minimum amount required to be transferred to the plan must be invested solely in employer securities. Amounts in excess of the required transfer may be contributed, and any such additional contributions may, but need not, be invested in employer securities.

As the required investment in employer securities is a continuing obligation, a change in the identity of plan assets may be appropriate in certain situations. The final rules provide that if a TRASOP disposes of employer securities, a failure to comply will have occurred if the plan assets derived from the disposed securities are not reinvested in employer securities on or before the 90th day following the disposition or within such other period as the Commissioner may find reasonable. A transitional rule is provided for years preceding publication of final regulations. Of course, the determination of the proper identity of plan assets remains subject to fiduciary responsibilities imposed by Title I of ERISA.

A plan is not excused from holding employer securities merely because of a change in corporate ownership. The investment and holding period requirements are imposed as a condition of receiving a TRASOP credit. Thus, as outlined above, plan assets must be retained and invested in employer securities to the extent that those assets are attributable to a TRASOP credit.

4. *Revocation of Certain Elections.* Before introduction of the carryover option, some corporations may have attached an election to their returns for taxable years in which qualified investment was made, thereby choosing that year as the first applicable year even though no part of the credit would be allowable until a succeeding year. The corporation would be required to fund its plan although no credit would be allowable for the first applicable year. While a corporation may choose to be bound by the general rule even though no TRASOP credit is allowable for the year in which qualified investment was made, the carryover option permits the deferral of an election until the first taxable year for which the TRASOP credit is allowable for a year's qualified investment. Therefore, a new rule provides that with respect to certain elections made prior to publication of the proposals, a corporation will not fail to comply with these regulations merely by revoking the election. The provision is designed to permit the revocation of elections which were made merely as an attempt to preserve the employer's right to fund a plan and first claim a credit in a year later than the year of qualified investment. A taxpayer that revokes an election could, but need not, later elect the carryover option with respect to qualified investment made in the years for which elections were revoked.

5. *Pro rata use of credit.* Under the final regulations, a corporation will not be deemed to have failed to comply with the regulations merely because, in an unused credit year, it applied a proportional method to claim part of the regular 10-percent credit and part of the additional 1-percent TRASOP credit, rather than using the entire regular credit first. This rule applies to returns filed before January 19, 1979. Taxpayers that applied such a proportional method would elect the remaining available credits for a year's qualified investment on a carry-over basis by treating subsequent tax years as "applicable years" with respect to qualified investment for which less than the entire TRASOP credit was elected.

6. *Change of employer security status.* The regulations clarify the extent to which "new employer securities" may be substituted for "old employer securities" in the event of a transaction which changes the identity of the participants' employer. A partial recapture of the investment credit which gave rise to the plan's acquisition of "old employer securities" will not preclude the substitution of some amount of new securities. A recapture will preclude substitution only to the extent that old securities represented the recaptured credit; the prohibition is designed to permit the plan to acquire employer securities to the extent that they represent an underlying TRASOP credit.

7. *Failures to comply—transitional rule.* Several comments concern the actions which must be taken when a plan is apparently in noncompliance with a temporary or final regulation.

Under a new portion of the final regulations, the Commissioner may determine that retroactive correction of an operational defect is not required for certain plans even though they do not conform to the final regulations. It is anticipated that such a determination may be made, for instance, in a situation in which (1) an operational defect was based on a plan provision which was adopted prior to January 19, 1979, on the basis of a good faith interpretation of guidance then available and (2) correction of the defect would be unnecessarily burdensome in light of the benefits to be derived from such correction.

8. *Relation to subsequent legislation.* These provisions are generally effective for taxable years ending after January 21, 1975. While the regulations do not reflect changes mandated by the Revenue Act of 1978 or subsequent, they remain effective except to the extent that they are superseded by the later legislation.

It is anticipated that the following sections will remain effective in substance under the 1978 Act:

§ 1.46-8 (b) (2)-(3); (5); (8)
§ 1.46-8 (c) (1)-(6); (7) (i); (8) (iii)-(vi); (9)-(10)
§ 1.46-8 (d) (1), (3)-(5); (6) (i), (iii), (v)-(xii); (8) (ii) (9)
§ 1.46-8 (e) (1)-(2); (4)-(7); (9) (ii)-(vi); (10)
§ 1.46-8 (g) (4), (6)
§ 1.46-8 (h)

If any provisions of regulations issued under the 1978 Act are less favorable to taxpayers than the rules listed above, the 1978 Act provisions will be effective only for periods after the date of adoption. No implication is to be drawn from the omission of any regulation provision presently applicable under the statute.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

The notice of proposed rulemaking relating to these regulations was published prior to January 1, 1981. Accordingly, these regulations are not subject to the Regulatory Flexibility Act and no regulatory flexibility analysis is required.

Drafting Information

The principal author of this regulation is Joel Horowitz of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury

Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.0-1 through 1.58-8

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended by revising §§1.46-7 and 1.46-8 to read as follows:

§ 1.46-7 Statutory provisions; plan requirements for taxpayers electing additional investment credit, etc.

As amended by sections 802(b)(7), and 803 (c), (d), and (e) of the Tax Reform Act of 1976 (90 Stat. 1520), section 301 (d), (e), and (f) of the Tax Reduction Act of 1975 (89 Stat. 38) provides as follows:

Sec. 301. Increase in investment credit

* * *

(d) *Plan requirements for taxpayers electing additional credit.* In order to meet the requirements of this subsection—

(1) Except as expressly provided in subsections (e) and (f), a corporation (hereinafter in this subsection referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (6) and which meets all other requirements of this subsection.

(2) The plan referred to in paragraph (1) must be a defined contribution plan established in writing which—

(A) Is a stock bonus plan, a stock bonus and a money purchase pension plan, or a profit-sharing plan,

(B) Is designed to invest primarily in employer securities, and

(C) Meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe.

(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the requirements of section 46(a)(2)(B) of the Internal Revenue Code of 1954) to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of each year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000 per year) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). Notwithstanding the first sentence of this paragraph, the allocation to participants' accounts may be extended over whatever period may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954. For purposes of this paragraph, the amount of compensation paid to a participant for a year is the amount of such participant's compensation within the meaning of section 415(c)(3) of such Code for such year.

(4) The plan must provide that each participant has a nonforfeitable right to any stock allocated to his account under paragraph (3), and that no stock allocated to a participant's account may be distributed from that account before the end of the eighty-fourth month beginning after the month in which the stock is allocated to the account except in the case of separation from the service, death, or disability.

(5) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.

(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund—

(A) In the case of a taxable year beginning before January 1, 1977, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year, and

(B) In the case of a taxable year beginning after December 31, 1976—

(i) To transfer employer securities to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the employer for the taxable year,

(ii) Except as provided in clause (iii), to effect the transfer not later than 30 days after the time (including extensions) for filing its income tax return for a taxable year, and

(iii) In the case of an employer whose credit (as determined under section 46(a)(2)(B) of such Code) for a taxable year beginning after December 31, 1976, exceeds the limitations of paragraph (3) of section 46(a) of such Code—

(I) To effect that portion of the transfer allocable to investment credit carrybacks of such excess credit at the time required under clause (ii) for the unused credit year (within the meaning of section 46(b) of such Code), and

(II) To effect that portion of the transfer allocable to investment credit carryovers of such excess credit at the time required under clause (ii) for the taxable year to which such portion is carried over.

For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(7) Notwithstanding any other provision of law to the contrary, if the plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

(A) Stock transferred under paragraph (6) or subsection (e)(3) and allocated to the account of any participant under paragraph (3) and dividends thereon shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of such Code (treating the participant or his beneficiary as having a basis of zero in the contract),

(B) No amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and

(C) The plan must meet the requirements of sections 410 and 415 of such Code.

(8)(A) Except as provided in subparagraph (B)(iii), if the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured or redetermined in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and subsection (e) and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the plan.

(B) If the amount of the credit determined under section 46(a)(2)(B) of the Internal Revenue Code of 1954 is recaptured in accordance with the provisions of such Code—

(i) The employer may reduce the amount required to be transferred to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection (e), for the current taxable year or any succeeding taxable years by the portion of the amount so recaptured which is attributable to the contribution to such plan,

(ii) Notwithstanding the provisions of paragraph (12), the employer may deduct such portion, subject to the limitations of section 404 of such Code (relating to deductions for contributions to an employees' trust or plan), or

(iii) If the requirements of subsection (f)(1) are met, the employer may withdraw from the plan an amount not in excess of such portion.

(C) If the amount of the credit claimed by an employer for a prior taxable year under section 38 of the Internal Revenue Code of 1954 is reduced because of a redetermination which becomes final during the taxable year, and the employer transferred amounts to a plan which were taken into account for purposes of this subsection for that prior taxable year, then—

(i) The employer may reduce the amount it is required to transfer to the plan under paragraph (6) of this subsection, or under paragraph (3) of subsection, (e), for the taxable year or any succeeding taxable year by the portion of the amount of such reduction in the credit or increase in tax which is attributable to the contribution to such plan, or

(ii) Notwithstanding the provisions of paragraph (12), the employer may deduct such portion subject to the limitations of section 404 of such Code.

(9) For purposes of this subsection, the term—

(A) "Employer securities" means common stock issued by the employer or a corporation

which is a member of a controlled group of corporations which includes the employer (within the meaning of section 1563 (a) of the Internal Revenue Code of 1954, determined without regard to section 1563 (a)(4) and (e)(3)(C) of such Code) with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or such controlling corporation, or securities issued by the employer or such controlling corporation, convertible into such stock, and

(B) "Value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities or, in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations issued by the Secretary of the Treasury or his delegate.

(10) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection and subsections (e) and (f).

(11) If the employer fails to meet any requirement imposed under this subsection or subsection (e) or (f) or under any obligation undertaken to comply with the requirement of this subsection or subsection (e) or (f), he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after notice thereof. For purposes of this paragraph, the term "amount involved" means an amount determined by the Secretary or his delegate, but not in excess of 1 percent of the qualified investment of the taxpayer for the taxable year under section 46(a)(2)(B) and not less than the product of one-half of one percent of such amount multiplied by the number of months (or parts thereof) during which such failure continues. The amount of such penalty may be collected by the Secretary of the Treasury in the same manner in which a deficiency in the payment of Federal income tax may be collected.

(12) Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, no deductions shall be allowed under section 162, 212, or 404 of such Code for amounts transferred to an employee stock ownership plan and taken into account under this subsection.

(13)(A) As reimbursement for the expense of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established, or the plan may pay, so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of 10 percent of the first $100,000 that the employer is required to transfer to the plan for that taxable year under paragraph (6) (including any amounts transferred under subsection (e)(3)) and 5 percent of any amount in excess of the first $100,000 of such amount.

(B) As reimbursement for the expense of administering the plan, the employer may withhold from amounts due the plan, or the plan may pay, so much of the amounts paid or incurred during the taxable year as expenses of administering the plan as does not exceed the smaller of—

(i) The sum of 10 percent of the first $100,000 and 5 percent of any amount in excess of $100,000 of the income from dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, or

(ii) $100,000.

(14) The return of a contribution made by an employer to an employee stock ownership plan designed to satisfy the requirements of this subsection or subsection (e) (or a provision for such a return) does not fail to satisfy the requirements of this subsection, subsection (e), section 401(a) of the Internal Revenue Code of 1954, or section 403(c)(1) of the Employee Retirement Income Security Act of 1974 if—

(A) The contribution is conditioned under the plan upon determination by the Secretary of the Treasury that such plan meets the applicable requirements of this subsection, subsection (e), or section 401(a) of such Code.

(B) The application for such a determination is filed with the Secretary not later than 90 days after the date on which the credit under section 38 is allowed, and

(C) The contribution is returned within one year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this subsection, subsection (e), or section 401 (a) of such Code.

(e) *Plan requirements for taxpayers electing additional one-half percent credit.*

(1) *General rule.* For purposes of clause (ii) of section 46(a)(2)(B) of the Internal Revenue Code of 1954, the amount determined under this subsection for a taxable year is an amount equal to the sum of the matching employee contributions for the taxable year which meet the requirements of this subsection.

(2) *Election; basic plan requirements.* No amount shall be determined under this subsection for the taxable year unless the corporation elects to have this subsection apply for that year. A corporation may not elect to have the provisions of this subsection apply for a taxable year unless the corporation meets the requirements of subsection (d) and the requirements of this subsection.

(3) *Employer contribution.* On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer shall state in such claim that the employer agrees, as a condition of receiving any such credit, adjustment, or refund attributable to the provisions of section 46(a)(2)(B)(ii) of such Code, to transfer at the time described in subsection (d)(6)(B) employer securities (as defined in subsection (d)(9)(A)) to the plan having an aggregate value at the time of the transfer of not more than one-half of one percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(4) *Requirements relating to matching employee contributions.*

(A) An amount contributed by an employee under a plan described in subsection (d) for the taxable year may not be treated as a matching employee contribution for that taxable year under this subsection unless—

(i) Each employee who participates in the plan described in subsection (d) is entitled to make such a contribution,

(ii) The contribution is designated by the employee as a contribution intended to be used for matching employer amounts transferred under paragraph (3) to a plan which meets the requirements of this subsection, and

(iii) The contribution is in the form of an amount paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year in which the portion of the credit allowed by section 38 of such Code (and determined under clause (ii) of section 46 (a)(2)(B) of such Code which the contribution is to match) is allowed, and is invested forthwith in employer securities (as defined in subsection (d)(9)(A)).

(B) The sum of the amounts of matching employee contributions taken into account for purposes of this subsection for any taxable year may not exceed the value (at the time of transfer) of the employer securities transferred to the plan in accordance with the requirements of paragraph (3) for the year for which the employee contributions are designated as matching contributions.

(C) The employer may not make participation in the plan a condition of employment and the plan may not require matching employee contributions as a condition of participation in the plan.

(D) Employee contributions under the plan must meet the requirements of section 401(a)(4) of such Code (relating to contributions).

(5) A plan must provide for allocation of all employer securities transferred to it or purchased by it under this subsection to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of the plan year in an amount equal to his matching employee contributions for the year. Matching employee contributions and amounts so allocated shall be deemed to be allocated under subsection (d)(3).

(f) *Recapture.*

(1) *General rule.* Amounts transferred to a plan under subsection (d)(6) or (e)(3) may be withdrawn from the plan by the employer if the plan provides that while subject to recapture—

(A) Amounts so transferred with respect to a taxable year are segregated from other plan assets, and

(B) Separate accounts are maintained for participants on whose behalf amounts so transferred have been allocated for a taxable year.

(2) *Coordination with other law.* Notwithstanding any other law or rule of law, an amount withdrawn by the employer will

neither fail to be considered to be nonforfeitable nor fail to be for the exclusive benefit of participants or their beneficiaries merely because of the withdrawal from the plan of—

(A) Amounts described in paragraph (1), or

(B) Employer amounts transferred under subsection (e)(3) to the plan which are not matched by matching employee contributions or which are in excess of the limitations of section 415 of such Code,

nor will the withdrawal of any such amount be considered to violate the provisions of section 403(c)(1) of the Employee Retirement Income Security Act of 1974.

(Sec. 301(d) of the Tax Reduction Act of 1975 (89 Stat. 38) as amended by sec. 802(b)(7) and sec. 803 (c) and (e) of the Tax Reform Act of 1976 (90 Stat. 1520); sec. 301 (e) and (f) of the Tax Reduction Act of 1975 as added by sec. 803(d) of the Tax Reform Act of 1976)

§ 1.46–8 Requirements for taxpayers electing additional one-percent investment credit (TRASOP's).

(a) *Introduction.*—(1) *In general.* A corporation may elect under section 46(a)(2)(B) of the Code to obtain an additional investment credit for property described in section 46(a)(2)(D). This section provides rules for electing to have the provisions of section 46(a)(2)(B) apply and for implementing an employee stock ownership plan under section 301(d) of the Tax Reduction Act of 1975 ("1975 TRA"). The plan must meet the formal requirements of paragraph (d), and the operational requirements of paragraph (e), of this section. An additional credit may be obtained for the periods described in section 46(a)(2)(D). Unless otherwise indicated, statutory references in this section are to the Internal Revenue Code of 1954 as in effect prior to the amendments made by the Revenue Act of 1978.

(2) *Reports.* The returns required by section 6058(a) must be filed on behalf of a plan established under paragraph (c)(7) of this section, whether or not the plan is qualified under section 401(a).

(3) *Cross-references.* The following table indicates where in this section provisions appear relating to each provision of section 301 (d) and (f) of the 1975 TRA.

Section 301	Section 1.46–8	Subject
(d)(1)	(c)(7)(i), (c)(8)(i)	Establishing a TRASOP, in general; funding a TRASOP, in general.
(2)(A)	(c)(7)(ii)	Type of plan.
(B)	(d)(3), (e)(10)	Investment design.
(C)	(d)(1)	Plan requirements, in general.
(3)	(d)(6)	Allocation.
	(b)(5)	Compensation, definition.
(4)	(d)(7)	Nonforfeitability.
	(d)(9)	Distributions.
(5)	(d)(8)	Voting rights.
(6)	(c)	Procedures for additional credit.
(7)(A)	(c)(7)(ii)	Taxability, non-401 (a) TRASOP.
(B)	(e)(3)	Allocations under 401(a).
(C)	(e)(3)	Section 410 and section 415 requirements.
(8)	(e)(9)	Reductions of investment credit.
(9)(A)	(b)(4)	Employer securities, definition.
	(e)(10), (f)	Employer securities, requirements.
(B)	(b)(7)	Value, definition.
(10)	(a)(2)	Reporting requirements.
(11)	(h)	Failure to comply.
(12)	(c)(10)	Deductibility.
(13)	(e) (6) and (7)	Reimbursement for expenses.
(14)	(c)(8)(v) and (d)(7)(i).	Contingent contributions.
(f)	(d)(7), (e)(8)(vii), (f).	Withdrawals of TRASOP securities.

(b) *Definitions.* When used in this section, the terms listed below have the indicated meanings:

(1) *TRASOP.* A "TRASOP" is an employee stock ownership plan that meets the requirements of section 301(d) of the 1975 TRA. See § 1.46–7. It is a type of plan described in paragraph (d)(1) of this section and may, but need not, be an ESOP under § 54.4975–11 of this chapter (Pension Excise Tax Regulations). See § 1.46–8(d)(5) concerning use of TRASOP assets as collateral for debts and expenses of the plan.

(2) *Additional credit.* An "additional credit" is the additional one-percent investment credit under section 46(a)(2)(B)(i).

(3) *Employer.* An "employer" is a corporation that establishes a TRASOP.

(4) *Employer securities.*—(i) *In general.* "Employer securities" are common stock, and securities convertible into common stock, of the employer or of a corporation that is a member of a controlled group of corporations including the employer. Employer securities must meet the requirements of paragraph (g) of this section. Membership in a controlled group for purposes of this section is determined under section 414(b) of the Code.

(ii) *Pre-1977 employer securities.* In addition, employer securities acquired by a TRASOP before January 1, 1977, include common stock, and securities convertible into common stock, of a corporation in control of the employer within the meaning of section 368(c).

(iii) *Caution.* An employer security under this section is not necessarily a qualifying employer security as defined in section 407(d)(5) of the Employee Retirement Income Security Act of 1974 (ERISA) or section 4975(e)(8). Moreover, sections 406, 407, and 408 of ERISA in certain cases limit the acquisition and disposition of qualifying employer securities as defined in section 407(d)(5) of ERISA.

(5) *TRASOP securities.* "TRASOP securities" are employer securities that—

(i) Are transferred to a TRASOP, or acquired with cash transferred to a TRASOP, to obtain an additional credit, and

(ii) Except as provided under paragraph (g) (4) and (5) of this section, or as required by applicable law, are subject to no other put, call, or other option, or buy-sell or similar arrangement while held by the plan.

(6) *Publicly traded.* The term "publicly traded" has the meaning specified in § 54.4975–7(b)(1)(iv) of this chapter.

(7) *Value.*—(i) *In general.* With respect to the transfer of TRASOP securities by a corporation to a TRASOP or the acquisition of TRASOP securities with cash transferred by a corporation to a TRASOP, "value" means fair market value determined in good faith and based on all relevant factors as of the date of transfer or acquisition of the TRASOP securities. If the plan acquires TRASOP securities from other than a disqualified person within the meaning of section 4975(e)(2), a good faith determination of value includes a determination of fair market value based on an appraisal independently arrived at by a person who customarily makes such appraisals and who is independent of any person from whom the TRASOP securities are acquired.

(ii) *Twenty-day average rule.* A special 20-day average valuation rule applies to certain publicly traded securities transferred by a corporation to a TRASOP. It does not apply to securities acquired with cash transferreed by a corporation to a TRASOP. Under the special rule, the term "value" refers to an average of daily closing prices for a security, as reported on any national securities exchange or as quoted on any system sponsored by a national securities association, over the 20 consecutive trading days immediately preceding the applicable last day described in paragraph (c)(8)(i) of this section. The average is based on the closing prices for each day when the security is in fact traded during the 20-day period. However, the special rule does not apply unless the security is in fact traded for at least 10 of the 20 days.

(iii) *20-day average transitional exception.* If a TRASOP security is transferred before March 20, 1979, the plan may value the security on the basis of the 20 consecutive trading days preceding the date on which the security is transferred or the date as of which the

security is allocated to a participant's account.

(8) *Compensation.* "Compensation" means "participant's compensation" under section 415(c)(3) and § 1.415–2(d). However, except for purposes of applying section 415, compensation must be determined for a plan year, not a limitation year.

(c) *Procedures for additional credit.*—(1) *Applicable year.*—(i) *General rule.* With respect to a qualified investment, the "applicable year" of a corporation is generally the taxable year in which the investment is made. For purposes of this section, an investment is made either in a year when section 38 property is placed in service or in a year when qualified progress expenditures are incurred.

(ii) *Carryover option.* A corporation may determine the applicable years for qualified investments made in any taxable year beginning after December 31, 1976, under the following method: The first applicable year with respect to the additional credit for a given year's qualified investment is the year the qualified investment is made or, if later, the first taxable year for which any additional credit is allowable if claimed for that qualified investment. If there is an investment credit carryover from the first applicable year, each taxable year to which any part of the additional credit for that qualified investment is carried over is also an applicable year. If the carryover treatment is elected for the additional credit attributable to a year's qualified investment, all applicable years for the additional credit attributable to that investment must be determined under the carryover option.

(iii) *Increased credit.* A taxable year in which a corporation's additional credit is increased because of a redetermination is also an applicable year. See paragraph (c)(9) (iv) of this section.

(iv) *Illustration.* To illustrate the application of paragraph (c)(1) (i) and (ii) of this section, assume that a calendar-year corporation makes a qualified investment in 1977 and that 1977 is an unused credit year described in section 46(b)(1). If the general rule is applied, 1977 is an applicable year. However, because 1977 is an unused credit year (at least with respect to the additional credit), if the corporation does not elect to treat 1977 as an applicable year but carries over its entire additional credit for 1977 to 1978 and uses it in 1978, then 1978 is an applicable year. If part of the additional credit is carried over further to 1979, the year 1979 is also an applicable year.

(v) *Change in method.* The choice between the general rule and carryover option methods of determining the additional credit attributable to applicable years is made with respect to each year's qualified investment, and does not bind the corporation with respect to selection of methods for the additional credit attributable to other years' qualified investment. A failure to comply does not occur merely because a corporation elects to apply either method for the additional credit attributable to separate years' qualified investment.

(2) *Time and manner of electing.* A corporation with a qualified investment must elect to be eligible for an additional credit by attaching a statement of election—

(i) To its income tax return, filed on or before the due date including extensions of time, for a taxable year not later than its first applicable year with respect to a qualified investment, or

(ii) In the case of a return filed before December 31, 1975, to an amended return filed on or before December 31, 1975.

(3) *Statement of election.* The statement of election must contain the name and taxpayer identification number of the corporation. Also, it must declare in the following words, or in words having substantially the same meaning, that:

(i) The corporation elects to have section 46(a)(2)(B)(i) of the Internal Revenue Code of 1954 apply; and

(ii) The corporation agrees to implement (or continue to implement, as appropriate) a TRASOP and to claim the additional credit as required by § 1.46–8 of the Income Tax Regulations.

(4) *Separate election.* A separate election must be made for each taxable year's qualified investment to obtain an additional credit for that qualified investment. If a corporation does not make a timely election to obtain an additional credit for a taxable year, it may not subsequently make the election on an amended return or otherwise.

(5) *No partial election.* An election to obtain an additional credit applies to a corporation's entire qualified investment for a taxable year. Thus, a corporation may not elect to obtain a partial additional credit for any year's qualified investment. However, the partial disallowance of an additional credit will not result in an election being treated as a partial election. Also, an election by a member of a controlled group of corporations that applies only to the electing member's qualified investment is not a partial election. See § 1.46–8(h)(9) with respect to transitional rules for elections made before January 19, 1979.

(6) *No revocation of election.* After the time for electing the additional credit has expired for a taxable year, a corporation may not revoke its election for that year.

(7) *Establishing a TRASOP.*—(i) *In general.* A corporation electing to obtain an additional credit must establish a TRASOP with accompanying trust on or before the last day for making the election regardless of when in fact the election is made. A TRASOP is considered to be in existence on a particular date if it meets the requirements of § 1.410(a)–2(c)(1). A new plan need not be established if an existing plan qualifies as a TRASOP, or is amended to meet the requirements of this section, on or before the last day for making the election. The requirements of this section are not satisfied merely by establishing and crediting a separate "TRASOP" account on the corporation's books.

(ii) *Type of plan.* A TRASOP need not meet the requirements of section 401 (a). However, it must be a stock bonus plan, a combination stock bonus plan and money purchase pension plan, or a profit-sharing plan under § 1.401–1(b)(1) of this chapter. See section 301(d)(7)(A) of the 1975 TRA for the tax consequences relating to a TRASOP that does not meet the requirements of section 401(a). See also Title I of ERISA for additional provisions applicable to a TRASOP as an employee pension benefit plan under section 3(2) of ERISA.

(8) *Funding a TRASOP.*—(i) *In general.* A corporation electing to obtain an additional credit must fund its TRASOP by transferring TRASOP securities or cash to it no later than 30 days after the applicable last day. That day is the last day for electing the additional credit, irrespective of when the election is actually made. However, in the case of an investment credit that was carried over and claimed in a subsequent applicable year by reason of paragraph (c)(1)(ii) of this section, that day is the last day (including extensions) for filing its income tax return for the subsequent applicable year. TRASOP securities may be transferred to a plan at any time during the applicable year, but not before the first day of an applicable year. If TRASOP securities are transferred to the plan within the permissible time period after the close of the applicable year, they are treated as transferred during that applicable year first until all TRASOP securities required by this paragraph (c) for that applicable year are transferred to, and taken into

account under, the TRASOP. Thus, for example, assume that on a return filed on September 17, 1979 (with extensions, the last day for filing a return for 1978), a calendar-year corporation claims an additional credit of $5,000 for 1978, an applicable year under the TRASOP. No contributions were made in 1978 on account of the 1978 credit, but TRASOP securities with a value of $6,000 were contributed in 1979. The corporation also expects to be able to claim an additional credit of $10,000 for 1979. TRASOP securities transferred between January 1, 1979, and October 17, 1979, must be taken into account under the plan for 1978 before they are taken into account for 1979. Accordingly, securities having a value of $5,000 are applied against the obligation for 1978, and $1,000 of the contribution is retained to be applied to the eventual obligation for 1979.

(ii) *Cash transfers.* A corporation may transfer cash to the TRASOP instead of TRASOP securities only if the TRASOP uses the cash to acquire TRASOP securities no later than 30 days after the time for funding the TRASOP.

(iii) *Valuation.* The value of the TRASOP securities for an applicable year must equal one percent of the corporation's qualified investment for that year. However, if paragraph (c)(1)(ii) of this section is followed by a corporation, the value of TRASOP securities for an applicable year must equal the amount of additional credit claimed for that year.

(iv) *Cash reserve.* The value of TRASOP securities acquired with cash transferred by a corporation may be reduced by two items. The first item is an amount not more than the value of fractional shares allocable to participants entitled to receive an immediate distribution at the time of the transfer. The second item is start-up expenses and administrative expenses to the extent permitted under section 301(d)(13) of the 1975 TRA and paragraph (e) (6) and (7) of this section.

(v) *Conditional funding.* The funding of a TRASOP may be conditional if the TRASOP satisfies the provisions of section 301(d)(14) of the 1975 TRA. For purposes of section 301(d)(14), an investment credit is considered to be allowed on the date the election for the applicable year is made under paragraph (c)(2) of this section.

(vi) *Certain benefit offset mechanisms.* A TRASOP will be deemed to be not funded to the extent that TRASOP securities are used to offset benefits under a defined benefit plan.

(9) *Claiming additional credit.*— (i) *In general.* Section 46(a)(3) subjects the amount of investment credit earned with respect to a taxpayer's qualified investment for a taxable year to a limitation based on the corporation's tax liability.

(ii) *Unused credit year.* Section 46(a)(1) provides a first-in-first-out rule for the investment credit in a taxable year. Section 46(b)(1) provides for the carryback and carryover of unused credits. If less than all of a taxpayer's credit earned for a taxable year is allowable, the 10-percent credit determined under section 46(a)(2)(A) earned for a particular year is allowed first. Any portion of the additional credit for a taxable year that is not allowable may be carried back or carried over to the extent permitted by section 46(b)(1). However, an additional credit which is allowed for a taxable year is not reduced by a carryback to that year of an unused credit from a succeeding taxable year.

(iii) *Example.* Paragraph (c)(9)(ii) of this section is illustrated by the following example:

Example. A calendar-year corporation begins operation and establishes a TRASOP in 1975. The facts and treatment relating to the corporation's qualified investments and investment tax credits for 1975 and 1976 are as follows:

	1975	1976
Facts:		
1. Qualified investment	$500,000	$500,000
2. Credits earned:		
a. 10% credit	50,000	50,000
b. Additional credit	5,000	5,000
c. Carryover of additional credit from prior year, line 5		3,000
3. Sec. 46(a)(3) limitation	52,000	47,000
Treatment of credits:		
4. Credits allowed:		
a. Carryover of additional credit		3,000
b. Current 10% credit	50,000	44,000
c. Current additional credit	2,000	0
5. Unused credits:		
a. 10% credit	0	6,000
b. Additional credit	3,000	5,000

Thus, in 1975 the section 46(a)(3) limitation ($52,000) is applied first to allow all of the 10-percent investment credit ($50,000). Accordingly only $2,000 of the additional credit earned is allowed in 1975 and $3,000 of the additional credit is carried forward to 1976. In 1976, section 46(a)(1) requires that this $3,000 of additional credit is allowed first, and then only $44,000 of the 10-percent credit earned in 1976 is allowed since the section 46(a)(3) limitation for that year is $47,000. The unused credits from 1976 cannot be carried back since 1975, the only prior year, is an unused credit year.

(iv) *Redeterminations increasing credit.* If a corporation's allowable additional credit is increased because of a redetermination, the increase is treated as if it were an unused credit carryover for purposes of paragraphs (c)(1)(ii) and (c)(8)(i) of this section. For purposes of this subdivision (iv), the date of the increase is determined under paragraph (e)(9)(iii) of this section as if it were the date of a reduction. Thus, for example, assume that a calendar-year corporation claims an additional credit of $100,000 in 1978 because of a qualified investment in that year. In 1980, the additional credit attributable to 1978 qualified investment is redetermined to be $110,000. With respect to the 1978 qualified investment, 1980 is also an applicable year to the extent of $10,000. The increased credit is reflected on the employer's return for 1980. The corporation must fund the TRASOP with this $10,000 under paragraph (c)(8) of this section.

(v) *Redeterminations increasing tax liability.* If a corporation's tax liability for a year is increased such that an additional credit carried forward and claimed in a later year is allowable in the earlier year, the claim of the additional credit will be considered timely if it was otherwise timely under this section. Thus, for example, assume that a calendar-year corporation makes qualified investment of $5,000,000 in 1978 but, based on its income tax liability, is unable to use any of the credit until 1979, when the entire $50,000 additional credit can be used. The corporation adopts the TRASOP, elects the full $50,000 credit and funds in a timely manner for tax year 1979. However, as a result of a 1981 redetermination of the 1978 tax liability, the corporation is able to use $30,000 of the additional credit in 1978 and the remaining $20,000 in 1979. The allowable credit for 1978 is increased by $30,000 and the increase is treated as an unused credit carryover, for which the year of redetermination, 1981, is the applicable year. Assuming that no other credits are available, the 1979 credit is reduced from $50,000 to $20,000, and this reduction is taken into account in the redetermination year by offsetting the reduction against amounts due the plan or by deducting the amount of the reduction. The adoption of the TRASOP for 1979, rather than 1978, is considered timely.

(10) *Deductions at expiration of carryover period.* Under paragraph (c)(1)(i) of this section, a corporation that uses no additional credit in the year of a qualifed investment may nonetheless treat the year in which the qualified investment is made as the first applicable year. If the carryover period under section 46(b)(1)(B) expires before the corporation uses the entire additional credit with respect to the

qualified investment, contributions attributable to the unused credit are deductible, subject to the limitations of section 404(a), as if made in the taxable year when the carryover period expires. The amount deductible is the dollar amount of the unused credit irrespective of the current value of the securities contributed with respect to the credit.

(d) *Formal plan requirements.*—(1) *In general.* To be a TRASOP, a plan must meet the formal requirements of this paragraph (d).

(2) *Plan year.* To be a TRASOP, a plan must specify a plan year that begins with or within the corporation's taxable year.

(3) *Designed to invest primarily in employer securities.* To be a TRASOP, a plan must state that it is designed to invest primarily in employer securities. A TRASOP intended to qualify as an ESOP under § 54.4975–11 must state that it is designed to invest primarily in employer securities. See paragraph (e)(10) of this section concerning the requirement that a plan invest in employer securities on an ongoing basis.

(4) *Separate accounting.* To be a TRASOP, a plan must state that TRASOP securities are to be accounted for separately from any other contributions to the plan.

(5) *Debts and expenses of the TRASOP.* To be a TRASOP, a plan must state that TRASOP securities cannot be used to satisfy a loan made to the TRASOP or be used as collateral for a loan made to a TRASOP. However, if the plan so provides, to the extent permitted under section 301(d)(13) of the 1975 TRA and paragraph (e) (6) and (7) of this section, certain amounts may be used for the TRASOP's start-up expenses and administrative expenses.

(6) *Allocation of TRASOP securities.*—(i) *General rules.* To be a TRASOP, a plan must provide for the allocation of TRASOP securities under section 301(d)(3) of the 1975 TRA and this subparagraph (6).

(ii) *Timing.* TRASOP securities are allocated as of the last day of the plan year beginning with or within the appropriate applicable year.

(iii) *Participants.* Each employee who is a participant at any time during the plan year for which allocation is made must receive an allocation as of the end of that year even though not then employed by the employer. However, to receive allocations, employees must satisfy the minimum participation requirements of the plan (for example, 1,000 hours of service).

(iv) *Compensation considered.* Under section 301(d)(3) of the 1975 TRA, allocations must be based on the proportion that each participant's compensation bears to all participants' compensation. Compensation in excess of $100,000 must be disregarded in making these allocations. A plan may have a lower stated ceiling on compensation (from $0 to $100,000) and if the plan has such a lower ceiling, compensation in excess of this ceiling must likewise be disregarded. Also, allocations must be based on a participant's compensation while actually employed, not just while actually participating, in the plan year.

(v) *Section 415 priority rule; transitional rule.* For purposes of section 415, this subdivision (v) applies only to limitation years beginning after November 30, 1982. If a TRASOP security is not allocated to a participant's account for a plan year because of section 415 and section 301(d)(3) of the 1975 TRA, no other amount may be allocated for that participant under any defined contribution plan of the same employer after the actual allocation date for that TRASOP plan year, until all unallocated TRASOP securities have been allocated as provided in paragraph (d)(6) (vi) and (vii) of this section. This subdivision (v) applies to a TRASOP when, under section 415(f)(1)(B), the TRASOP is treated along with an employer's other defined contribution plans as one plan for purposes of section 415.

(vi) *Unallocated amounts.* Under section 301(d)(3) of the 1975 TRA, TRASOP securities unallocated for a plan year to participants' accounts because of section 415 must be allocated proportionately to the accounts of other participants until the addition to the account of each participant reaches the limits of section 415.

(vii) *Suspense account.* If, after these allocations, TRASOP securities remain unallocated, they must be held in an unallocated suspense account under the TRASOP. Any income produced by these securities must also be held in the account. A plan with such an account will not fail to qualify under section 401(a) merely because of the account. In each successive TRASOP plan year (whether or not an applicable year), the unallocated assets are released from this account for allocation on a first-in-first-out basis. They are then allocated to the participants' accounts proportionately under paragraph (d)(6)(i)–(vi) of this section for each later year until no TRASOP securities remain unallocated. Value for this allocation is determined under paragraph (b)(7) of this section as of the date of transfer from the suspense account or, if the special 20-day average rule applies, the value is determined on the basis of the 20 consecutive trading days immediately preceding the date of transfer from the suspense account.

(viii) *Escrow account.* A TRASOP may provide for the establishment of an escrow account instead of a suspense account. The escrow account must satisfy paragraph (d)(6)(vii) of this section. The beneficiary of the escrow account is to be the TRASOP. The corporation may establish the escrow account and contribute stock or cash to it. In such a case, the escrow agent must transfer assets to the plan each year equal to the amount to be allocated proportionately under paragraph (d)(6)(i)–(vi) of this section. Assets held in an escrow account are plan assets.

(ix) *Treatment of certain plan terminations.* To be a TRASOP, a plan must provide that, if a plan terminates because the corporation ceases to exist, unallocated amounts described in paragraph (d)(6)(vi) of this section must be allocated to the extent possible under section 415 for the year of termination. The remaining unallocated amounts must then be withdrawn. These unallocated amounts are treated as recaptured under all the rules of paragraph (e)(9)(vii) of this section except its last sentence. See paragraph (d)(9)(i) of this section concerning distributions of allocated TRASOP securities.

(x) *No integration.* No TRASOP may be integrated, directly or indirectly, with contributions or benefits under Title II of the Social Security Act or any other state or federal law.

(xi) *Fractional securities.* Participants' accounts are to be allocated fractional securities or fractional rights to securities.

(xii) *Accounting for amounts withheld by employer or paid by plan as start-up or administrative expenses.* An employer may withhold certain start-up and administrative expenses from TRASOP securities due the plan. Also, a plan may reduce amounts to be allocated to the extent that certain plan assets are used to reimburse the employer, for example for salaries of employees providing services to the plan, or to pay fees directly to independent contractors for expenses. These expenses do not reduce the amount of additional credit claimed and are not allowable as expenses in computing taxable income. Additional rules concerning these expenses are in paragraph (e) (6) and (7) of this section.

(7) *Nonforfeitability.* To be a TRASOP, a plan must state that each participant has a nonforfeitable right to allocated TRASOP securities. For purposes of this section, forfeitures described in section 411(a)(3) are not

permitted. However, amounts shall not fail to be considered to be nonforfeitable if the plan provides for their return to the corporation—

(i) In the case of conditional contributions, under section 301(d)(14) of the 1975 TRA and paragraph (c)(8)(v) of this section, and

(ii) In the case of investment credit recapture or an event deemed to be a recapture, under section 301(f) of the 1975 TRA and paragraph (f) of this section.

(8) *Voting rights.*—(i) *Provision for passthrough.* To be a TRASOP, a plan must state that each participant is entitled to direct a designated fiduciary how to exercise any voting rights on TRASOP securities allocated to the account of the participant. The plan need not permit participants to direct the voting of unallocated TRASOP or other securities held by the trust. It may authorize the designated fiduciary to exercise voting rights for unallocated securities.

(ii) *Notification by the employer.* To be a TRASOP, the plan must obligate the corporation to furnish the designated fiduciary and participants with notices and information statements when voting rights are to be exercised. The time and manner for furnishing participants with a notice or information statement must comply with both applicable law and the corporation's charter and bylaws as generally applicable to security holders. In general, the content of the statement must be the same for plan participants as for other security holders.

(iii) *Fractional securities.* To be a TRASOP, the plan must allow the participants to vote any allocated fractional securities or fractional rights to securities. This requirement is met if the designated fiduciary votes the combined fractional securities or rights to the extent possible to reflect the direction of the voting participants.

(iv) *Unexercised voting rights.* To be a TRASOP, the plan may not permit the designated fiduciary to exercise voting rights which a participant fails to exercise. However, the plan may permit the solicitation and exercise of participants' voting rights by management and others under a proxy provision applicable to all security holders.

(9) *Distributions.*—(i) *In general.* To be a TRASOP, a plan must permit the distribution of allocated TRASOP securities only as provided under section 301(d)(4) of the 1975 TRA. Also, under § 1.401–1(b)(1)(i) of this chapter, to the extent that a TRASOP is a money purchase pension plan, it can only provide for a distribution in the case of separation from service, death, or disability. No TRASOP may provide for the distribution of TRASOP securities upon plan termination within the 84–month holding period. For purposes of section 301(d)(4) of the 1975 TRA, the 84–month holding period begins on the date as of which TRASOP securities are allocated.

(ii) *Certain fractional securities.* A stock bonus TRASOP may distribute cash instead of fractional securities.

(e) *Operational plan requirements.*—(1) *General rule.* To be a TRASOP, a plan in operation must meet the requirements of this paragraph (e). However, the provisions under paragraph (e)(8) of this section apply only to TRASOPs qualified under section 401(a).

(2) *Compliance with plan provisions.* To be a TRASOP, a plan must operate in compliance with its provisions. Failure to operate in compliance with plan provisions constitutes an operational failure to comply. See paragraph (h)(5)(iii) of this section.

(3) *Compliance with certain Code provisions.* To be a TRASOP, a plan must meet the requirements of section 301(d)(7) of the 1975 TRA. Thus, whether or not it is qualified under section 401(a), a TRASOP must meet the requirements of section 401(a) with respect to allocations, section 410 with respect to participation, and section 415 with respect to limitations on contributions and benefits. However, these requirements are modified by paragraph (d)(6) of this section, relating to allocations and section 415.

(4) *Employee contributions.* Under a TRASOP, the participants' receipt of benefits attributable to TRASOP securities contributed for the additional credit (but not the extra additional credit) must not depend on contributions by participants. If a corporation has a plan in existence which requires employee contributions, a portion of the plan may be a TRASOP if employee contributions are not required with respect to that portion of the plan.

(5) *Controlled group of corporations, etc.* Whether or not a TRASOP is qualified under section 401(a), all employees who by reason of section 414 (b) and (c) are treated as employees of an electing corporation are treated as employed by the corporation in determining whether the plan satisfies the requirements of sections 301(d)(7) (B) and (C) of the 1975 TRA. A member of a controlled group under paragraph (b)(4)(i) of this section with a qualified investment but with no actual employees may obtain an additional credit even though the only participants in the corporation's TRASOP are actually employed by another member of the controlled group.

(6) *Start-up expenses.*—(i) *In general.* For purposes of this section, the term "start-up expense" means any ordinary and necessary amount of a nonrecurring nature paid or incurred by the corporation or by the plan in connection with the establishment of a TRASOP under paragraph (c)(7) of this section. Thus, for example, start-up expenses may include expenses relating to: the drafting or amending of plan documents to establish a TRASOP under section 301(d) or (e) of the 1975 TRA, the seeking of agency approval for these documents and related transactions, the obtaining of shareholder approval for establishing a TRASOP, and the registering of securities for initial funding of a TRASOP.

(ii) *Treatment of start-up expenses.* Start-up expenses may be withheld by the employer from amounts that would otherwise be due the plan under paragraph (c)(8) of this section, to the extent that these amounts are known by the employer when funding first occurs for an applicable year. To the extent that these amounts are not withheld by the employer, the plan may pay remaining amounts from plan assets within a reasonable time after the amounts are known by the plan.

(iii) *Ceiling on start-up expenses.* Reimbursement for start-up expenses is limited to a ceiling. This ceiling is the sum of 10 percent of the first $100,000 that an employer is first required to transfer under paragraph (c)(8) of this section for an applicable year and 5 percent of that amount in excess of $100,000. If this first year is an unused credit year from which there is a carryover, amounts required to be transferred in subsequent years for claiming carryovers from this first year are considered in determining this ceiling. Thus, for example, assume that a calendar-year corporation first earns an additional credit in 1977 of $9,000 and that $3,000 of this amount is claimed on the income tax return for 1977, for 1978 and for 1979. The corporation's ceiling on start-up expenses is $300 when its 1977 return is filed. The total ceiling increases to $600 when its 1978 return is filed and to $900 when its 1979 return is filed, with the claiming of an additional $3,000 credit for each of the three years.

(iv) *Special rule for taxable years ending before January 1, 1977.* Special treatment is available for expenses paid or incurred before January 1, 1977, that were not taken into account in the manner provided by section 301(d)(13) of the 1975 TRA. These expenses may be withdrawn under paragraph

(e)(9)(vii) of this section in the same manner as reductions in the corporation's additional credit caused by a recapture. This withdrawal may only be made during the first taxable year ending after March 20, 1979. It is subject to the ceiling of section 301(d)(13) of the 1975 TRA. Expenses previously deducted by a corporation must be reduced on a timely-filed amended return by the amount of this withdrawal.

(7) *Administrative expenses.*—(i) *In general.* For purposes of this section, the term "administrative expense" means any amount, other than a start-up expense, paid or incurred by the corporation or by the plan that is ordinary and necessary in maintaining the TRASOP. Thus, for example, administrative expenses may include expenses relating to: compensating plan fiduciaries and administrators, leasing office space and equipment, reproducing and mailing information to participants and beneficiaries, and filing reports, returns, and amendments relating to a TRASOP. Paragraph (e)(6) (ii) and (iv), relating to treatment of start-up expenses and to a special rule for taxable years ending before January 1, 1977, also applies to administrative expenses.

(ii) *Ceiling on administrative expenses.* Reimbursement for administrative expenses under paragraph (e)(6)(ii) of this section is limited to the smaller of two amounts for each plan year. The first amount is $100,000. The second amount is the sum of 10 percent of the first $100,000 of dividend income paid with respect to TRASOP securities held by the plan during the plan year ending with or within the corporation's taxable year and 5 percent of any such dividend income in excess of $100,000.

(8) *TRASOP qualification under section 401(a).*—(i) *Permanence.* A TRASOP is not required to be a qualified plan under section 401(a). However, to meet the requirements of section 401(a), a TRASOP must be a permanent plan, as described in § 1.401–1(b)(2) of this chapter. Under section 401(a)(21), a plan will not fail to be considered permanent merely because the amount of employer contributions under the plan is determined solely by reference to the amount of additional credit allowable under this section. Thus, for example, it will not fail to be considered permanent merely because employer contributions are not made for a year for which an additional credit is not available by reason of no qualified investment for which an additional credit can be obtained. Section 401(a)(21) applies only to the extent the TRASOP is funded with TRASOP securities and cash in lieu of TRASOP securities.

(ii) *Partial discontinuance of contributions.* A plan that meets the requirements of section 401(a) may receive contributions of TRASOP securities as well as other contributions. If the other contributions continue on a permanent basis, the plan's qualification under section 401(a) will not be adversely affected merely because TRASOP securities cease to be contributed to it. The discontinuance of TRASOP contributions does not alter the requirement that past TRASOP contributions remain invested in employer securities. See paragraph (e)(10) of this section.

(iii) *Income distribution.* Income paid with respect to employer securities acquired by a TRASOP may be distributed at any time after receipt by the plan to participants on whose behalf such securities have been allocated without adversely affecting the qualified status of the plan under section 401(a). (See the last sentence of section 803(h), Tax Reform Act of 1976.) However, under a TRASOP that is a stock bonus or profit-sharing plan, income held by the plan for a 2-year period or longer must be distributed under rules generally applicable to stock bonus and profit-sharing plans qualified under section 401(a). Income distributed by a TRASOP is not subject to the partial exclusion of dividends provided in section 116, whether or not the income is held by the plan for two or more years.

(9) *Reductions in investment credit.*—(i) *General rule.* Certain reductions in a corporation's investment credit result from either a recapture under section 47 of the corporation's investment credit or a redetermination of the allowable credit. If these reductions are taken into account under a TRASOP, the plan may only use one or more of the methods described in paragraph (e)(9), (v), (vi), and (vii) of this section for taking into account these reductions. Thus, for example, more than one method is permitted upon a recapture with respect to a qualified investment made in a particular year. However, the method described in paragraph (e)(9)(vii) of this section applies only to a recapture and not to a redetermination.

(ii) *Ratable reduction.* A reduction is allocated ratably between the 10-percent credit and the additional credit. Thus, for example, if a calendar-year corporation claims a $33,000 investment credit for 1976, including $3,000 additional credit, and $11,000 of the total credit is recaptured in 1978, the $3,000 additional credit is reduced by $1,000. This subdivision (ii) does not apply to a reduction solely of the additional credit as could occur, for example, in the case of a redetermination caused by a mathematical error in computing the additional credit or in the case of a recapture caused by a bad faith failure to comply under paragraph (h) of this section.

(iii) *Date of reduction.* A reduction in investment credit occurs under this paragraph (e)(9) on the earliest of these dates: (A) The date an income tax return (or an amended return) is filed reflecting the reduction; (B) the date a judicial determination affecting the amount of the reduction becomes final; and (C) the date specified in a closing agreement made under section 7121 that is approved by the Commissioner. For purposes of this subdivision (iii), a judicial determination becomes final at the time prescribed in § 1.547–2(b)(1) (ii) or (iii), relating to personal holding company tax.

(iv) *Year for taking reduction into account.* A reduction in investment credit must be taken into account in the earliest year or years possible under the applicable method beginning no later than the year in which the date of the reduction falls.

(v) *Decrease future contributions.* The reduction may be taken into account as a decrease in the value of TRASOP securities to be transferred to the plan. The amount of the decrease is equal to the dollar amount of the reduction.

(vi) *Deduct under section 404.* On the date of the reduction, the amount of the reduction may be treated as an amount paid to the TRASOP for purposes of, and as a deduction to the extent allowed under, section 404.

(vii) *Withdraw TRASOP securities.* If an additional credit allowed for a taxable year is recaptured, the corporation may withdraw from the plan TRASOP securities transferred to, or acquired by, the plan for claiming that year's credit. The withdrawal must only be from assets segregated under paragraph (f)(2) of this section and must be first from assets accounted for in an unallocated suspense account for the particular year. The amount of assets actually withdrawn bears the same proportion to the amount of assets subject to withdrawal as the amount of additional credit recaptured bears to the amount of additional credit claimed. Thus, for example, if the assets subject to withdrawal consist of 300 shares of one class of employer stock and one-third of the additional credit is recaptured, 100 shares of the stock are withdrawn. However, if the current

value of the assets subject to withdrawal exceeds the dollar amount of the additional credit claimed, assets may be withdrawn only to the extent that their current value does not exceed the dollar amount of the recaptured portion of the additional credit. Thus, for example, if the 300 segregated shares in the prior example have a current value of $9,000 and the dollar value of the additional credit claimed is $4,500, when one-third of the additional credit is recaptured, only 50 shares, not 100 shares, are withdrawn. Current value is determined under paragraph (b)(7) of this section as of the withdrawal date or, if the special 20-day average rule is applied, it is based on the 20 consecutive trading days immediately preceding the withdrawal date. Withdrawals from an individual's account for the year with respect to which recapture occurs must bear the same ratio to the total amount withdrawn for that year as the individual's TRASOP account balance for that year bears to the total TRASOP account balances for that year. In the case of a TRASOP security acquired after March 20, 1979, the corporation may not withdraw it unless the plan meets the requirements of paragraph (d)(7)(ii) of this section when the plan acquires the TRASOP security.

(viii) *Prior distribution rule.* If a TRASOP distributes an amount allocated with respect to an investment credit for a taxable year and the credit for that year is later recaptured, withdrawals may not reduce participants' accounts below the level to which they would have been reduced had the prior distribution not occurred. Recaptured amounts above this level may only be deducted under paragraph (e)(9)(vi) of this section. They may not be used to decrease future contributions under paragraph (e)(9)(v).

(ix) *Illustration.* The operation of paragraph (e)(9)(viii) of this section is illustrated as follows:

Example. For 1977, a calendar-year corporation claims an additional credit of $10,000. The corporation's TRASOP meets the requirements of section 301(f) of the 1975 TRA. Each of 10 participants under the plan for that year receives an equal allocation of 10 shares valued at $1,000. In 1978, one participant terminates employment and receives a distribution of 10 shares. In 1979, a recapture reduces the 1977 additional credit by $2,000. The value of employer securities has not changed from the allocation date. If the 10 shares had not been distributed, 20 shares would be available for withdrawal, 2 shares from each participant's account. Since 9 participants remain from 1977, only 18 shares are available for withdrawal (2 shares x 9 remaining participants). If these 18 shares are withdrawn, the corporation may take into account 2 shares by deducting their value to the extent permitted under paragraph (e)(9)(vi) of this section.

(10) *Continued investment in employer securities.* The requirement that a plan be designed to invest primarily in employer securities is a continuing obligation. Therefore, a transaction changing the status of a corporation as an employer may require the conversion of certain plan assets into other securities. See paragraphs (d)(9) and (g)(6) of this section. In general, cash or other assets derived from the disposition of employer securities must be reinvested in employer securities not later than the 90th day following the date of disposition. However, the Commissioner may grant an extension of the period for reinvestment in employer securities depending on the facts and circumstances of each case.

(f) *Section 301(f) withdrawals.*—(1) *In general.* No assets may be withdrawn by a corporation under section 301(f) of the 1975 TRA unless the assets are either TRASOP securities or plan assets into which TRASOP securities have been converted ("withdrawal assets"). See paragraph (e)(10) concerning restrictions on investment of TRASOP assets in assets other than employer securities. Withdrawal assets must meet the segregated accounting requirements of this paragraph. The physical segregation of assets is not required.

(2) *Segregated accounting.* The segregated accounting requirements are that—

(i) Withdrawal assets must be segregated from other plan assets on a taxable-year-by-taxable-year basis; and

(ii) Separate accounts must be maintained on a taxable-year-by-taxable-year basis for each participant on whose behalf withdrawal assets are allocated.

(3) *Aggregate plan year accounting.* Withdrawal assets for taxable years beginning before October 4, 1976, also meet the segregated accounting requirements if they are aggregated and accounted for in one separate account apart from withdrawal assets in separate accounts for later taxable years.

(g) *Requirements for employer securities.*—(1) *General rules.* The term "employer security" does not include stock rights, warrants and options. An employer security that is not common stock must at all times be immediately convertible into common stock that is an employer security at a conversion price which is no greater than the fair market value of that common stock at the time the plan acquires the security.

(2) *Common stock.*—(i) *In general.* To be an employer security, common stock must meet certain voting power and dividend right requirements. For purposes of this paragraph (g), stock held by the TRASOP is not treated as outstanding.

(ii) *Dividend right limitations.* If dividend rights are subject to a limitation, then stock representing at least 50 percent of the fair market value of the employer's outstanding common stock at the time the commmon stock is transferred to or purchased by the TRASOP must be subject to the same limitation. However, common stock that satisfies paragraph (g)(3)(ii) of this section is not subject to this subdivision (ii).

(3) *Voting power and dividend rights.* To be an employer security, common stock must have voting power and dividend rights which, when taken together, are "no less favorable" than the voting power and dividend rights of any other common stock issued by the employer. Common stock which meets one of the following tests is "no less favorable".

(i) *Ten-percent shareholder test.* The stock is part of, oridentical to, a class of outstanding stock of which at least 50 percent is not owned by 10-percent shareholders. For this purpose, a 10-percent shareholder is one who owns at least 10 percent of the outstanding shares in a class, including shares constructively owned under section 318.

(ii) *Substantial proportionality test.* More than one class of common stock is outstanding and an identical percentage of shares from each class is transferred to the TRASOP.

(iii) *Voting power test.* The stock is part of, or identical to, the existing class of stock having the greatest number of votes per unit of fair market value. For example, assume there are only two classes of common stock, Class A and Class B. Their fair market values per share are $1 and $.50, respectively, and the owner of each share of each class is entitled to one vote per share. Thus, Class B has two votes per $1 and Class A has one vote per $1. Accordingly, the Class B stock has the greatest number of votes per unit of fair market value.

(4) *Right of first refusal.* TRASOP securities may, but need not, be subject to a right of first refusal. However, whether or not the plan is an ESOP, any such right must meet the requirements of § 54.4975–7(b)(9) of this chapter.

(5) *Put option.* A TRASOP security that is transferred to a TRASOP after September 30, 1976, must be subject to a put option if it is not publicly traded when distributed or if it is subject to a

trading limitation when distributed. The provisions of § 54.4975–7(b)(10)–(12) and § 54.4975–11(a)(3) of this chapter apply to such securities whether or not the plan is an ESOP.

(6) *Change of employer security status.* In general, a transaction changing the status of a corporation as an employer, or as a member of a controlled group of corporations including the employer, adversely affects the status as employer securities of common stock and securities held by a plan ("old employer securities"). However, to the extent that the transaction causing the change in status of the old employer securities does not result in a recapture under section 47 of any investment credit underlying the transfer to, or acquisition by, the plan of the old employer securities, common stock and securities ("new employer securities") substituted for old employer securities are treated as if they were the old employer securities if—

(i) The plan is not terminated,

(ii) The old employer securities and the new employer securities are of equal value at the time of the transaction changing the status of the old employer securities, and

(iii) The new employer securities otherwise meet the requirements of this section.

(h) *Failure to comply.*—(1) *General rule.*—(i) *Effect of failure.* If a corporation elects under paragraph (c)(2)–(5) of this section to obtain an additional credit and fails to comply with respect to that credit at any time, it is liable to the United States for a civil penalty equal to the amount involved in the failure to comply. If the corporation fails to comply with respect to an additional credit during the 84-month period described in section 301(d)(4) of the 1975 TRA, the credit is also recaptured. A separate failure to comply occurs for each taxable year in which a failure continues to exist.

(ii) *Illustration of continuing failure's effect.* Assume that in 1975 an additional credit is allowed and a failure to comply occurs in 1975 with respect to that credit. Assume also that in 1976 the 1975 failure continues uncorrected, another additional credit is allowed, and a failure to comply occurs with respect to the 1976 credit. Under these circumstances, on the last day of 1976 three separate failures to comply exist: (A) The 1975 failure with respect to the 1975 credit, (B) the 1976 failure with respect to the 1975 credit, and (C) the 1976 failure with respect to the 1976 credit.

(2) *Assessment and collection.* The civil penalty must be assessed and collected in the same manner in which a deficiency in the payment of federal income tax is assessed and collected.

(3) *Exception.* If a failure to comply is corrected within the correction period described in paragraph (h)(5) of this section—

(i) The corporation is not liable for a civil penalty; and

(ii) If the corporation establishes that at the time of the failure a good faith effort to comply was made, its additional credit is not disallowed.

(4) *Failure to comply (penalty classifications).*—(i) *In general.* An electing corporation fails to comply if a defect described in paragraph (h)(4) (ii)–(iv) of this section occurs with respect to an additional credit allowed for a particular taxable year. The characterization of the defect in this subparagraph (4) determines the amount involved under paragraph (h)(8) of this section for the purpose of assessing the civil penalty.

(ii) *Funding defect.* A funding defect occurs if a corporation or its TRASOP fails to satisfy the requirements of paragraph (c) (8) or (9) of this section, relating to funding a TRASOP and claiming an additional credit.

(iii) *Special operational defect.* A special operational defect occurs if a TRASOP fails in operation to satisfy the requirements described in paragraph (d) (5)–(9) of this section, relating to debts and expenses of a TRASOP, allocation of TRASOP securities, nonforfeitability, voting rights, and distributions, or paragraph (e)(3) of this section, relating to compliance with certain Code provisions.

(iv) *De minimis defect.* A de minimis defect occurs if a corporation or its TRASOP fails to satisfy any requirement of this section other than those enumerated either in paragraph (h)(4) (ii) and (iii) of this section or in paragraphs (a)(2) and (c) (2)–(5) of this section. A failure to comply under this subdivision (iv) may be formal or operational in nature.

(5) *Failure to comply (correction rules classifications).*—(i) *In general.* If for an electing corporation a defect described in paragraph (h)(4) of this section occurs, the procedure for correcting the failure to comply depends upon whether the failure is classified as a "formal" failure or an "operational" failure under this subparagraph (5).

(ii) *Formal failure to comply.* Formal failures are corrected by retroactive amendment. If a formal plan requirement is not met, the plan must be retroactively amended by no later than the expiration of the correction period under paragraph (h)(6) of this section. A plan fails to meet a formal plan requirement of paragraph (d) of this section if, for example, it does not state, as required by paragraph (d)(3) of this section, that it is designed to invest primarily in employer securities.

(iii) *Operational failure to comply.* Operational failures are corrected by undoing the defective transaction and by making the plan and the participants whole. If the value of TRASOP securities transferred to the TRASOP is less than the amount of the additional credit, the corporation must make up any resulting funding deficiency within the correction period. This is done, for example, by contributing additional TRASOP securities plus an amount equal to the dividends or interest that would have been paid between the time that the TRASOP securities should have been transferred and the actual time for the transfer. The contribution of additional TRASOP securities is based on their value under paragraph (b)(7) of this section as of the date by which they were required to be transferred to the plan. An electing corporation fails to meet an obligation undertaken under this section if, for example, it fails to comply with paragraph (c)(8) of this section.

(6) *Correction period.*—(i) *In general.* For purposes of this paragraph (h), the "correction period" begins when the failure to comply occurs and ends 90 days after receipt by the corporation of a notice of deficiency under section 6212 with respect to the civil penalty and the investment credit.

(ii) *Extensions of correction period.* Extensions of the correction period are determined under § 53.4941 (e)–1(d)(2) (i), (ii), and (iv) of this chapter (Foundation Excise Tax Regulations). For this purpose, a failure to comply is treated as an act of self-dealing, the corporation is treated as a foundation, and a civil penalty is treated as a tax under section 4941(a)(1).

(7) *Good faith.* The corporation has the burden of establishing under paragraph (h)(3)(ii) of this section that it made a good faith effort to comply. For example, if a corporation shows that it has made a good faith effort to establish the fair market value of the employer securities transferred to the TRASOP, it may be entitled to the additional credit even if, on later examination of the return, it is determined that more securities should have been transferred. For purposes of this paragraph (h)(7), reasonable reliance on Technical Information Release 1413 (1975–50 I.R.B. 16), questions and answers relating to ESOP's, is a good faith effort to comply.

(8) *Amount involved.*—(i) *In general.* The amount involved in a failure to comply is an amount described in this

subparagraph (8). A maximum amount and a minimum amount are determined with respect to an additional credit allowed for a particular taxable year.

(ii) *Maximum amount involved.* Notwithstanding any other rule in this paragraph (h), all amounts involved with respect to an additional credit allowed for a particular taxable year may not exceed the amount of that credit.

(iii) *Minimum amount involved.* The minimum amount is ½ of one percent of the additional credit times the number of full months, or parts of full months, during which the failure to comply exists. "Full month" has the meaning assigned in § 1.1250–1(d)(4) (realty depreciation recapture).

(iv) *Funding amount involved.* The amount involved for a funding defect is the greater of the minimum amount involved or the amount required to place the plan in the position it would have been in if no funding defect had occurred.

(v) *Special operational amount involved.* The amount involved for a special operational defect is the maximum amount involved.

(vi) *De minimis amount involved.* The amount involved for a de minimis defect is the minimum amount involved.

(9) *Certain permissible actions.*—(i) *Elections prior to January 19, 1979.* A corporation does not fail to comply (within the meaning of this paragraph (h)) merely because it revokes an election made prior to January 19, 1979, under the general rule described in paragraph (c)(1)(i) of this section and with respect to which no additional credit was claimed in the taxable year for which the election was made. Such a revocation is permitted irrespective of whether the carryover option described in paragraph (c)(1)(ii) is elected with respect to qualified investment made in a year for which a general rule election is revoked.

(ii) *Pro rata use of credit.* A corporation does not fail to comply merely because, for an applicable year ending prior to January 19, 1979, it provides for pro rata use of the regular 10-percent credit and the 1-percent additional credit to the extent that less than all of a taxpayer's credit earned for a taxable year is allowable.

(iii) *Transitional rule.* The Commissioner, based on the particular facts and circumstances of individual cases, may determine that a good faith failure to comply before January 19, 1979, with a final or temporary rule adopted under this section on or after that date does not require retroactive correction under paragraph (h)(5)(ii) of this section.

This Treasury decision is issued under the authority contained in section 301(d)(2)(C) of the Tax Reduction Act of 1975 and section 7805 of the Internal Revenue Code of 1954 (89 Stat. 38, 68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: October 25, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-33115 Filed 12-3-82; 8:45 am]

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26 CFR Part 1

[T.D. 7856]

Income Tax; Taxable Years Beginning After December 31, 1953; One-Half Percent TRASOP Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulation

SUMMARY: This document provides final regulations relating to investment credit employee stock ownership plans ("TRASOPs") that provide for an extra one-half percent credit. Changes in the applicable tax law were made by the Tax Reform Act of 1976 and are reflected in these regulations; these final regulations do not reflect changes made by the Revenue Act of 1978 or the Energy Tax Act of 1978, or subsequent legislation. These regulations provided necessary guidance to the public for compliance with the law, and affect employees who participated in, and employers who establish, TRASOPs that provide for an extra one-half percent credit.

DATE: The regulations are effective for taxable years beginning after December 31, 1976.

FOR FURTHER INFORMATION CONTACT: John Khil of the Employee Plans and Exempt Organization's Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–6212) (Not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1979, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 46 of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations to section 301(e) of the Tax Reduction Act of 1975 as added by section 803(d) of the Tax Reform Act of 1976 (90 Stat. 1587). A public hearing was neither requested nor held. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Discussion of Issues

1. Forfeitability of Employer Contributions

Several comments requested clarification of whether certain employer contributions would be considered forfeitable because, under certain circumstances, they may be withdrawn by the employer. The regulations provide that contributions are not forfeitable merely because they may be returned to the employer if they exceed employee contributions. Also, a contribution is not forfeitable merely because it is transferred from the account of a participant who has not fulfilled a pledge; as employee contributions must be reduced to the extent of unfulfilled pledges, the employer contributions may be reduced to match employee contributions. The reduction may apply only to an individual contributor if the reduction is attributable to that participant's unpaid pledge. This provision is unchanged from the proposals.

2. Supplemental Contributions After Disclosure

Several inquiries from the public concerned supplemental contributions. The final regulations, like the proposed regulations, permit certain employee contributions of supplemental amounts where employees had contributed less than the maximum amount available. This rule does not preclude an employee's indicating the extent to which he or she intends to contribute, if permitted, an amount in excess of a basic amount. If the employee contribution is to be paid by payroll withholding, and if the actual supplemental amount is determined on or before the date on which the credit is claimed, the employer need not disclose the amount of the supplemental contribution for which each employee actually will be responsible. Also in the circumstances described above, the employees need not have the right under the plan to revoke such an agreement to make supplemental contributions. However, these rules should be contrasted with the procedure which must be applied if the determination concerning the availability of supplemental contribution is made after the credit is claimed. In that case (*i.e.*, it is determined that some supplemental

contribution may be made due to another employee's pledge having remained unpaid), the regulations provide that the employee may be obligated to make a supplemental contribution only after disclosure of the available amount, and the employee must have the right to revoke any conditional pledge previously made.

3. Transitional Rule for Pledges

The proposed regulations required employee pledges to be made for an applicable year by the last day on which an employer may elect the credit. Generally, this day is the last day for filing the employer's tax return. Several comments suggested that this provision cast doubt on the timing of pledges for applicable years ending before the regulation was proposed. Also, some taxpayers needed to make several changes in their plans to collect pledges before the deadline.

The final regulation provides that employee pledges may be made at any time before the later of the applicable last day or January 15, 1980. If the last day is January 15, 1980, an employer may elect the credit by amended return and transfer employer contributions by that date. Also, payment of pledges for calendar year 1977, which otherwise would have been due on or before December 31, 1979, could be received until January 15, 1980. These transitional rules were previously announced in Internal Revenue Service News Release IR–2161, September 13, 1979.

Source of Start-Up Expense

Several comments requested clarification of the source and ceiling for payment of start-up expenses. The final regulations provide a new rule for situations in which the first elections of one-percent and one-half percent credits are attributable to different years' qualified investment. If one-half percent start-up expenses are attributable to a later year's qualified investment, withdrawals are limited to employer amounts due under this section. The ceiling for such withdrawals is based upon the full one-half percent amount due to be contributed (as if the contribution were made under the general rule and without regard to possible carryovers).

5. Former Employees' Pledges

The proposals permitted a plan to offer different and more limited contribution options to estates of deceased employees and former employees who are participants in the TRASOP. This provision is unchanged from the proposed regulations. A plan may also provide for acceleration of pledges by employees who terminate employment after making the pledge.

6. Conditional Funding

The one-percent TRASOP regulations provide that, under section 301(d)(14) of the 1975 Tax Reduction Act, TRASOP funding may be conditioned on the plan's satisfying the requirements of section 301(d) or 301(e) of the 1975 TRA or section 401(a) of the Internal Revenue Code. Funding of the one-half percent feature alone, as well as the one-percent feature, may be conditioned on satisfaction of section 301(d)(14) of the 1975 TRA.

7. Effect of Section 415

The proposals stated that allocations would be considered in the following order in applying limitations on annual additions to participants' accounts: first, one-percent TRASOP allocations; second, one-half percent TRASOP allocations; third, other allocations. The final regulations provide that one-percent amounts are considered before one-half percent amounts, but omit any reference to other allocations. This change reflects a new rule in the final one-percent TRASOP regulations, which provides that other contributions may be considered first in certain situations.

8. Basic Amounts

A "basic amount" is an initial employee contribution based on the total expected one-half percent credit. Under the proposals, a plan could have computed basic amount contributions in such a manner as to allow an employer to make a partial election of the credit. The final regulations provide that this computation must be based on the total expected one-half percent amount. This provision does not change the rule that employee contributions may be limited to basic amounts although they in fact yield less than the one-half percent available.

9. Carryover Option

The proposals stated that the carryover option for determination of applicable years is available for both the one-percent and one-half percent credits or for the one-half percent credit alone. This provision is unchanged in the final rules. Several comments requested clarification of the applicability of the option to the one-half percent credit alone. Using the option, a taxpayer may in some cases establish a new contributory one-half percent feature under the carryover option in a year subsequent to the year in which qualified investment is made. This may occur even though a corporation determined applicable years under the general rule for the one-percent credit attributable to that qualified investment. Thus, in the carryover situation, a corporation may elect to establish and fund the one-percent and one-half percent features in different years even though the credits are attributable to the same qualified investment. A change to the text of the regulations to reflect this interpretation has been judged unnecessary.

10. Apportionment of Reductions

Generally, if a reduction of the total employee contribution is necessary, the account of each contributor for an applicable year is reduced by a percentage of the total reduction of matching employee contributions. In certain situations, a distribution may have been made between the allocation and reduction. The final regulation provides that reductions may not yield an account balance below zero. Reductions are made on the basis of account balances at the time of the reduction.

11. Relation to Revenue Act of 1978

These provisions are generally effective for taxable years beginning after December 31, 1976. While the regulations do not specifically reflect changes mandated by the Revenue Act of 1978, they remain effective except to the extent that they ar superseded by the 1978 Act and subsequent legislation.

It is anticipated that the following sections will substantially remain effective under the 1978 Act:

§ 1.46–9(a)(2);
§ 1.46–9(b) (1)(i)–(iv), (2), (4)–(5);
§ 1.46–9(c) (1)–(3), (5);
§ 1.46–9 (d) (1)–(2), (4)–(6);
§ 1.46–9 (e) (1)–(2);
§ 1.46–9 (f) (1), (2)(iv), (3), (5);
§ 1.46–9 (g),

If any provisions of regulations issued under the 1978 Act are less favorable to taxpayers than the rules listed above, the later provisions will be effective only for periods after the date of adoption. No implication is to be drawn from the omission of any regulation provision presently applicable under the statute.

12. Limitation on Voluntary Contributions

The preamble to the proposed regulation referred to published Internal Revenue Service rulings which have stated that an employee's total voluntary contributions to all plans of an employer must be within reasonable bounds. The preamble stated that matching employee TRASOP contributions will not be considered

"voluntary" within the meaning of those revenue rulings, which were specifically cited. Several inquiries from the public related to this preamble statement.

Rev. Rul. 81-234, 1981-41 I.R.B. 7, clarifies issues arising under the rulings cited in the preamble to the proposed regulations. That ruling indicates that the matching contributions, to which employer contributions are geared, are considered mandatory rather than voluntary contributions. Thus, the matching employee TRASOP contributions are not considered when applying a ten percent limitation on voluntary contributions. No such limitation applies to mandatory contributions.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

The notice of proposed rulemaking relating to these regulations was published prior to January 1, 1981. Accordingly, these regulations are not subject to the Regulatory Flexibility Act and no regulatory flexibility analysis is required.

Drafting Information

The principal author of this regulation is Joel E. Horowitz of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.0-1 through 1.58-8

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1 published at 44 FR 48269, August 17, 1979 are hereby adopted with changes set forth below:

PART 1—[AMENDED]

Part 1 of Title 26 of the Code of Federal Regulations is amended by adding § 1.46-9 to read as follows:

§ 1.46-9 Requirements for taxpayers electing an extra one-half percent additional investment credit.

(a) *Introduction*—(1) *In general.* A corporation that qualifies for an additional credit under § 1.46-8 may elect under section 46(a)(2)(B)(ii) of the Code to obtain an extra one-half percent additional investment credit for property described in section 46(a)(2)(D). Paragraph (c) of this section provides additional procedures for electing this extra credit. This section also provides rules for implementing an employee stock ownership plan that meets the requirements of sections 301 (d) and (e) of the Tax Reduction Act of 1975 ("1975 TRA"). The plan must meet the additional formal requirements of paragraph (d), and the additional operational requirements of paragraph (e) of this section. Unless otherwise indicated, statutory references in this section are to the Internal Revenue Code of 1954, as applicable for the year in which a qualified investment is made.

(2) *Applicability of one-percent TRASOP provisions.* Subject to the exceptions and additional rules of this section, the provisions of § 1.46-8 apply to an election made, and to a plan implemented, under this section. However, this section does not change the requirements of § 1.46-8 for purposes of obtaining an additional one-percent credit.

(3) *Effective date.* This section applies only to taxable years beginning after December 31, 1976. See section 803(j)(2)(A) of the Tax Reform Act of 1976.

(b) *Definitions*—(1) *One-percent terms.* When used in this section, the terms listed below have the same meanings as in § 1.46-8(b):

(i) TRASOP. See § 1.46-8(b)(1).

(ii) Employer. See § 1.46-8(b)(3).

(iii) Employer securities. See § 1.46-8(b)(4).

(iv) TRASOP securities. See § 1.46-8(b)(5).

(v) Publicly traded. See § 1.46-8(b)(6).

(vi) Value. See § 1.46-8(b)(7).

(vii) Compensation. See § 1.46-8(b)(8).

(2) *Additional credit.* An "additional credit" or "extra additional credit" is the extra one-half percent additional investment credit under section 46(a)(2)(B)(ii)—

(i) For purposes of applying this section, and

(ii) When the context requires, for purposes of applying § 1.46-8 to this extra credit.

(3) *Matching employee contribution.* A "matching employee contribution" is a contribution that meets the requirements of paragraph (f) of this section.

(4) *Basic amount.* A "basic amount" is a matching employee contribution which is equal to the maximum credit multiplied by a fraction. The numerator of this fraction is a participant's compensation for the plan year. (See § 1.46-9(f)(3)(ii), concerning disregarded compensation.) The denominator is the aggregate of all participants' compensation for the plan year. The "maximum credit" is the estimated value of all employer contributions under paragraph (c)(4)(i) of this section for the applicable year, determined as if the maximum possible matching employee contributions were made.

(5) *Supplemental contribution.* A "supplemental contribution" is a matching employee contribution made in addition to a basic amount.

(c) *Special procedures for extra additional credit*—(1) *Statement of election.* A corporation's statement of election described in § 1.46-8(c)(3) must contain the name and taxpayer identification number of the corporation. Also, it must declare in the following words, or in words having substantially the same meaning, that:

(i) The corporation elects to have section 46(a)(2)(B) (i) and (ii) of the Internal Revenue Code of 1954 apply; and

(ii) The corporation agrees to implement (or continue to implement, as appropriate) a TRASOP and to claim the additional credit as required by § 1.46-8 and § 1.46-9 of the Income Tax Regulations.

(2) *Separate election.* A separate election must be made for each year's qualified investment to obtain the extra additional credit for the qualified investment. If a corporation does not make a timely election to obtain an extra additional credit for a taxable year, it may not subsequently make the election on an amended return or otherwise.

(3) *No partial election.* To reduce administrative costs, a plan may establish a ceiling on matching employee contributions. Thus, for example, it may provide for the contribution of only a basic amount without supplemental contributions under paragraph (f)(2)(iv) of this section. Such a ceiling that in effect limits the additional credit to less than one-half percent of the qualified investment is not a partial election prohibited by § 1.46-8(c)(5).

(4) *Funding a TRASOP*—(i) *Employer contributions.* The carryover option under § 1.46-8(c)(1)(ii) is available for both the one-percent and one-half percent additional credits or for the one-half percent additional credit alone. In

applying § 1.46–8(c)(8)(iii), the value of TRASOP securities, other than those acquired with matching employee contributions, for an applicable year must equal one-half percent of the corporation's qualified investment for that year or, if less, the amount of matching employee contributions received (including pledges, where permitted by the plan) by the time the election for that year is made. However, if a corporation exercises the carryover option in § 1.46–8(c)(1)(ii), the value of these TRASOP securities for an applicable year must equal the amount of additional credit claimed for that year determined after being reduced, if necessary, to equal contributions received (including pledges, if permitted) by the time the credit is claimed for that year. The value of these TRASOP securities, but not the amount of credit claimed, is further reduced to the extent that the employer withholds TRASOP securities to take into account start-up and administrative expenses under paragraph (e)(1) of this section or an investment tax credit reduction under paragraph (e)(2) of this section.

(ii) *Employee contributions.* Paragraph (f)(4) of this section, but not § 1.46–8(c)(8) (i)–(iii), applies to TRASOP securities acquired with matching employee contributions.

(5) *Claiming additional credit.* In applying § 1.46–8(c)(9)(ii), if less than all of a corporation's credit earned for a taxable year is allowed, the extra additional credit under this section for that year is allowed last.

(d) *Additional formal plan requirements*—(1) *Contributions by employees*—(i) *In general.* The plan must contain statements relating to matching employee contributions as required under paragraph (f) of this section.

(ii) *Aggregate floor.* A plan may provide for the return of all matching employee contributions for a year if the aggregate amount of such contributions is not at least equal to an amount stated in the plan. See also § 1.46–9(f)(3)(iv).

(2) *Separate accounting.* The plan must state that employer contributions and matching employee contributions respectively described in paragraph (c)(4)(i) and (ii) of this section are accounted for separately from each other as well as from other contributions, including those described in § 1.46–8(c)(8).

(3) *Allocation of TRASOP securities contributed by employer.* The plan must provide for the allocation under section 301(e)(5) of the 1975 TRA and this subparagraph (3) of TRASOP securities contributed by the employer. These allocations reflect a ratable reduction for TRASOP securities withheld by the employer under paragraph (c)(4)(i) of this section. TRASOP securities so allocated are deemed to be allocated under section 301(d) of the 1975 TRA. In applying § 1.46–8(d)(6) to this section, only subdivisions (ii), (iv), (ix), (x), (xi) and (xii) thereof apply to allocations under this section.

(4) *Effect of section 415.* In applying the limitations of section 415 to limitation years beginning after January 19, 1979, allocations of TRASOP securities are considered in the following order: first, allocations under § 1.46–8; second, allocations under this section. See § 1.46–8(d)(6)(v) concerning the allocation of amounts under any other defined contribution plan. No suspense or escrow account may be maintained to hold contributions under this section that are unallocated because of section 415. Thus, section 415 in effect limits the availability of an extra additional credit in a particular year. However, if the plan so provides, a potential extra additional credit is treated as an investment credit carryover under the carryover option described in § 1.46–8(c)(1)(ii) to the extent that it is not used in a particular year because of section 415.

(5) *Nonforfeitability.* Employer contributions are also not considered to be forfeitable under § 1.46–8(d)(7) merely because the plan provides for their return to the corporation in an amount equal to the excess of employer contributions under this section over matching employee contributions or in the case of discriminatory operation under paragraph (f)(3) of this section. See paragraph (f)(3)(iv).

(6) *Distributions.* Notwithstanding § 1.46–8(d)(9)(i), a plan may not distribute from a participant's employer contribution account cash or employer securities attributable to unpaid pledges of the participant.

(e) *Additional operational plan requirements*—(1) *Start-up and administrative expenses*—(i) *In general.* The expense of establishing plan features relating to the extra additional credit is a start-up expense. The expense of collecting matching employee contributions is an administrative expense.

(ii) *Payment.* Under § 1.46–8(e) (6) and (7), an employee may withhold or a plan may use, to the extent not withheld, TRASOP securities for start-up and administrative expense payments. However, withdrawals must be either limited to employer contributions under § 1.46–8(c)(8) or reasonably apportioned between these employer contributions and contributions under paragraph (c)(4)(i) of this section. An example of reasonable apportionment is earmarking expenses attributable to each of the additional credits and allocating any remaining non-earmarked expenses on either a 2:1 or 1:1 ratio between the additional credits. Another example is simply apportioning expenses between the additional credits on a 2:1 or 1:1 ratio basis without earmarking. However, if one-percent and one-half percent start-up expenses are attributable to different qualified investments, withdrawals for one-half percent expenses are limited to employer contributions under paragraph (c)(4)(i) of this section.

(iii) *Ceiling.* In determining the ceiling on start-up expenses under § 1.46–8(e)(6)(iii), only employer contributions under § 1.46–8(c)(8) and paragraph (c)(4)(i) of this section are considered. In determining the ceiling on administrative expenses under § 1.46–8(e)(7)(ii), dividends on all TRASOP securities, including those acquired with matching employee contributions, are considered.

(2) *Redeterminations and recaptures.* A reduction in investment credit because of a redetermination or recapture is allocated ratably under the principles of § 1.46–8(e)(9)(ii) among the 10-percent credit, the one-percent credit, and the one-half percent credit for a particular year. However, as illustrated in § 1.46–8(e)(9)(ii), this subparagraph (3) does not apply to a redetermination solely of one or both of the additional credits.

(3) *Withdrawal asset segregation.* The segregated accounting provisions of § 1.46–8(f) apply independently to withdrawal assets attributable to TRASOP securities under § 1.46–8 and to TRASOP securities under this section.

(f) *Matching employee contributions*—(1) *Designation by employee.* The plan must state that each employee on whose behalf an allocation is made under § 1.46–8(d)(6) for an applicable year is eligible to designate and contribute an amount to the TRASOP for that year as a matching employee contribution.

(2) *Form and timing of contribution*—(i) Cash. A participant may contribute in a manner provide under the plan a designated amount in cash directly to the plan or indirectly by the employer's withholding from amounts otherwise due the participant. The full amount, or pledge in lieu of an amount, for an applicable year must be contributed by the applicable last day described in § 1.46–8(c)(8)(i).

(ii) *Optional pledges in lieu of cash.* The plan need not permit a pledge. However, when permitted by the plan,

an irrevocable written pledge made in good faith by a participant is treated as a matching employee contribution of cash, whether or not the pledge is in fact contractually binding. The pledge must be to contribute, by no later than a time specified in the TRASOP, a designated amount in cash directly to the plan or indirectly by authorizing the employer to withhold from compensation otherwise due a participant. The specified time may not be later than 24 months after the close of the applicable year for which the amount is treated as a matching employee contribution.

(iii) *Transitional rule.* A plan may provide for the receipt of employee pledges at any time before the later of the applicable last day or January 15, 1980. If the last day for receipt of pledges for an applicable year is January 15, 1980, the one-half percent TRASOP credit for the applicable year may be elected on an amended return filed not later than that date, and employer contributions for the applicable year must be made by that date. A plan may provide that pledges which otherwise would have been payable on or before December 31, 1979 may be paid on or before January 15, 1980.

(iv) *Basic and supplemental contributions.* A plan formula may limit a matching employee contribution to a basic amount. It may also permit matching employee contributions of supplemental amounts to the extent that total basic amount contributions do not equal the amount of the additional credit claimed under this section. Employees may make supplemental contributions covering unpaid pledges only after the employer has disclosed the value of securities and income attributable to the unpaid pledge.

(3) *Prohibited discrimination*—(i) *General rule.* Matching employee contributions must be based on a formula stated in the plan that does not result in prohibited discrimination under section 401(a)(4) either in form or in operation. Thus, for example, a flat dollar amount required as a matching employee contribution to qualify for employer-provided benefits under this section may not be too high for lower paid employees to contribute under the plan. Further, lower paid employees must participate to such an extent that allocations under this section do not result in prohibited discrimination

(ii) *Compensation disregarded.* Compensation disregarded in allocations under § 1.46–8(d)(6)(iv) is disregarded under this paragraph and for purposes of determining basic amounts as defined in paragraph (b)(4) of this section.

(iii) *Former employees.* A TRASOP must give all participants a reasonable opportunity to make matching employee contributions. However, neither a former employee who is a participant at the end of the plan year by reason of § 1.46–8(d)(6)(iii), nor the estate of a deceased employee, need have the same options as are available to other participants. Thus, for example, a former employee may be limited to cash contributions even though other participants are permitted to make pledges. Also, if former employees of estates of deceased employees fail to make matching employee contributions, they are not considered in determining whether or not a TRASOP is discriminatory.

(iv) *Return of contributions.* A plan may provide for the return of employee and employer contributions for a year to the extent that plan operation would otherwise result in prohibited discrimination.

(4) *Investment in employer securities*—(i) *General rule.* Matching employee contributions must be invested in TRASOP securities no later than 30 days after the time for funding a TRASOP under § 1.46–8(c)(8)(ii) or, if later, the time specified under the special rule for pledges.

(ii) *Special rule for pledges.* Cash contributed to pay a pledge permitted by paragraph (f)(2)(ii) of this section must be invested in employer securites so that the cash is not held more than 3 months. The 3-month period includes the period, if any, that the cash is held by the employer.

(5) *Reduction of matching employee contribution*—(i) *In general.* Matching employee contributions must be reduced in three cases. First, they are reduced to the extent that there are no corresponding employer contributions described in paragraph (c)(4)(i) of this section. This occurs, for example, when the aggregate of the basic amounts of matching employee contributions exceeds the allowable credit. Second, they are reduced to the extent that corresponding employer contributions matching them under paragraph (c)(4)(i) of this section are withdrawn under section 301(f) of the 1975 TRA. Third, they are reduced by the amount of any pledge unpaid at the time specified in paragraph (f)(2)(ii) of this section.

(ii) *Apportioning reductions.* Generally, the account of each contributor under this section for an applicable year is reduced by a percentage of the account. This percentage equals the total reduction of all matching employee contributions for that year divided by the total, before the reduction, of all matching employee contributions. However, if a reduction is directly attributable to a particular contributor, only that contributor's account is reduced. A reduction is directly attributable to a particular contributor when, for example, the limits of section 415 prohibit a full allocation of employer contributions equal to the contributor's matching employee contribution for an applicable year or when a contributor fails to pay a pledge. A reduction may not yield a negative balance in a participant's account.

(iii) *Disposing of reductions.* If a participant's matching employee contribution is reduced, the amount of the reduction must either be treated as a voluntary contribution or returned to the participant by the later of two dates. The first date is 30 days after the time for investing in TRASOP securities under paragraph (f)(4) of this section. The second date is the 30th day after the date on which the withdrawal of employer contributions occurs that causes the reduction. It may be treated as a voluntary contribution only if, as stated in the plan, the participant so indicates in writing when making the matching employee contribution.

(iv) *Supplemental contributions covering unpaid pledges.* Notwithstanding the timing requirements of paragraph (f)(2) of this section, supplemental contributions covering unpaid pledges must be made no later than 60 days after accounting for the corresponding reduction under paragraph (f)(5)(ii) of this section.

(v) *Effect of reduction on credit.* For the purpose of applying section 415 to an additional allocation to the account of a participant attributable to a supplemental contribution covering an unpaid pledge, the contribution is treated as an annual addition to the supplemental contributor's account in the applicable year for which the reduction occurred. An amount in excess of the contribution may be allocated in equal amounts for each year from the applicable year to the year of the reduction. The employer's credit is reduced only to the extent that a proportionate transfer of assets is not made from the account of the participant to whom the reduction is attributable to the accounts of supplemental contributors.

(vi) *Example.* The rules contained in paragraph (f) (2) and (5) of this section are illustrated by the following example:

Example. Assume that A is an employee of corporation M, a calendar year taxpayer that maintains a TRASOP. A has pledged $100 as a matching employee contribution for 1977, the first applicable year of M's TRASOP. M has transferred employer securitites valued

at $100 that have been allocated to A's account under the Plan. The TRASOP provides that pledges must be paid no later then 24 months after the end of the applicable year. Thus, A's $100 pledge must be paid by December 31, 1979. As of December 31, 1979, the employer securities attributable to A's pledge have a value of $90 and have produced undistributed dividend income of $13. Thus, the value of the portion of A's account attributable to the unpaid pledge is $103. After December 31, 1979, the value of this portion of A's account is disclosed to participants, and employee B chooses to pay off A's unpaid pledge, as provided in the plan, by making a $100 supplemental contribution. The full amount of the securities and dividend income attributable to the unpaid pledge are transferred from A's account to that of B as of December 31, 1979. M's credit for 1977 is not reduced. The $100 supplemental contribution is an annual addition to B's account for purposes of applying section 415 in 1979. Income attributable to the pledge in excess of the supplemental contribution, $3 ($103–$100), may be allocated and treated as an annual addition by spreading this excess amount over the years from the applicable year to the year of the reduction (1977, 1978, 1979).

(g) *Failure to comply*–(1) *General rule.* If a corporation elects under § 1.46–8(c)(2)–(5) and paragraph (c)(1) of this section to obtain an additional credit, § 1.46–8(h) (1), (2), (3), (5), (6), and (7) as modified by this paragraph (g) apply.

(2) *Failure to comply (penalty classifications)*—(i) *In general.* A corporation fails to comply with an extra additional credit election if a defect described in paragraph (g)(2) (ii)–(iv) of this section occurs in a taxable year.

(ii) *Funding defect.* A funding defect occurs under this section if a corporation or its TRASOP fails to satisfy the requirements of § 1.46–8(c)(8) or (9) or paragraph (c)(4) of this section, as they apply directly to the extra additional credit.

(iii) *Special operational defect.* A special operational defect occurs if a TRASOP fails in operation to satisfy the requirements decribed in § 1.46–8(d)(5)–(9) (except (6) (i), (iii), and (v)–(viii)) or (e)(3), or paragraph (d) (5), (6), and (e)–(3) of this section, as they apply directly to the extra additional credit.

(iv) *De minimis defect.* A *de minimis* defect occurs if a corporation or its TRASOP fails to satisfy the requirements, other than those enumerated in paragraphs (c) (1) and (2) and (g)(2) (ii) and (iii), of this section or of § 1.46–8 other than those excluded under § 1.46–8(h)(4)(iv).

(3) *Amount involved.* The amount involved in a failure to comply under this section is based upon the extra additional credit within the meaning of section 46(a)(2)(B)(ii).

(4) *Coordination of civil penalties.* The civil penalties under § 1.46–8 and this section are determined separately. In no case may the amount involved with respect to a particular failure to comply in one year exceed under both sections the full additional credit within the meaning of section 46(a)(2)(B) (i) and (ii).

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: October 25, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-32671 Filed 11-29-82; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AH 306PA; A-FRL 2249-6]

Approval of Revision of Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Pennsylvania submitted a proposed revision to its State Implementation Plan to change the automobile emission inspection and maintenance (I/M) program coverage area in the Pittsburgh, Philadelphia and Allentown/Bethlehem/Easton regions. It is not anticipated that this revision will have a significant effect on air quality.

EPA assessed the approvability of the SIP revision by reviewing the plan revision in connection with the requirements for an approvable nonattainment SIP, which are described in the **Federal Register** notice of April 4, 1979 (44 FR 20372) and the requirements of Section 110 and Part D of the Clean Air Act. On June 15, 1982, EPA published a Notice of Proposed Rulemaking (47 FR 25745). EPA evaluated the comments received during the public comment period in its assessment of the final approval status of the revision to the Pennsylvania SIP. It is EPA's conclusion that the portion of the SIP revision which pertains to the Pittsburgh and Allentown/Bethlehem/Easton regions is approvable.

EFFECTIVE DATE: December 6, 1982.

ADDRESSES: Copies of the SIP support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs & Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106. Attn: Patricia Gaughan (3AW12).

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120. Attn: James K. Hambright.

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

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Hanson, Chief, Pennsylvania Section (3AW11), Air and Waste Management Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106. Telephone Number 215/597–8173.

SUPPLEMENTARY INFORMATION:

Description of Submittal

On July 27, 1981, August 12, 1981 and September 15, 1981 the Pennsylvania Department of Environmental Resources (DER) submitted proposed revisions to the Pennsylvania State Implementation Plan, along with supporting documentation, to revise the automobile emission Inspection and Maintenance (I/M) program coverage areas. Public hearings were conducted by the State on February 24, 1982, and February 25, 1982, and a summary of the comments was submitted to EPA on March 29, 1982.

DER proposed to limit the I/M program coverage areas to urbanized areas in the Pittsburgh, Philadelphia and Allentown/Bethlehem/ Easton (A/B/E) regions, as defined by the U.S. Census Bureau in its preliminary 1980 report. The previous I/M program coverage areas included the entire counties of Butler, Allegheny, Beaver, Washington, and Westmoreland in the Pittsburgh region; the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia in the Philadelphia region and the counties of Lehigh and Northampton in the A/B/E region.

In order to align the I/M program coverage areas with the urbanized areas, DER used U.S. Postal Service ZIP code maps. All ZIP code areas which are in the urbanized areas would be included in the I/M program coverage areas. The ZIP code areas in the rural portions of the existing I/M coverage area would no longer be included in the I/M coverage areas. As a result, the rural portions of Lehigh, Northampton, Bucks, Chester, Delaware, Montgomery,

Allegheny, Beaver, Washington and Westmoreland Counties and all of Butler County would be deleted from the I/M program areas. All of Philadelphia County would remain in the program.

Public Comments on Proposal

Comments were received from five respondents, three of whom requested an additional public hearing, five recommended disapproval, and one requested the deletion of additional ZIP code areas from the I/M coverage area. Those recommending disapproval disputed the State's claim that deletion of the unurbanized areas would have an insignificant impact on the attainment of the ozone standard, and noted that additional compensating measures would be required since analysis by the Delaware Valley Regional Planning Commission (DVRPC) indicates a shortfall of 6 percent of the 1980 emissions in the Philadelphia region. The fifth commenter urged deletion of those additional ZIP code areas which contain significant unurbanized portions.

Response

With respect to the relative effect of the proposed boundary change on regional air pollution in 1987, consideration of the emission inventory along with the EKMA model indicates clearly that the impact would be insignificant and would not jeopardize attainment of the ozone standard by 1987 in the Pittsburgh and Allentown/Bethlehem/Easton regions. However, in the Philadelphia region, data submitted by the Pennsylvania Department of Environmental Resources indicates that attainment of the ozone standard by 1987 will not be possible even if I/M is implemented throughout the five-county region. Hence the proposed boundary change would result in an increase in the predicted shortfall.

With respect to the possible need for additional measures and the six percent shortfall in the Philadelphia region, EPA will address these issues in its proposed and final rulemaking on the 1982 SIP for Southeastern Pennsylvania. Therefore, no action is being taken at this time on the I/M boundary change in the Philadelphia region.

With respect to the possible deletion of some ZIP code areas which include substantial unurbanized portions, EPA Policy plus the administrative problem of designating subareas make a change in area designations unfeasible. EPA I/M Policy was established by the Hawkins memo of July 17, 1978, from Assistant Administrator David G. Hawkins to Regional Administrators, "Inspection/Maintenance Policy." This Policy memo specifies that the I/M geographic coverage "should include the entire urbanized area and fringe areas of development." Since it is impractical for the state to consider smaller areas than those designated by ZIP code, it is apparent that all ZIP code areas which contain an urbanized portion (plus an adjacent fringe area) should be included. Although the Hawkins memo does provide for adjustment in the I/M boundaries, the resultant requirement for increased stringency (i.e., higher failure rate) in the remaining area would impose a severe penalty on the affected drivers.

EPA Review Criteria

As per EPA's I/M policy memos of July 17, 1978 (from David Hawkins, Assistant Administrator for Air and Waste Management to Regional Administrators) and January 19, 1981 (from Michael P. Walsh, Deputy Assistant Administrator for Mobile Source Air Pollution Control to Air and Hazardous Materials Division Directors, "Questions on Inspection/Maintenance"), EPA reviewed DER's proposed SIP revision to: (1)Verify that the I/M program can be administered and enforced effectively with the changed boundaries; (2) verify that attainment of the National Ambient Air Quality Standards for ozone and carbon monoxide can be achieved no later than December 31, 1987; (3) verify that the minimum reasonably available control technology (RACT) emission reduction of 35 percent from light duty gasoline powered vehicles in the urbanized area will be obtained from the program.

EPA Findings

The primary tool for administering the I/M program is the Motor Vehicle Registration Card, which is mailed to each motorist in the State. When a motorist goes for one of the annual safety inspections the motorist must show the inspector the vehicle's registration card. Registration cards mailed to motorists in the I/M areas have a mark identifying the vehicles which must undergo an I/M inspection. Since the proposed I/M program boundaries are delineated by ZIP code, mailing registration cards with I/M identification marks to motorists in the I/M areas will allow effective administration and enforcement of the I/M program.

In regard to air quality, the proposed program boundaries still encompass the urbanized areas and, therefore, the 35 percent RACT emission reduction will be obtained. DER demonstrated that attainment of the carbon monoxide and ozone air quality standards by 1987 will not be jeopardized in the Pittsburgh and A/B/E regions since total 1987 VOC emissions with the reduced geographical coverage will be less than the allowable emissions in each region. However, in the Philadelphia region, where a significant shortfall is predicted for 1987, the proposed boundary change will add to the shortfall and hence exacerbate the predicted violation of the ozone standard.

Based on the review to date, EPA believes DER's proposed SIP revision meets all applicable regulations and policies in the Pittsburgh and A/B/E regions and EPA is, therefore, approving the revision for the Pittsburgh and A/B/E regions. EPA is deferring action on the boundary change in the Philadelphia region pending final review of the Pennsylvania SIP for Southeastern Pennsylvania.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401–7642)

Note.—Incorporation by reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 29, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart NN—Pennsylvania

Title 40, Part 52, Subpart NN, of the Code of Federal Regulations is amended by adding new paragraphs (c)(46) and (c)(47) to § 52.2020.

§ 52.2020 Identification of plan.

(c) * * *

(46) A revision submitted by the Acting Secretary of the Pennsylvania Department of Environmental Resources on December 9, 1981, which would add an expanded ridesharing program in the Delaware Valley.

(47) Revisions submitted on July 27, 1981, August 12, 1981, and September 15, 1981, by the Pennsylvania Department of Environmental Resources (DER), which will limit the automobile emission Inspection and Maintenance Program to the urbanized areas of the Pittsburgh and Allentown-Bethlehem-Easton regions.

[FR Doc. 82-33174 Filed 12-3-82; 8:45 am]
BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-36

[FPMR Amendment F-56]

Hardware and Joint Federal Information Processing and Federal Telecommunication Standards

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides standard terminology for use in requirements documents, including solicitations, regarding the application of Federal Information Processing Standards Publication (FIPS PUBS) 32-1 and 93, and Joint Federal Information Processing Standards Publication 71/Federal Standard 1003A (FIPS PUB/FED-STD). It also updates the reference to FIPS PUB 61 to 61-1. This regulation is necessary to implement the Federal standards into Federal Government ADP management procedures. The objective of the revised FIPS PUB 32 is to improve the automatic reading of printed data for entry into OCR ADP systems. The intent of FIPS PUB 93 is to ensure the efficient interchange of information recorded on a 4 track, 6.30 millimeter, 63 bits per millimeter, phase-encoded magnetic tape cartridge between different devices or systems. The intended effect of FIPS PUB 71/FED-STD 1003A is to reduce the costs of data transmission networks and ensure their interoperability.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: P. Patton, Policy Branch, Office of Information Resources Management Policy (202-566-0194).

SUPPLEMENTARY INFORMATION: (a) FIPS PUBS are developed by the National Bureau of Standards (NBS) and are issued by the Secretary of Commerce. FIPS PUB 32-1, effective June 25, 1982, adopts in whole or in part, American National Standards X3.17-1981, X3.49-1975, and X3.2-1970. FIPS PUB 93, effective June 29, 1982, adopts American National Standard X3.72-1981. FIPS PUB 71/FED-STD 1003A, effective June 13, 1980, adopts American National Standard X3.66-1979.

(b) This Regulation supersedes FPMR Temporary Regulation F-497 (46 FR 3021, January 13, 1981), dated January 6, 1981, which expired on September 30, 1982. The temporary regulation was promulgated to address the same technical area covered by separate FIPS PUB 71 and FED-STD 1003, now a joint FIPS PUB 71/FED-STD 1003.

(c) The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in cost to consumers or others; or significant adverse effects. The General Services Administration's decisions are based on adequate information concerning the need for and consequences of this rule. This is a Government-wide management regulation that will have little or no effect on society.

List of Subjects in 41 CFR Part 101-36

ADP, Computer technology, Government procurement and property management, Security measures.

PART 101-36—ADP MANAGEMENT

1. The table of contents of Part 101-36 is amended by changing two entries and adding two others as follows:

Sec.

101-36.1304-11 FIPS PUB 32-1, Federal Standard for Optical Character Recognition Character Sets

101-36.1304-21 FIPS PUB 61-1, Channel Level Power Control Interface

101-36.1304-33 FIPS PUB 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track 6.30 mm (0.250 inch), 63 bpmm (1600 bpi), Phase Encoded

101-36.1309-6 FIPS PUB 71/FED-STD 1003A, Advanced Data Communication Control Procedures (ADCCP)

Subpart 101-36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards Into Solicitation Documents

2. Section 101-36.1302-1 is revised to read as follows:

§ 101-36.1302-1 Federal Information Processing Standards Publications (FIPS PUBS).

Federal Information Processing Standards Publications (FIPS PUBS) are official Federal Government publications relating to standards adopted and issued under the provisions of section 111 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 383, as amended, 40 U.S.C. 759 and Executive Order 11717 (3 CFR). These publications are issued by the National Bureau of Standards (NBS) and collectively constitute the Federal Information Processing Standards Register. As an aid in implementing this subpart 101-36.13, all agencies should establish and maintain a register in accordance with FIPS PUB O, General Description of the Federal Information Processing Standards Register, November 1, 1968. Requests for FIPS PUBS should be sent to:

National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone (703) 487-4650, FTS 487-4650.

Requests for discount prices on quantity orders should also be referred to the above address and telephone number. Requests for FIPS PUBS subscriptions should be sent to:

Subscriptions, National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone (703) 487-4630, FTS 487-4630.

3. Section 101-36.1302-2 is revised to read as follows:

§ 101-36.1302-2 Federal Telecommunication Standards (FED-STD).

Federal Telecommunication Standards (FED-STD) are official Federal Government publications relating to standards adopted and issued under the provisions of section 206 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 390, as amended, 40 U.S.C. 487. These Federal publications are issued by the General Services Administration and collectively constitute the Federal Supply Class (FSC) of "Telecommunications" in the Federal Standards Index. Federal agencies may obtain one copy of each FED-STD free of charge. Copies are available to the public on a cost-reimbursable basis. Requests for these publications should be sent to:

General Services Administration (WFRI), Washington, DC 20407, Telephone (202) 472-2205, FTS 472-2205.

Note.—Requests for standards must include the FED-STD number. Most FED-STDS implement specifications contained in

American National Standards Institute standards or Electronic Industry Association standards.

4. Section 101–36.1304–11 is revised to read as follows:

§ 101–36.1304–11 FIPS PUB 32–1, Federal Standard for Optical Character Recognition Character Sets.

(a) FIPS PUB 32–1 provides the description, scope, and identification for different character sets (OCR–A and OCR–B) to be used in the application of Optical Character Recognition (OCR) systems. This standard adopts, in whole or in part, American National Standard X3.17–1981, Character Set for Optical Character Recognition (OCR–A); American National Standard X3.49–1975, Character Set for Optical Character Recognition (OCR–B); and American National Standard X3.2–1970, Print Specifications for Magnetic Ink Character Recognition (MICR).

(b) FIPS PUB 32–1 includes only character shapes for OCR–A and OCR–B and certain print specifications for MICR. Print quality (print contrast ratio) and other considerations which may be required to ensure compatibility within or among systems must be specified elsewhere in the requirements document. (Also, see §§ 101–36.1304–29 (FIPS PUB 85) and 101–36.1304–31 (FIPS PUB 89).

(c) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FIPS PUB 32–1 (Equipment and Services)

All applicable Optical Character Recognition (OCR) equipment or services resulting from this requirement must comply with the provisions of FIPS PUB 32–1. Applicable OCR equipment includes data input devices such as typewriters, line printers, and CRT displays. Applicable services include data preparation and processing of information represented in OCR form.

(End of Requirements Provision)

5. Section 101–36.1304–21 is revised to read as follows:

§ 101–36.1304–21 FIPS PUB 61–1, Channel Level Power Control Interface.

(a) FIPS PUB 61–1 defines the functional, electrical, and mechanical interface specifications for a power control interface for use in connecting computer peripheral equipment as a part of ADP systems. This standard, with a companion standard for I/O Channel Interface (FIPS PUB 60–1), defines the hardware characteristics for the I/O channel level interface. This standard provides that FIPS PUB 61–1 is applicable whenever use of FIPS PUB 60–1 is required. If waivers are applicable to a solicitation, the solicitation document shall so state.

(b) The correct operation of all interfaces required to conform to FIPS PUB 61–1 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces will be established, maintained, and periodically distributed by NBS and will be available from NBS upon request. This list will identify each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) The standard terminology for use in solicitation documents is:

Unless otherwise excluded as specified in FIPS PUB 61–1 by reference to FIPS PUB 60–1 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 61–1, ADP systems and peripheral subsystems that may result from this solicitation, and for which operational specifications FIPS PUBS (such as FIPS PUBS 62 and 63) have been issued and are in effect, must conform to FIPS PUB 61–1. The correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment in accordance with FPMR 101–36.1304–21(b). Arrangements for verification may be made according to procedures issued by NBS. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, Attention: Verification of I/O Channel Level Interface Standards. The Government may, at its option, apply instrumentation and test equipment at an interface required to conform to FIPS PUB 61–1 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 61–1. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

6. Section 101–36. 1304–33 is added to read as follows:

§ 101–36.1304–33 FIPS PUB 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track 6.30 mm (0.250 inch), 633 bpmm (1600 bpi), Phase Encoded.

(a) FIPS PUB 93 specifies the recorded characteristics for a 6.30 mm (0.250 inch) wide magnetic tape cartridge with data recorded across four parallel tracks in order to provide for data interchange between information processing systems at a recording density of 63 bits per millimeter (1600 bits per inch) using phase encoding techniques. This standard is one of a series of Federal Information Processing Standards implementing the code for Information Interchange (FIPS 1–1) on flexible magnetic media, and adopts technical specifications contained in American National Standard X3.72–1981, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track, 0.250 inch (6.30mm), 1600 bpi (63 bpmm), Phase Encoded.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FIPS PUB 93 (Magnetic Tape Cartridge Equipment and Associated Software)

All magnetic tape cartridge recording and reproducing equipment which results from this requirement and employs 6.30 mm (0.250 inch) wide magnetic tape with data recorded across four parallel tracks at recording densities of 63 bits per millimeter (1600 bits per inch) using phase encoding techniques, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in the code and format as specified in FIPS PUB 1–1 and FIPS PUB 93.

(End of Requirements Provision)

7. Section 101–36.1309–6 is added to read as follows:

§ 101–36.1309–6 FIPS PUB 71/FED–STD 1003A, Advanced Data Communication Control Procedures (ADCCP).

(a) FIPS PUB 71/FED–STD 1003A establishes data link control procedures for systems, equipment, and services using synchronous, bit-oriented data communications.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FIPS PUB 71/FED–STD 1003A (Systems, Equipment, and Services)

All systems, equipment, and services using synchronous, bit-oriented data communications offered as a result of this requirement shall implement the class(es) of procedures specified in FIPS PUB 71/FED–STD 1003A.

(End of Requirements Provision)

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

Dated: November 15, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–33139 Filed 12–3–82; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Interest Charges on Overpayments and Underpayments to Providers and Suppliers of Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These regulations implement section 117 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, and establish specific rules for assessing and paying interest on overpayments and underpayments to providers and suppliers of Medicare services. These changes make HCFA regulations consistent with existing rules issued by the General Accounting Office (GAO) and the Department of Justice under the Federal Claims Collection Act, and should encourage providers and suppliers of services to repay debts more promptly.

DATES: These regulations are effective with respect to all final determinations made on or after September 3, 1982. However, we will consider any comments mailed by February 4, 1983.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to BPO–30–FC. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Guy Harriman, 301–594–8193.

SUPPLEMENTARY INFORMATION:

I. Background

Existing Medicare regulations set forth the policies and procedures for recovery of Medicare overpayments made to providers, suppliers, and to physicians and other practitioners. With respect to assessment of interest on overpayments, our current regulations provide for assessing interest on an overpayment to a provider only when the overpayment is in dispute and the provider seeks judicial review of a Provider Reimbursement Review Board (PRRB) decision (see 42 CFR 405.454(l)). This implements section 1878(f)(2) of the Social Security Act. Current HCFA regulations, however, do not address the charging of interest to suppliers of services (including physicians), or to providers on overpayments or underpayments that are not at issue in litigation.

Under rules published jointly by the General Accounting Office (GAO) and the Department of Justice (4 CFR Parts 101, 102, and 104) for implementing the Federal Claims Collection Act (FCCA), the following provision applies to debts owed the Government: "In the absence of a different rule, prescribed by statute, contract, or regulation, interest should be charged on delinquent debts and debts being paid in installments in conformity with the Treasury Fiscal Requirements Manual". Those regulations, which are incorporated by reference in the HHS departmental rules (45 CFR Part 30), together with the underlying common law right of the federal government to recover overpayments, currently provide general authority to assess interest. However, specific HCFA rules have been needed to tailor this general interest assessment authority to fit the specific requirements of the Medicare program.

In response to this matter, Congress enacted section 117 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, which added a new subsection (d) to section 1815 and a new subsection (j) to section 1833 of title XVIII (Medicare) of the Social Security Act. These provisions require that once a final determination is made that a provider or supplier of services has received an overpayment or underpayment from Medicare, and payment of the excess or deficit is not made within 30 days of the date of the final determination, interest changes would be applied to the balance due. The final regulations set forth in this document will implement this new legislation by providing specific rules regarding interest on Medicare overpayments and underpayments.

II. Provisions of These Regulations

A. Major Provisions

These final regulations set forth the rules and rates for the charging of interest on overpayments and underpayments to providers and suppliers, other than those outlined in § 405.454(l), and specify the circumstances under which HCFA could waive interest charges.

Specifically, these regulations provide that—

1. If a cost report is filed that does not indicate an amount is due (or owed by) HCFA, but the intermediary determines that an overpayment (or underpayment) exists—

- Interest will be charged on debts in accordance with the prevailing rate(s) specified in the Treasury Fiscal Requirements Manual (§ 8020.20), unless HCFA can recoup (or pay) the overpayment (or underpayment) within 30 days;
- Interest will accrue from the date of the final determination, and will be charged (paid) on the overpayment (underpayment) balance of each 30-day period that payment is delayed (Periods of less than 30 days will be treated as a full 30-day period, and the 30-day interest charge will be applied to any balance.);
- No interest will be charged if the overpayment is completely liquidated within 30 days of the final determination;
- No interest will be paid if the underpayment is completely liquidated within 30 days of the notification of the underpayment; and
- Interest will accrue on the balance of the overpayment remaining at the beginning of each 30-day period if a debt is repaid in installments.

These rules will also apply if a carrier determines that it has overpaid or underpaid a physician or supplier.

2. If a cost report is filed and indicates an amount is due HCFA, interest will accrue on that overpayment from the date the cost report is filed, unless (i) full payment accompanies the report or (ii) the provider and the intermediary agree in advance to subtract the amount of overpayment from interim payments over the next 30-day period. In addition, if the intermediary determines that a further overpayment exists, interest will accrue from the date of the final determination with respect to that further overpayment.

3. In instances when a cost report is not filed timely and the intermediary subsequently determines that an overpayment exists, interest also will be assessed on the overpayment from the date the cost report was due to the date the cost report is filed. (Current Medicare policy generally allows a 90-day period for filing cost reports, plus a single extension not to exceed 30 days.)

Point of final determination. One area of concern in developing these regulations involved the point at which a final determination occurs and interest begins to accrue. One approach in defining a final determination is the point after which all administrative and judicial avenues of appeal have been exhausted. We believe this approach is inconsistent with congressional intent to impose interest since it would encourage appeals simply to avoid or delay the payment of interest. Consequently, we

have adopted an approach that imposes interest on overpayments beginning with the issuance of both a Notice of Program Reimbursement (NPR) and a written demand for payment, or when an NPR is not utilized, upon the issuance of a written determination that an overpayment exists and a written demand for payment. (Interest will accrue from the date of the final determination except as required by any subsequent administrative or judicial reversal.) We believe this latter interpretation is consistent with section 1878(a) of the Social Security Act, which refers to the decision of an intermediary as a point of final determination, and may avoid unnecessary appeals by providers and suppliers.

Borrowing of funds. Under these regulations, interest assessed on overpayments and interest on funds borrowed during a cost reporting period for the purpose of repaying Medicare overpayments will not be considered an allowable cost to providers of services. We believe that to allow providers to deduct interest assessed on a determined overpayment, or interest on funds borrowed to repay an overpayment, as a reasonable cost would be inconsistent with, and defeat the purpose of, these regulations. Under current regulations at 42 CFR 405.419, interest on borrowed funds for current and capital indebtedness and normal operating expenses is considered to be related to patient care and, therefore, is considered an allowable cost under Medicare. However, when a provider overpayment has been determined to exist, we believe that any borrowing during the period(s) the overpayment was repaid, up to the amount of the overpayment, should be considered a nonallowable cost since it is related to the overpayment itself and not directly or indirectly related to patient care services. Only in those instances when HCFA determines that a provider has shown that borrowing would have been necessary, even if the overpayment had not occurred, will Medicare reimburse the interest on the loan as an allowable cost. This would be the case if, for example, the provider had made a prior commitment to borrow funds for capital improvements.

Reversal of determination. If an overpayment determination is ultimately reversed administratively or judicially in favor of the provider or supplier of services, appropriate adjustments will be made with respect to the overpayment and the interest assessed. In these instances of reversal, interest paid on funds borrowed to repay an overpayment and interest on the overpayment paid to HCFA will be considered an allowable cost.

B. Rationale for These Provisions

If interest is not assessed, debtors often tend to place a very low priority on repaying debts. We believe assessment of interest on delinquent Medicare debts and installment payments will provide incentives for debtors to repay overpayments more promptly, improve the efficiency and effectiveness of agency collection, and reduce the number of cases that must be referred for civil litigation. By paying interest, providers and suppliers also compensate the government for retaining its money. Delays of payment require the government to borrow more heavily.

These policies are required by section 117 Pub. L. 97–248 and the regulations that implement the FCCA, and are consistent with customary business practices and the FCCA. This rule will not negate existing regulations cited above on interest payable by providers following judicial review of an adverse decision. The regulations at 42 CFR 405.454(l) will continue to apply in situations in which a provider seeks judicial review of a PRRB decision. That is, when judicial review is sought by a provider, interest will be assessed at the rate specified in 42 CFR 405.454(l) beginning on the first day of the first month following the 180-day period from which the intermediary makes a final determination. However, prior to that time, until the provider seeks judicial review, interest would accrue at the rate specified in these regulations. HCFA would make the necessary adjustments on provider records to assure that the correct amount of interest is assessed for the entire period when judicial review is sought. Of course, a fully or partially favorable decision to the provider would result in a subsequent full or partial reduction in the amount of interest assessed.

We also believe these regulations will be cost-effective since the income derived from the collection of interest on overpayments should more than offset administrative costs of assessing and collecting the charge along with the overpaid amounts. We do not believe the amount of interest paid to providers and suppliers of services will be significant since underpayments are usually paid at the time providers and suppliers of services are first notified that such underpayments exist.

III. Waiver of Proposed Rulemaking and Delayed Effective Date

We believe the provisions of section 117 of Pub. L. 97–248 set forth a clear approach for charging interest on Medicare overpayments and underpayments. These regulations on the charging and payment of interest are basically a clarification of the existing authority given HCFA under the FCCA and current Departmental regulations. In light of Congress' strong interest in this area, intent to have these provisions be effective with respect to final determinations made on or after the date of enactment, the clarity of the law in its general requirements, and the advantages to the general public, we believe it would be unnecessary, and contrary to the public interest, to publish a notice of proposed rulemaking and a request for public comments before issuing final regulations. As a result, we find that there is good cause both to waive the notice of proposed rulemaking procedures and to forego a delayed effective date, for these provisions.

Although these regulations are published in final form, we are providing for a comment period so that interested parties may raise any comments or suggestions. Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if we publish changes in the regulations as a result of the comments received, we will respond to them in the preamble of the document.

IV. Impact Analysis

A. Executive Order 12291

We have determined that this final rule is not likely to result in an annual impact of $100 million or meet other threshold criteria of Section 1(b) of the Order. The overall intent of this rule is to motivate providers and suppliers to repay overpayments more promptly. We expect that the amount of interest assessed in the first year will be approximately $20 million to $25 million. Thereafter, the annual amount of interest assessed will probably decrease as providers and suppliers more quickly repay their debts to avoid interest assessments. We do not believe the amount of interest paid to providers and suppliers of services will be significant since underpayments are usually paid at the time providers and suppliers are first notified that such underpayments exist.

However, even if we were to determine that there was an impact of $100 million or more, we would not classify it as a major rule for purposes of the Executive Order. This is because we have determined that section 117 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, has occasioned this impact, and not these

regulations which merely implement the statutory provision and conform HCFA policy to the Federal Claims Collection Act and existing Departmental regulations. Therefore, a regulatory impact analysis is not required.

B. Impact on Small Entities

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96–345), that this final rule will not result in a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under that statute is not required. However, these regulations clearly will have an impact on some providers. For the benefit of these providers, we have prepared the following discussion.

These regulations will have a direct impact only on those providers and suppliers that are assessed interest charges for Medicare overpayments, or that are paid interest on Medicare underpayments. The actual impact of this provision will be a function of the size of the overpayment (or underpayments) times the assessed interest rate times the number of 30-day periods that transpire before collection of the overpayment. We believe that this impact will not be significant for a substantial number of providers since most cost reports will be settled without significant overpayments (or underpayments) being reported. Suppliers should not be significantly impacted for the same reason. In addition, we believe this interest charge provision should be an incentive, for those providers and suppliers reporting overpayments, to minimize any potential impact by quickly resolving the overpayment problem before the interest charges impact significantly. We do not believe the amount of interest paid to providers and suppliers of services will be significant since underpayments are usually paid at the time providers and suppliers are first notified that such underpayments exist.

However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provision and compliance with the FCCA, and not these regulations which merely implement these provisions. Therefore, a regulatory flexibility analysis is not required.

V. List of Subjects in 42 CFR Part 405

Administrative practice and procedure, certification of compliance, clinics, contracts (agreements), End-Stage Renal Disease (ESRD), health care, health facilities, health maintenance organizations (HMO), health professions, health suppliers, home health agencies, hospitals, inpatients, kidney diseases, laboratories, medicare, nursing homes, onsite surveys, outpatient providers, reporting requirements, rural areas, X-rays.

42 CFR Chapter IV, Part 405 is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Subpart C is amended as set forth below.

1. The authority citation for Subpart C is revised to read as follows:

Authority: Secs. 1102, 1128A, 1815, 1833, 1842, 1862, 1870, 1871; (42 U.S.C. 1302, 1320a–7a, 1395g, 1395l, 1395u, 1395y, 1395gg, and 1395hh, unless otherwise noted) and 31 U.S.C. 951.

2. The table of contents for Subpart C is amended by adding a new § 405.376 as follows:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

* * * * *

405.376 Interest charges on overpayments and underpayments to providers and suppliers.

3. Section 405.301 is revised to read as follows:

§ 405.301 Scope of subpart.

Sections 405.310 to 405.320 describe certain exclusions from coverage applicable to hospital insurance benefits (Part A of title XVIII and supplementary medical insurance benefits (Part B of title XVIII). The exclusions in this subpart are applicable in addition to any other conditions and limitations in this Part 405 and in title XVIII of the Act. Sections 405.330 to 405.332 relate to payments for expenses for certain items or services otherwise excluded from coverage. Sections 405.350 to 405.359 relate to the adjustment or recovery of an incorrect payment, or a payment made under section 1814(e) of Part A of title XVIII of the Act. Sections 405.370 to 405.373 relate to the suspension of payment to a provider of services or other supplier of services where there is evidence that such provider or supplier has been or may have been overpaid. Section 405.376 relates to the charging and payment of interest on overpayments and underpayments to providers and suppliers, and physicians and other practitioners.

4. A new § 405.376 is added to read as follows:

§ 405.376 Interest charges on overpayments and underpayments to providers and suppliers.

(a) *Basis and purpose.* This section, which implements sections 1815(d) and 1833(j) of the Social Security Act, and authority granted under the Federal Claims Collection Act, provides for the charging and payment of interest on overpayments and underpayments to Medicare providers, suppliers, and physicians and other practitioners.

(b) *Basic rules.* (1) HCFA will charge interest on overpayments, and pay interest on underpayments, to providers and suppliers of services (including physicians and other practitioners), except as specified in paragraphs (f) and (h) of this section.

(2) Interest will accrue from the date of the final determination as defined in paragraph (c) of this section, and will either be charged on the overpayment balance or paid on the underpayment balance for each 30-day period that payment is delayed. (Periods of less than 30 days will be treated as a full 30-day period, and the 30-day interest charge will be applied to any balance.)

(c) *Definition of final determination.* (1) For purposes of this section, a final determination is deemed to occur—

(i) Upon the issuance of both a Notice of Program Reimbursement (NPR), as discussed in § 405.1803, and either (A) a written demand for payment, or (B) a written determination of an underpayment by the intermediary after the cost report is filed;

(ii) When an NPR is not utilized as a notice of determination (primarily under Part B), upon the issuance of either (A) a written determination that an overpayment exists and a written demand for payment, or (B) a written determination of an underpayment;

(iii) Upon the date of submittal of a timely-filed cost report that (A) indicates an amount is due HCFA, and (B) is not accompanied by payment in full. (If an additional overpayment or underpayment is determined by the carrier or intermediary, a final determination on the additional amount will be made in accordance with paragraphs (c)(1)(i) or (c)(1)(ii) of this section); or,

(iv) With respect to an unfiled cost report, the day following the date the cost report was due (plus a single extension of time not to exceed 30 days if granted for good cause), until such time as a cost report is filed. (When such cost report is subsequently filed, there will be an additional determination as specified in paragraphs (c)(1)(i), (ii) or (iii) of this section.)

(2) Except as required by any subsequent administrative or judicial reversal, interest will accrue from the date of final determination as specified in this subsection.

(d) *Rate of interest.* (1) The interest rate on overpayments and underpayments will be the prevailing rate(s) specified in bulletins issued under § 8020.20 of the Treasury Fiscal Requirements Manual.

(2) If a provider or a supplier of services signs a repayment agreement with HCFA for the overpayment—

(i) The rate of interest specified in the agreement will continue unchanged if there is no default;

(ii) Interest on the balance of the debt may be changed to the prevailing rate if—

(A) The provider or supplier of services defaults on an installment; and

(B) The prevailing rate in effect on the date the installment becomes overdue is higher than the rate specified in the agreement.

(e) *Accrual of interest.* (1) If a cost report is filed that does not indicate an amount is due HCFA but the intermediary makes a final determination that an overpayment exists, or if a carrier makes a final determination that an overpayment to a physician or supplier exists, interest will accrue beginning with the date of such final determination. Interest will continue to accrue during periods of administrative and judicial appeal and until final disposition of the claim.

(2) (i) If a cost report is filed and indicates that an amount is due HCFA, interest on the amount due will accrue from the date the cost report is filed unless—

(A) Full payment on the amount due accompanies the cost report; or

(B) The provider and the intermediary agree in advance to liquidate the overpayment through a reduction in interim payments over the next 30-day period.

(ii) If the intermediary determines that a further overpayment exists, interest will accrue from the date of the final determination with respect to the further overpayment.

(3) In the case of an unfiled cost report, interest also will accrue on a determined overpayment from the day following the due date of the report (plus a single extension of time not to exceed 30 days if granted for good cause, as specified in § 405.453(f)), to the time the cost report is filed.

(4) If an intermediary or a carrier makes a final determination that an underpayment exists, interest to the provider or the supplier will accrue beginning 30 days from the date of notification of the underpayment.

(f) *Waiver of interest charges.* (1) When an intermediary or a carrier makes a final determination that an overpayment or underpayment exists, as specifed in paragraphs (e)(1), (e)(2)(ii), and (e)(4)—

(i) HCFA will waive interest charges if the overpayment is completely liquidated within 30 days from the date of the final determination.

(ii) HCFA may waive interest charges if it determines that the administrative cost of collecting them exceeds the interest charges.

(2) Interest will not be waived for that period of time during which the cost report was due but remained unfiled for more than 30 days, as specified in paragraph (e)(3) of this section.

(g) *Rules applicable to partial payments.* If an overpayment is repaid in installments or recouped by withholding from several payments due the provider or supplier of services—

(1) Each payment or recoupment will be applied first to accrued interest and then to the principal; and

(2) After each payment or recoupment, interest will accrue on the remaining unpaid balance.

(h) *Exceptions to applicability.* (1) The provisions of this section do not apply to the time period for which interest is payable under § 405.454(l) because the provider seeks judicial review of a decision of the Provider Reimbursement Review Board, or a subsequent reversal, affirmance, or modification of that decision by the Administrator. Prior to that time, until the provider seeks judicial review, interest will accrue at the rate specified in this section.

(2) If an overpayment or an underpayment determination is reversed administratively or judicially, and the reversal is the final decision in the case, appropriate adjustments will be made with respect to the overpayment or underpayment and the amount of interest charged.

(i) *Non-allowable cost.* As specified in § 405.419, interest accrued on overpayments and interest on funds borrowed specifically to repay overpayments are not considered allowable costs. (See section 405.419(a)(2) for exceptions based on administrative or judicial reversal.)

B. In Part 405, Subpart D is amended as set forth below. The authority citations for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v) and 1395hh, unless otherwise noted.

1. Section 405.419 is amended by revising paragraph (a) to read as follows:

§ 405.419 Interest expense.

(a)(1) *Principle.* Necessary and proper interest on both current and capital indebtedness is an allowable cost. However, interest costs are not allowable if incurred as a result of—

(A) Judicial review by a Federal court (as described in § 405.454(l)),

(B) An interest assessment on a determined overpayment (as described in § 405.376), or

(C) Interest on funds borrowed to repay an overpayment (as described in § 405.454(l) or § 405.376).

(2) *Exception.* In those cases of administrative or judicial reversal, interest paid on funds borrowed to repay an overpayment and interest assessed on an overpayment is an allowable cost, in accordance with this section.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 23, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: November 12, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-32839 Filed 12-3-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 6

Privacy Act of 1974; Deletion of System of Records Covering Exemptions

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: In the annual publication of systems of records maintained by the Federal Emergency Management Agency (FEMA), the FEMA system of records entitled, "FEMA/SUP-1, Operating Personnel Folder Files," was deleted since the records are sufficiently covered by the Office of Personnel Management government-wide system of records entitled, "OPM/GOVT-1, General Personnel Records." Since the FEMA/SUP-1 system of records included exempt subsections of the Privacy Act, 44 CFR 6.87 of the FEMA

Privacy Act Regulations must be amended to delete reference to the FEMA/SUP–1 system of records.

EFFECTIVE DATE: December 6, 1982.

FOR FURTHER INFORMATION CONTACT: Linda Keener, FOIA/Privacy Act Specialist, (202) 287–0313.

SUPPLEMENTARY INFORMATION:

List of Subjects in 44 CFR Part 6

Privacy.

Effective December 6, 1982, the Federal Emergency Management Agency is revising 44 CFR 6.87 (b)(1) of the FEMA Privacy Act Regulations to remove reference to the last item which is the "Operating Personnel Folder Files (FEMA/SUP–1)—Limited Access." Section 6.87(b)(1) is revised as follows:

PART 6—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Subpart G—Exempt Systems of Records

§ 6.87 Specific exemptions.

(b) * * *

(1) *Exempt systems.* The following systems of records, which contain information of the type described in 5 U.S.C. 552a(k)(2), shall be exempt from the provisions of 5 U.S.C. 552a listed in paragraph (b) of this section.

General Investigative Files (FEMA/IG–2)—Limited Access.

Equal Employment Opportunity complaints of discrimination files (FEMA/EO–1)—Limited Access.

Claims (litigation), (FEMA/GC–1)—Limited Access.

FEMA Enforcement (Compliance), (FEMA/GC–2)—Limited Access.

(2) * * *

Dated: November 18, 1982.

Louis O. Giuffrida,

Director.

[FR Doc. 82–33171 Filed 12–3–82; 8:45 am]

BILLING CODE 6718–01–M

44 CFR Part 64

Docket No. FEMA 6459]

List of Communities Eligible for Sale of Insurance Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION:

The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The data of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [2]	Hazard area identified
Texas: Harris County	Galena Park, city of	480293	741129, emergency; 821102, regular	750221
California: Tulare County	Dinuba, city of	060403	750626, emergency; 821103, regular	740628
Colorado: Fremont County	Canon City, city of	080068	740528, emergency; 821103, regular	740524
Illinois:				
Lake County	Lake County [1]	170357	730404, emergency; 821103, regular	750117
Will County	Romeoville, village of	170711	750702, emergency; 821103, regular	740329
Indiana: Rush County	Rushville, city of	180223	750702, emergency; 821103, regular	731207
Louisiana: St. Landry Parish	Leonville, village of	220171	750528, emergency; 821103, regular	760409
Maryland: Kent County	Millington, town of	240058	750702, emergency; 821103, regular	740809
Michigan:				
Monroe County	Ash, township of	260141	750918, emergency; 821103, regular	740614
Monroe County	Berlin, township of	260143	730309, emergency; 821103, regular	761112
Minnesota: Ramsey County	Little Canada, city of	270377	770524, emergency; 821103, regular	760723
Missouri: Franklin County	Washington, city of	290138	750320, emergency; 821103, regular	740109
Nebraska:				
Saunders County	Ashland, city of	310196	741204, emergency; 821103, regular	740517

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [2]	Hazard area identified
Saline County	Wilber, city of	310189	750527, emergency; 821103, regular	731228
New Jersey:				
Bergen County	Mahwah, township of	340049	721013, emergency; 821103, regular	740405
Gloucester County	Mantua, township of	340207	750508, emergency; 821103, regular	740322
New York:				
Montgomery County	Canajoharie, village of	360443	740726, emergency; 821103, regular	740222
Oswego County	Constantia, town of	360648	750626, emergency; 821103, regular	740405
Montgomery County	Fort Plain, village of	360448	740725, emergency; 821103, regular	740412
Suffolk County	Patchogue, village of	360803	731001, emergency; 821103, regular	740628
Ohio: Stark County	North Canton, city of	390521	750616, emergency; 821103, regular	740517
Pennsylvania:				
Dauphin County	Halifax, township of	421592	750617, emergency; 821103, regular	741115
York County	Windsor, borough of	420942	750527, emergency; 821103, regular	740123
Washington:				
Grays Harbor County	Cosmopolis, town of	530059	741120, emergency; 821103, regular	740524
Whatcom County	Lynden, city of	530202	750527, emergency; 821103, regular	740517
Walla Walla County	Waitsburg, city of	530196	740605, emergency; 821103, regular	740412
New York: Cattaraugus County	Randolph, town of	360095	760316, emergency; 821105, regular	750425
Pennsylvania:				
Erie County	Concord, township of	422410	760127, emergency; 821105, regular	750117
Wayne County	Oregon, township of	422170	751202, emergency; 821105, regular	741108
Lawrence County	Union, township of	421801	750421, emergency; 821105, regular	750124
Berks County	Upper Bern, township of	421118	790508, emergency; 821105, regular	740920
California: Riverside County	Cathedral City, city of	060704	821112, emergency; 821112, regular	0
New York:				
Allegany County	Clarksville, town of	361461	751216, emergency; 821112, regular	741115
St. Lawrence County	Hopkinton, town of	361179	810429, emergency; 821112, regular	741115
Pennsylvania:				
Chester County	New London, township of	422276	750513, emergency; 821112, regular	741129
Perry County	Spring, township of	421958	750910, emergency; 821112, regular	750131
Georgia: Gwinnett	Unincorporated areas	130322	750409, emergency; 810615, regular	770617

[1] Unincorporated areas.
[2] Total is: 36. Key for reading 4th column (Effective Date): First two digits designate the year; Middle two digits designate the month; Last two digits designate the day.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: November 23, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-33029 Filed 12-3-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, and 175

[Docket No. HM-184; Amendment Nos. 171-69, 172-77, 173-160, 175-25]

Implementation of the ICAO Technical Instructions

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This document amends the Hazardous Materials Regulations in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the provisions of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate continued shipment of hazardous materials in international commerce by air when the ICAO Technical Instructions become effective on January 1, 1983, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 of the Convention on International Civil Aviation.

EFFECTIVE DATE: January 1, 1983. The Director of the Federal Register approves the incorporation by reference of the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284-AN/905, 1983 edition, effective on January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone: (202) 426-0656.

SUPPLEMENTARY INFORMATION: On August 2, 1982, the MTB published a notice (Docket HM-184; Notice 82-9) in the **Federal Register** (47 FR 33295) which requested public comment on the need to amend the Hazardous Materials Regulations (HMR) in order to take account of the ICAO Technical Instructions which become effective on January 1, 1983. Background concerning the implementation of the ICAO Technical Instructions on a worldwide basis pursuant to Annex 18 of the Convention on International Civil Aviation (Chicago Convention), and the potential implications of their implementation with respect to hazardous materials shipments being imported into or exported from the United States by air, were discussed in the preamble to that notice.

Under these amendments hazardous materials will be allowed to be shipped, under certain conditions and limitations specified in § 171.11, when packaged in accordance with the ICAO Technical Instructions. In July 1982, a working group of the ICAO Dangerous Goods Panel met to review in detail the packaging provisions for hazardous materials in the ICAO Technical Instructions. In the course of this review, some difficulties regarding the compatibility of certain hazardous materials with authorized packagings were discovered and corrected. These corrections will be incorporated into the 1984 edition of the ICAO Technical

Instructions. In the interim, the MTB must emphasize to users of the ICAO Technical Instructions that under the packaging provisions of the Technical Instructions there is a general requirement that any packaging material in direct contact with a hazardous material must be resistant to any chemical or other action of the hazardous material that could reduce the effectiveness of the packaging. This provision appears in paragraph 1.1.3 of Part 3, Chapter 1 of the ICAO Technical Instructions. Therefore, no packaging is considered to comply with the ICAO Technical Instructions unless this general requirement is fulfilled. Shippers of hazardous materials must be cognizant of this, and the other general packing requirements in the ICAO Technical Instructions, when determining the acceptability of packagings for use pursuant to the ICAO Technical Instructions.

Twenty-two commenters responded to Notice 82–9. Based on the comments received, the proposals contained therein are being adopted with certain changes, as final amendments to the HMR. All commenters expressed general support for the proposals. Other significant comments and the actions taken thereon are discussed by general subject area, or in the analysis by section, in the following paragraphs.

A number of commenters submitted general comments related to differences between the HMR and the ICAO Technical Instructions regarding classification, labeling, marking and identification numbers assigned to particular hazardous materials. One commenter went so far as to suggest that MTB replace the Hazardous Materials Table in § 172.101 with the ICAO Table. The MTB is aware of these differences, and it is because of these differences that the MTB believed it necessary to propose amendments that would allow optional compliance with the ICAO Technical Instructions. However, because of the intermodal nature of the basic DOT classification system and the Hazardous Materials Table in § 172.101, and in view of the relatively small quantity of hazardous materials transported by air as compared to the other modes of transport, the MTB does not believe that amendments to § 172.101 or the basic DOT classification, marking and labeling system can be supported solely on the basis of conflicts with the ICAO Technical Instructions. Therefore, comments of that nature received in response to Notice 82–9 are considered to be outside of the scope of this rulemaking. Interested persons desiring to propose amendments to the DOT system of classification or to § 172.101 are invited to petition for such changes.

One commenter felt that, under the proposals, a shipper or carrier "* * * would be required to adhere to the stricter of the DOT or ICAO standards, in those circumstances in which the requirements under the two systems differ." This statement is incorrect since, to the extent that the ICAO Technical Instructions have been incorporated by reference into §171.11, compliance with the ICAO Technical Instructions with regard to packaging, marking, labeling, classification, description and certification on shipping papers and quantity limitations would be permitted as an alternative to compliance with the corresponding requirements in the HMR.

Two commenters discussed the potential recognition of the International Air Transport Association (IATA) Dangerous Goods Regulations in the HMR. One suggested that the IATA regulations should be allowed to be used as the "source" of the ICAO Technical Instructions by incorporating the IATA regulations by reference into the HMR. The other commenter noted that only the ICAO standards should be recognized since ICAO is an intergovernmental body and, therefore, the ICAO Instructions would not include commercial variations that could be adopted by IATA. Having already noted several differences between the ICAO Technical Instructions and the 24th edition of the IATA Dangerous Goods Regulations, the MTB agrees with the latter commenter. Therefore, the IATA Dangerous Goods Regulations will not be incorporated by reference in the HMR.

A commenter expressed concern for the potential impact of the notice on domestic air transportation, especially with respect to ORM–D materials. He urged MTB to make every effort to preserve existing classifications such as ORM–D "* * * in the accommodation of international codes that are as yet untested." The MTB appreciates the concerns of this commenter and notes that under the amendments published in this document the existing DOT classification system, including ORM–D, is preserved, and that hazardous materials may be offered and accepted for transportation by air in accordance with this classification system.

One air carrier requested that MTB adopt the 1973 edition of the International Atomic Energy Agency (IAEA) regulations concerning the transport of radioactive materials. This has already been proposed under Docket No. HM–169 and a final rule is expected to be published in the near future. Therefore, no changes have been made in this amendment as a result of the comment.

MTB's attention was drawn to the fact that there are many hazardous materials and UN numbers listed in the ICAO Technical Instructions that are not listed in the Emergency Response Guide (ERG). The MTB is aware of this situation and consideration will be given to adding these entries to the next edition of the ERG. Also, the Chemical Transportation Emergency Center (CHEMTREC), which is referenced in the ERG, will be notified concerning the UN numbers that are not presently listed.

In addition to these general comments, a number of commenters suggested specific changes to individual sections of the proposed rule. These comments, and the actions taken in response to them, are summarized in the following review by sections:

Section 171.2 No change to the proposed rule.

Section 171.7 An error in the proposed rule concerning the numbering of the paragraphs to be added has been corrected.

Section 171.8 No change to the proposed rule.

Section 171.11 Several questions have been raised concerning the applicability of this section to transportation by motor vehicle. It is intended that this section apply to the transportation by motor vehicle of hazardous materials that have been or will be transported transported by air. Transportation by motor vehicle need not be immediately incident to the air transportation. For example, a consignee receiving hazardous materials transported by air under the provisions of § 171.11 may reconsign the shipment to another party by motor vehicle under the provisions of this section. In such cases, it is not intended that the shipment be repackaged, remarked or relabeled to conform to DOT requirements applying solely to carriage by motor vehicle in domestic transportation.

When shipments of hazardous materials are transported by motor vehicle under the provisions of § 171.11, it is intended that the requirements of Subpart F of Part 172 concerning placarding of the motor vehicle will still apply. However, in such cases the placard for the DOT class required by § 171.11 (d)(4)(i) that is shown on the shipping paper must be applied. This will be the placard for the DOT class most closely corresponding to the ICAO class. In order to clarify the intent that

placarding is required for transportation by motor vehicle, paragraph (d)(4) of this section has been revised to make specific reference to Subpart F of Part 172. In addition, in order to assist emergency response and enforcement personnel, a new paragraph (d)(4)(iii) has been added recommending that shipping papers used for transportation by motor vehicle contain an indication that the shipment is being made pursuant to § 171.11.

Several commenters were not clear as to whether the prohibition in proposed paragraph (c) applied only to materials prohibited from being offered or accepted for transportation, as indicated by the word "Forbidden" in Column (3) of the Hazardous Materials Table in § 172.101, or whether it also applied to materials forbidden for transportation aboard passenger or cargo carrying aircraft as indicated in Column (6) of the table. Paragraph (c) has been reworded to clarify that it applies only to those materials forbidden from being offered or accepted for transportation by any mode, as indicated by the word "Forbidden" in Column (3) of the Table.

Four commenters responded to the proposed § 171.11(d)(1) suggesting that the HMR exempt hazardous substances from regulation when transported by air. Due to the requirement of Section 306 (a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (PL 96–510) regarding the transportation of hazardous substances, the MTB cannot provide for such an exemption in the HMR and no change has been made concerning the applicability of the HMR to hazardous substances in air transport. In response to another comment, the wording of paragraph (d)(1)(i) has been revised to make it more consistent with the wording of paragraph (d)(1)(ii).

Two commenters requested clarification regarding the materials to which paragraph (d)(3) would apply. Examples of such materials include hazardous substances, hazardous wastes and combustible liquids with a flashpoint above 60.5 ° C when shipped in packagings of greater than 110 gallons capacity. A proposal that these materials be listed in paragraph (d)(3) has not been adopted because the MTB believes such a listing to be unnecessary.

A number of comments were received concerning proposed paragraphs (d)(4) and (d)(5). Two commenters suggested that neither of these paragraphs were necessary for safety and that they imposed an administrative burden and should, therefore, be deleted. The MTB disagrees and believes that, on the basis of comments submitted under Docket No. HM–126, there is widespread support for inclusion of this information on shipping papers. Two commenters suggested that paragraph (d)(5) should be altered so that it applies to materials meeting the criteria for ICAO Division 6.1, Packing Group I or II. Because of the differences between these criteria and the DOT definition of a Poison B, this suggestion has not been incorporated into the final rule. Finally, two commenters felt that inclusion of the word "Poison" on shipping papers for air transport was redundant since the ICAO class number "6.1" would already be shown as either the classification or as a subsidiary risk and suggested that addition of the word "Poison" should only be required for transportation by motor vehicle. The MTB agrees with this comment and has amended paragraph (d)(5) accordingly.

In response to three comments received, proposed paragraph (d)(6) of this section has been amended to clarify the fact that ICAO class or division numbers are not considered abbreviations and may, therefore, be used. This paragraph has been redesignated paragraph (d)(7) in the final rule and, as a result of a number of questions raised concerning the applicability of the proposed § 171.11 to shipments of radioactive materials, a new paragraph (d)(6) has been included to highlight the special requirements that would apply to shipments of radioactive materials.

Section 172.101 A section reference in the Hazardous Materials Table to the exception for transporting wet electric storage batteries with wheel chairs has been revised as a consequence of changes made elsewhere in this amendment.

Section 172.401 No change to the proposed rule.

Section 172.446 and 172.448 Two comments were received objecting to the proposal to allow depletion of stocks existing on January 1, 1983, of the Magnetized Material and Cargo Aircraft Only labels, particularly for international transportation. The MTB believes that it is unreasonable to require immediate change to a new label format and, therefore, has retained the provision in question.

Section 172.504 Although no change was proposed to this section, two commenters suggested modifications to the placarding requirements contained therein. One commenter suggested that a separate paragraph concerning the placarding of aircraft freight containers should be included to avoid any differences with the ICAO system. The MTB believes such a paragraph is unnecessary since the provision of paragraph (b) of this section, which allows such freight containers to be labeled in accordance with § 172.406(e)(3), provides for consistency with the ICAO system. The second commenter proposed that this section be modified to allow "* * * the details of the hazardous class of materials contained within a container to be entered on the pallet tag * * *" This suggestion has not been incorporated into the final rule since it would be inconsistent with current ICAO provisions which specifically require the display of hazard class labels on freight containers, as opposed to "details of the hazardous class of materials" on pallet tags.

Section 175.3 No substantial change to the proposed rule.

Section 175.10 Two commenters objected to the change proposed to paragraph (a)(5) of this section, one noting that the 10 pound limitation on small arms ammunition in checked baggage would be inconsistent with section 107(c), of the Hazardous Materials Transportation Act (49 U.S.C. 1806(c)). The MTB agrees with these commenters and has withdrawn the proposed amendment to this paragraph.

Two commenters noted that, since toilet articles are already addressed in paragraph (a)(4) of this section, the probable intent of proposed paragraph (a)(16) of this section was to allow perfumes and colognes purchased through duty free sales to be carried as carry-on baggage. They requested that this intent be clarified in the text of the paragraph. The MTB agrees, and paragraph (a)(16) has been reworded accordingly.

A commenter suggested that the proposed paragraph (a)(17) be combined with existing paragraph (a)(13) since both deal with exceptions for dry ice. The MTB believes it is preferable to leave the two provisions in separate paragraphs since the former paragraph addresses carriage of dry ice as a refrigerant for cargo and provides certain marking requirements whereas the latter paragraph concerns dry ice for use in cabin service or as a refrigerant in carry-on baggage. The commenter also requested that the figure four pounds in paragraph (a)(17) be changed to two kilograms to insure consistency with the ICAO Technical Instructions. The MTB believes this is unnecessary since the existing § 173.26 allows the use of two kilograms as the metric equivalent to four pounds.

At the request of a commenter, paragraph (a)(19) has been revised to include a cross reference to the

definition of non-spillable battery that is contained in § 173.260(d).

Section 175.30 A suggestion to revise paragraph (b) of this section to provide that the preloading inspection may be conducted by an agent of the operator has not been incorporated in the final rule. The MTB believes this is unnecessary since an agent of the operator is authorized to perform the inspection required in this paragraph. Although no change was proposed to paragraph (d) of this section, a commenter requested that "refrigerating machines" be added to the list of hazardous materials excepted from the provisions of § 175.30 (a) and (b). The MTB considers this request to be outside of the scope of this rulemaking and no change has been made to this paragraph.

A commenter suggested deletion or revision of proposed paragraph (e)(1) of this section in order to improve clarity. The MTB believes the proposed text is clear and, in order to provide consistency with the text appearing in the ICAO Technical Instructions, has retained the proposed text. The commenter also suggested that the word "packagings" should be replaced by "packages" in subparagraphs (e)(2) and (e)(3). The MTB agrees with this change with regard to subparagraph (e)(2), but believes that "packagings" is the correct term in paragraph (e)(3) and has retained the proposed text of that subparagraph.

Section 175.33 A commenter suggested minor revisions to the proposed text of subparagraphs (a) (2), (4) and (5) of this section in order to improve clarity. The MTB has retained the text as proposed for paragraph (a)(2) in order to maintain consistency with similar text in § 172.203, but has added the words "(if applicable)" in subparagraph (a)(4) and changed the word "may" to "must" in subparagraph (a)(5), as requested by the commenter. In addition, subparagraph (a)(5) has been editorially revised to clarify its intent.

Section 175.35 Two commenters noted that the proposal to delete this section is inconsistent with the ICAO Technical Instructions which require a copy of the shipping paper to accompany the shipment. The MTB agrees with these commenters and § 175.35 is retained.

Section 175.75 Five commenters requested that the quantity limitations imposed in subparagraph (a)(2) of this section be deleted. Because no change was proposed to this paragraph in the notice, the MTB considers the deletion of this paragraph to be outside of the scope of this rulemaking and the paragraph has, therefore, been retained. Nevertheless, the MTB believes that there may be merit in considering the deletion or amendment of this limitation provided evidence supporting such action is supplied and that full public participation in this action is insured. Consequently, petitions to delete or amend § 175.75(a)(2), with full supporting information, are invited for consideration in a separate rulemaking action.

Section 175.78 Two commenters noted an inconsistency between the segregation specified in Table 1 and that required under the ICAO Technical Instructions, and requested that Table 1 be modified to remove this inconsistency. The MTB agrees that Table 1 should be consistent with ICAO requirements and the Table has been modified accordingly. Another commenter suggested that "Blasting Agents" be added to Table 1 with the same segregation required for oxidizers. The MTB agrees that Blasting Agents should be added to this Table, but since they would be classified by ICAO under Division 1.5, they have been added to the entry for explosives in the Table. As a consequence of this action, existing paragraph (b) is unnecessary and has been removed.

Section 175.79 No change to the proposed rule.

Section 175.81 No substantial change to the proposed rule.

Section 175.85 A commenter requested that paragraph (c)(1)(v) of this section, which provides an exception from the accessibility requirements for certain flammable liquids, be amended to include the upper limit of liquid flashpoint to which the exception applies. The MTB believes this is unnecessary since the upper liquid flashpoint limit to which provisions concerning flammable liquids apply is already clearly stated in the definition of a flammable liquid contained in § 173.115. The commenter also requested clarification as to whether the list in paragraph (c)(1) pertains only to the hazard class of materials or whether it also applies to subsidiary risks. It is intended that this list pertain only to hazard class and not to subsidiary risks.

Another commenter suggested that paragraph (c)(1)(v) be modified by including an exception for flammable liquids meeting the definition of another hazard class in order to make this provision consistent with the corresponding provision of the ICAO Technical Instructions. The MTB agrees with this comment and has excepted flammable liquids meeting the definition of another hazard class from the provisions of paragraph (c)(1)(v). This commenter also requested that the list of materials in paragraph (c)(1), that are excepted from the accessibility requirement, be expanded to include ORM materials, noting that this would be consistent with the proposed inclusion of ICAO Class 9 materials in the list. The MTB agrees with this comment in principle, and has added ORM–A, C, D and E materials to the list. ORM–B has not been added since these materials would be classified as corrosives by ICAO and as such would be subject to the accessibility requirement.

Section 175.88 No substantial change to the proposed rule.

Section 175.90 No substantial change to the proposed rule.

Section 175.305 No change to the proposed rule.

Section 175.320 A commenter requested clarification as to whether proposed new paragraph (b)(10) should also be included in Part 107. The MTB believes this is unnecessary since Part 107 deals with the DOT approval of a shipment while the proposed new paragraph deals with a potential requirement for foreign approval of a shipment. The same commenter queried whether proposed paragraph (b)(10) could, in some cases, be more stringent than ICAO by requiring a foreign approval for the shipment of certain materials which are not subject to regulation under the ICAO Technical Instructions. Upon reexamination, the MTB believes this could be the case. Therefore, the wording of paragraph (b)(10) has been revised to make it precautionary.

Section 175.630 A commenter supported the proposed amendment to this section which would limit the ability to transport etiologic agents in the same compartment with foodstuffs, feed or other edible material. However, he suggested that this rule would be undermined unless the MTB prohibited the transportation of etiologic agents in mail bags or required that postal authorities appropriately label mail bags containing etiologic agents. The MTB believes such action to be unnecessary since diagnostic specimens, biological products and etiologic agents in quantities of less than 50 milliliters are excepted by paragraph 173.386(d) provided certain packaging requirements are met.

Section 175.701 No change to the proposed rule.

Section 175.705 No change to the proposed rule.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporation by reference.

49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173 and 175 is amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.2, paragraph (a) is amended by adding "§ 171.11," before "§§ 171.12 and 176.11".

2. In § 171.7, new paragraphs (c)(31) and (d)(27) are added to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(31) ICAO: International Civil Aviation Organization, P.O. Box 400, Place de l'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2. ICAO Technical Instructions available from INTEREG, International Regulations Publishing and Distribution Organization, P.O. Box 60105, Chicago, Illinois 60660.

(d) * * *

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284–AN/905 (ICAO Technical Instructions), 1983 edition.

* * * * *

3. In § 171.8 new definitions for "ICAO" and "Unit load device" are added in appropriate alphabetical order to read as follows:

§ 171.8 Definition and abbreviations.

* * * * *

"ICAO" means International Civil Aviation Organization.

* * * * *

"Unit load device" means any type of freight container, aircraft container, aircraft pallet with a net, or aircraft pallet with a net over an igloo.

* * * * *

4. A new § 171.11 is added to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

Notwithstanding the requirements of Parts 172 and 173 of this subchapter, a hazardous material may be transported by aircraft, and by motor vehicle either before or after being transported by aircraft, in accordance with the ICAO Technical Instructions if the hazardous material—

(a) Is packaged, marked, labeled, classified, described and certified on a shipping paper and otherwise in a condition for shipment as required by the ICAO Technical Instructions;

(b) Is within the quantity limits prescribed for transportation by either passenger-carrying or cargo aircraft, as appropriate, as specified in the ICAO Technical Instructions;

(c) Is not a forbidden material or package according to § 173.21 or Column (3) of the Table to § 172.101 of this subchapter; and,

(d) Fulfills the following additional requirements as applicable:

(1) When a hazardous material, which is subject to the requirements of the ICAO Technical Instructions, is also a hazardous substance as defined in this subchapter—

(i) The name of the hazardous substance shall be entered on shipping papers in association with the basic description, and in association with the proper shipping name required to be marked on the package, unless the proper shipping name required by the ICAO Technical Instructions already includes the name of the hazardous substance; and

(ii) The letters "RQ" shall be entered on the shipping paper either before or after the basic description required by the ICAO Technical Instructions and in association with the proper shipping name required to be marked on the package.

(2) When a hazardous material, which is subject to the requirements of the ICAO Technical Instructions, is also a hazardous waste as defined in this subchapter—

(i) The word "Waste" must precede the proper shipping name on shipping papers and package markings; and

(ii) It must comply with § 172.205 with respect to the hazardous waste manifests.

(3) When a hazardous material is not subject to the requirements of the ICAO Technical Instructions, it must be transported as required by this subchapter.

(4) When a hazardous material is transported under the provisions of this section by motor vehicle on a public highway, the motor vehicle must be placarded in accordance with Subpart F of Part 172 of this subchapter and the shipping paper must include—

(i) The name of the DOT hazard class most closely corresponding to the ICAO class in association with the basic description required by the ICAO Technical Instructions unless the proper shipping name contains the key word or words of the hazard class of the material;

(ii) The words "Dangerous When Wet" in association with the basic description when the Class 4, Division 4.3 label is required to be applied by the ICAO Technical Instructions; and

(iii) Should include an indication that the shipment is being made under the provisions of this section or the letters "ICAO."

(5) If a liquid or solid material in a package meets the definition of a poison according to this subchapter, and the fact that it is a poison is not disclosed in the shipping name or by a class entry, an indication that the material is a poison shall be entered on the shipping paper in association with the basic description. For transportation by motor vehicle, this indication must be made by entering the word "Poison" on the shipping paper in association with the basic description.

(6) For radioactive materials—

(i) Shipping papers for large quantity radioactive materials shipments must meet the requirements of § 172.203(d)(1)(iii) of this subchapter,

(ii) Competent authority certification and any necessary revalidation for Type B and fissile materials packages must be obtained from the appropriate authorities as specifed in § 173.393b of this subchapter, and all requirements of the certificates and revalidations must be met,

(iii) The provisions of §§ 172.204(c)(4), 173.393 (p), (q) and (r)(3) of this subchapter apply,

(iv) Limited quantities of radioactive materials must meet the provisions of § 173.391 of this subchapter and require shipping papers when transported by public highway, and

(v) Except as provided in § 171.12(e), Type A package contents shall be limited in accordance with § 173.389(1).

(7) Abbreviations may not be used in shipping paper entries or package markings unless they are specifically authorized by this subchapter. ICAO class or division numbers are not considered to be abbreviations.

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

5. The Hazardous Materials Table in § 172.101 is amended by changing the section reference "175.305" in column (5)(b) for the entry "Battery, *electric storage*, wet, with wheelchair" to "175.10".

6. Section 172.401 is amended by replacing the word "or" in paragraph (c)(1) with a semicolon, by replacing the period at the end of paragraph (c)(2) with "; or," and by adding a new paragraph (c)(3) to read as follows:

§ 172.401 Prohibited labeling.

* * * * *

(c) * * *

(3) The ICAO Technical Instructions.

* * * * *

7. In § 172.446, paragraph (a) is amended by removing the words "including the label name in the lower border", the figure of the MAGNETIZED MATERIAL label is amended by removing the words "MAGNETIZED MATERIAL LABEL" in the lower right corner of the border of the label and a new paragraph (c) is added to read as follows:

§ 172.446 MAGNETIZED MATERIAL label.

* * * * *

(c) MAGNETIZED MATERIAL labels with the text "MAGNETIZED MATERIAL LABEL" shown in the lower right corner of the label may continue to be used until stocks existing on January 1, 1983, are depleted.

8. In § 172.448, paragraph (a) revised and a new paragraph (c) is added to read as follows:

§ 172.448 CARGO AIRCRAFT ONLY label.

(a) Except for size and color, the CARGO AIRCRAFT ONLY label must be as follows:



* * * * *

(c) CARGO AIRCRAFT ONLY labels with the text "DANGER-PELIGRO" may continue to be used until stocks existing on January 1, 1983, are depleted.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ 173.250 [Amended]

9. In § 173.250, paragraph (b) is amended by changing "§ 175.305" to read "§ 175.10".

PART 175—CARRIAGE BY AIRCRAFT

10. Section 175.3 is revised to read as follows:

§ 175.3 Unacceptable hazardous materials shipments.

Hazardous materials that are not prepared for shipment in accordance with this subchapter may not be accepted for transportation or transported aboard an aircraft.

In § 175.10, new paragraphs (a)(15) through (a)(20) are added to read as follows:

§ 175.10 Exceptions.

(a) * * *

(15) Alcoholic beverages, perfumes and colognes carried aboard a passenger-carry aircraft by the operator for use or sale on the aircraft.

(16) Alcoholic beverages, perfumes and colognes, purchased through duty free sales, carried by passengers or crew as carry-on baggage.

(17) Carbon dioxide, solid (dry ice) intended for use in food and beverage service aboard aircraft and dry ice in quantities not exceeding 4 pounds per passenger when used to pack perishables in carry-on baggage.

(18) Carbon dioxide gas cylinders worn by passengers for the operation of mechnical limbs.

(19) Wheel chairs with non-splillable batteries, as defined in § 173.260(d) of this subchapter, as checked baggage, provided that the battery is disconnected, the battery terminals are insulated to prevent accidental short circuits, and the battery is securely attached to the wheel chair.

(20) Wheel chairs with spillable batteries, as checked baggage, provided that the wheel chair can be loaded, stowed, secured, and unloaded always in an upright position. The battery must be disconnected, the terminals insulated to prevent accidental short circuits, and the battery securely attached to the wheel chair. The pilot-in-command must be advised either orally or in writing of the location of the wheel chair aboard the aircraft prior to departure. If the wheel chair cannot be loaded, stowed, secured and unloaded always in an upright position, the battery must be removed and the wheel chair may then be carried as checked baggage without restriction. The removed battery must be carried in strong, rigid, outside packagings as follows:

(i) Outside packagings must be leaktight, impervious to battery fluid, loaded aboard the aircraft in accordance with the required orientation markings and be protected against upset by securing to pallets or by securing them in cargo compartments using appropriate means of securement (other than by bracing with freight or baggage) such as by use of restraining straps, brackets or holders;

(ii) Batteries must be protected against short circuits, secured upright in their outside packagings, and surrounded by compatible absorbent material sufficient to absorb their total liquid contents; and

(iii) Outside packagings must be marked to indicate proper orientation, and with the words "Battery, wet, with wheel chair", and be labeled with a Corrosive label.

12. In § 175.30, paragraphs (a)(2) and (3) and (b) are revised and a new paragraph (e) added to read as follows:

§ 175.30 Accepting and inspecting shipments.

(a) * * *

(2) Described and certified on a shipping paper prepared in duplicate in accordance with Subpart C of Part 172 or as authorized by § 171.11 of this subchapter. The originating aircraft operator must retain one copy of each shipping paper for 90 days;

(3) Labeled and marked in accordance with Subparts D and E of Part 172 or as authorized in § 171.11 of this subchapter, and placarded (when required) in accordance with Subpart F of Part 172 of this subchapter; and,

* * * * *

(b) Except as provided in paragraph (d) of this section, no person may carry a hazardous material in a package, outside container, or overpack aboard an aircraft unless the package, outside container, or overpack is inspected by the operator of the aircraft immediately before placing it:

(1) Aboard the aircraft; or,

(2) In a unit load device or on a pallet prior to loading aboard the aircraft.

* * * * *

(e) An overpack containing packages of hazardous materials may be accepted only if the operator has taken all reasonable steps to establish that—

(1) The overpack does not contain a package bearing the "CARGO

AIRCRAFT ONLY" label unless the overpack affords clear visibility of and easy access to the package,

(2) The proper shipping names, identification numbers, labels and special handling instructions appearing on the inside packages are clearly visible or reproduced on the outside of the overpack, and

(3) Has determined that a statement to the effect that the inside packages comply with the prescribed specifications appears on the outside of the overpack, when specification packagings are prescribed.

13. Section 175.33 is revised to read as follows:

§ 175.33 Notification of pilot-in-command.

(a) Except as provided in § 175.10, when a hazardous material subject to the provisions of this subchapter is carried in an aircraft, the operator of the aircraft shall provide the pilot-in-command at least the following information in writing as early as practicable prior to departure:

(1) The proper shipping name, hazard class and identification number of the material as specified in § 172.101 of this subchapter or the ICAO Technical Instructions. If a hazardous material is described by the proper shipping name, hazard class, and identification number appearing in—

(i) Section 172.101 of this subchapter, any additional description requirements provided in §§ 172.202 and 172.203 of this subchapter must also be shown in the notification.

(ii) The ICAO Technical Instructions, any additional information required to be shown on shipping papers by § 171.11 of this subchapter must also be shown in the notification.

(2) The total number of packages and the quantity of each hazardous material (except for redioactive materials) and the location of the packages aboard the aircraft;

(3) Confirmation that no damaged or leaking packages have been loaded on the aircraft;

(4) For radioactive materials, the number of packages, their category, transport index (if applicable), and their location aboard the aircraft; and

(5) Confirmation that the package must be carried on cargo aircraft only if its transportation aboard passenger-carrying aircraft is forbidden.

(b) A copy of the written notification to pilot-in-command shall be readily available to the pilot-in-command during flight.

14. In § 175.75, paragraphs (a)(1), (a)(3)(i) and (a)(3)(ii) are revised to read:

§ 175.75 Quantity limitations aboard aircraft.

(a) * * *

(1) A hazardous material except as permitted by this subchapter:

* * * * *

(3) * * *

(i) In passenger carrying aircraft , exceeds 50.0 or, for any single package, exceeds 3.0, or

(ii) In cargo-only aircraft, exceeds 200.00 (for fissile radioactive materials, see § 175.702(b)(3)) or, for any single package, exceeds 10.0.

* * * * *

15. Section 175.78 is amended by revising paragraph (a) to read as follows:

§ 175.78 Stowage compatibility of cargo.

(a) Packages containing hazardous materials which might react dangerously with one another may not be stowed in an aircraft next to each other or in a position that would allow a dangerous interaction in the event of leakage. As a minimum, the segregation prescribed in the following Table must be maintained.

TABLE 1

	A	B	C	D	E	F	G
A Explosives and Blasting Agents or ICAO Class 1	Note 3	Note 4	Note 4	Note 4	Note 4	Note 4	X
B Compressed gases or ICAO Class 2	Note 4						
C Flammable liquids or ICAO Class 3	Note 4					X	
D Flammable liquids and solids (labeled SPONTANEOUSLY COMBUSTIBLE) or ICAO Division 4.2.	Note 4					X	X
E Flammable solids (labeled DANGEROUS WHEN WET) or ICAO Division 4 3	Note 4					X	X
F Oxidizers or ICAO Division 5.1 and Organic peroxides or ICAO Division 5.2	Note 4		X	X	X		X
G Corrosive materials or ICAO Class 8	X			X	X	X	

Note 1: The letters across the top of the Table have the same meaning as the letters along the left side of the Table.
Note 2: An "X" at the intersection of a row and a column in the Table means that packages containing the indicated classes of hazardous materials may not be stowed next to or in contact with each other, or in a position which would allow interaction in the event of leakage of the contents.
Note 3: For import or export shipment, explosives other than explosives of ICAO Division 1.4, Compatibility Group S, that do not belong to the same compatibility group according to the ICAO Technical Instructions may not be stowed together.
Note 4: Explosives, other than safety explosives (ICAO Division 1.4, Compatibility Group S) must not be stowed together with this class.

16. Section 175.79 is revised to read as follows:

§ 175.79 Orientation of cargo.

(a) A package containing hazardous materials marked "THIS SIDE UP" or "THIS END UP", or with arrows to indicate the proper orientation of the package, must be stored and loaded aboard an aircraft in accordance with such markings.

(b) A package containing liquid hazardous materials not marked as indicated in paragraph (a) of this section, must be stored and loaded with closures up (other than side closures in addition to top closures).

17. A new § 175.81 is added to read as follows:

§ 175.81 Securing of packages containing hazardous materials.

(a) Packages containing hazardous materials must be secured in an aircraft in a manner that will prevent any movement in flight which would result in damage to or change in the orientation of the packages.

(b) Packages containing radioactive materials must be secured in a manner that insures that the separation requirements of §§ 175.701 and 175.702 will be maintained at all times during flight.

18. In § 175.85, paragraph (d) is removed and reserved, paragraphs (a), (b) and (c)(1)(i)–(iv) are revised, and (c)(1)(v)–(vii) added to read as follows:

§ 175.85 Cargo location.

(a) Except as provided in § 175.10, no person may carry a hazardous material subject to the requirements of this subchapter in the cabin of a passenger-carrying aircraft or on the flight deck of any aircraft. Hazardous materials may be carried in a main deck cargo compartment of a passenger-aircraft provided that the compartment is inaccessible to passengers and that it meets all certification requirements for a Class B aircraft cargo compartment as provided in 14 CFR 25.857(b).

(b) Each package containing a hazardous material acceptable only for cargo aircraft must be loaded in such a manner that a crew member or other authorized person can see, handle and

when size and weight permit, separate such packages from other cargo during flight.

(c) * * *

(1) * * *

(i) Radioactive (ICAO Class 7) materials,

(ii) Poison B (ICAO Division 6.1) liquids and solids (except those labeled FLAMMABLE),

(iii) Irritating (ICAO Division 6.1) materials,

(iv) Etiologic (ICAO Division 6.2) agents,

(v) Flammable liquids with a flashpoint above 90°F. (32°C.) that do not meet the definition of another hazardous class,

(vi) Materials classified as Class 9 materials according to the ICAO Technical Instructions and that are being transported under that classification as provided in § 171.11 of this subchapter, and,

(vii) ORM–A, C, D or E materials.

* * * * *

19. A new § 175.88 is added to read as follows:

§ 175.88 Inspection of unit load devices.

A unit load device may not be loaded on an aircraft unless the device has been inspected and found to be free from any evidence of leakage from, or damage to, any package containing hazardous materials.

20. Section 175.90 is revised to read as follows:

§ 175.90 Damaged shipments.

(a) Packages or overpacks containing hazardous materials must be inspected for damage or leakage after being unloaded from an aircraft. When packages or overpacks containing hazardous materials are carried in a unit load device, the area where the unit load device was stowed must be inspected for evidence of leakage or contamination immediately upon removal of the unit load device from the aircraft, and the packages or overpacks inspected for evidence of damage or leakage when the unit load device is unloaded. In the event of leakage or suspected leakage, the compartment in which the package, overpack, or unit load device was carried must be inspected for contamination and any dangerous level of contamination removed.

(b) Except as provided for in § 175.700, the operator of an aircraft shall remove from the aircraft any package subject to this subchapter that appears to be damaged or leaking. In the case of a package which appears to be leaking, the operator must insure that the remainder of the packages in the same shipment are in proper condition for transport aboard the aircraft and that no other package has been contaminated.

(c) No person shall place a package that is damaged or appears to be damaged or leaking aboard an aircraft subject to this part.

(d) If a package containing an etiologic agent is found to be damaged or leaking, the person finding the package shall—

(1) Avoid handling the package or keep handling to a minimum;

(2) Inspect packages adjacent to the leaking package for contamination and withhold from further transportation any contaminated packages until it is ascertained that they can be safety transported;

(3) Comply with the reporting requirement of § 171.15 of this subchapter; and

(4) Notify the consignor or consignee.

§ 175.305 [Amended]

21. In § 175.305, paragraph (b) is removed.

22. In § 175.320 a new paragraph (b)(10) is added to read as follows:

§ 175.320 Cargo-only aircraft; only means of transportation.

* * * * *

(b) * * *

(10) If the movement involves international transportation, permission for the shipment may also be required from the appropriate authorities of the countries of origin, destination, transit and overflight prior to departure.

* * * * *

23. Section 175.630 is amended by revising paragraph (a) to read as follows:

§ 175.630 Special requirements for poisons and etiologic agents.

(a) Hazardous materials bearing the POISON or ETIOLOGIC AGENT label may not be carried in the same compartment of an aircraft with material which is marked as or known to be foodstuffs, feed, or any other edible material intended for consumption by humans or animals unless the poisons or etiologic agents and the foodstuffs, feed, or other edible material are loaded in separate unit load devices which, when stowed on the aircraft, are not adjacent to each other.

* * * * *

§ 175.701 [Amended]

24. In paragraph (b)(2) of § 175.701, the figures in the "Centimeters" and "Inches" columns for the last six entries are revised to read 290, 320, 350, 375, 400 and 425 in the "Centimeters" column and 114, 126, 138, 148, 157 and 167 in the "Inches" column, respectively.

25. A new § 175.705 is added to read:

§ 175.705 Inspection of aircraft for contamination by radioactive materials.

(a) Aircraft used routinely for the carriage of radioactive materials shall be periodically checked for radioactive contamination. The frequency of checks shall be related to the likelihood of contamination and the extent to which radioactive materials are carried.

(b) An aircraft must be taken out of service if the level of contamination exceeds that provided in § 175.700(b).

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 App. A to Part 1).

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) and does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) I certify that this document will not have a significant economic impact on a substantial number of small entities because the overall economic impact of this document will be minimal. A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington D.C. on November 24, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-33041 Filed 12-3-82; 8:45 am]

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49 CFR Parts 171, 172, 173 175, 177, and 178

[Docket HM-139E; Amdt. Nos. 171-68, 172-76, 173-159, 175-24, 177-56 and 178-74]

Conversion of Individual Exemptions Into Regulations of General Applicability

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on the data and analyses supplied in selected exemption applications or from existing exemptions. The need for this action has been created by the public demand to make available new packagings and shipping alternatives that have proven themselves safe under the Department's exemptions program. The intended effect of these amendments is to provide wider access to the benefits of

transportation innovations recognized and shown to be effective and safe.

EFFECTIVE DATE: These amendments are effective January 5, 1983. However, compliance with the regulations as amended herein, is authorized immediately. The Director of the Federal Register approves the incorporation by reference of the National Motor Freight Classification, NMF 100–I, 1982.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 472–2726).

SUPPLEMENTARY INFORMATION: On July 1, 1982 the MTB published Notice No. 82–6 (47 FR 28716) under Docket HM–139E which proposed to amend the Hazardous Materials Regulations by incorporating the provisions of certain DOT exemptions into the general regulations. The public comment period ended August 30, 1982.

The MTB received only six comments which requested changes to Docket HM–139E. The following is a discussion on each comment received and of the action taken, if any.

The holder of DOT–E 8446 stated that they were not going to request renewal of their exemption beyond its present expiration date because of a lack of acceptance by consignees. Also, since MTB has pending an advanced notice of proposed rulemaking addressing Performance-Oriented Packaging Standards, the proposed change is more appropriate for Docket No. HM–181. For these reasons, the proposed change to § 173.354(a)(2) is withdrawn.

A shipper of lithium batteries under the provisions of § 173.206(f) recommended that a sentence be added to proposed § 173.1015 to specifically state that those lithium batteries which were shipped under the provisoins of § 173.206(f), when new, are not subject to the Hazardous Materials Regulations when depleted. The MTB agrees that those batteries which were not subject to the Hazardous Materials Regulations when new are also exempt when depleted. For this reason, a sentence has been added to § 173.1015 to reference § 173.206(f).

Two commenters requested that the proposed amendment for lithium batteries, depleted, be modified in order to allow the batteries to be shipped to a permitted storage site because under most circumstances it is not feasible to ship just a few batteries direct to a disposal site. The MTB agrees with the two commenters and has amended § 173.1015 accordingly. Also, one of the commenters objected to the use of the word "depleted". After further consideration, the MTB agrees that "depleted" is not the proper word to use because it is not always possible to tell if the battery is completely depleted and in most cases the installed battery is replaced with a new battery on a regular schedule regardless of the condition of the old battery. Therefore, it is necessary for these amendments to authorize shipments of new or used batteries direct to a disposal site or to a permitted storage site and then to the disposal site. The proposed shipping name of "Lithium batteries, depleted" has been changed to read "Lithium batteries, for disposal".

One of the holders of DOT–E 6898 suggested that in the proposed change to § 178.150–4 the words "polypropylene strapping" be changed to read "non-metallic strapping." The commenter stated that "non-metallic strapping" can cover different types of durable strapping other than polypropylene. The MTB agrees and is amending § 178.150–4 accordingly.

The last commenter suggested that the proposed change for lithium batteries, depleted, be incorporated in § 173.206(f) and that it not be entered as an ORM–C in § 172.101. The MTB does not agree with this commenter because it has been established that ORM–C is the proper classification as indicated in DOT–E 8441. Also, § 173.1015 was chosen as the proper section because all of the other ORM–C items are listed in Subpart M of Part 173.

List of Subjects

49 CFR Part 171

Incorporation by reference.

49 CFR Part 172

Hazardous materials transportation, labeling, packaging and containers.

49 CFR Part 173

Hazardous materials transportation, packaging and containers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 177

Hazardous materials transportation, Motor vehicles.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173, 175, 177 and 178 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7, paragraphs (c)(30) and (d)(26) are added to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(30) National Motor Freight Traffic Association, Inc., Agent, 1616 "P" Street, NW., Washington, D.C. 20036.

* * * * *

(d) * * *

(26) National Motor Freight Classification, NMF 100–I", 1982.

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 172.101, the Hazardous Materials Table is amended by adding Lithium batteries, for disposal, and Methyl isocyanate. The entry for Nitrous oxide is revised to read as follows:

§ 172.101 Hazardous Materials Table

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Add)										
	Lithium batteries, for disposal.	ORM–C		None	None	173.1015	Forbidden	Forbidden			
	Methyl isocyanate	Flammable liquid.	UN2480	Flammable liquid and Poison.	None	173.119	Forbidden	10 gallons	1	5	Keep cool. Stow away from living quarters and sources of heat.

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Revise) Nitrous oxide	Nonflammable gas.	UN1070	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	Under deck stowage must be in well-ventilated space.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. In § 173.60, paragraph (a)(1) is added to read as follows:

§ 173.60 Black powder and low explosives.

(a) * * *

(1) Specification 13 (§ 178.140 of this subchapter). Metal kegs, not less than 7 inches long. Net weight not less than 6¼ pounds nor more than 150 pounds.

(2)–(3) [Reserved].

* * * * *

4. In § 173.93, paragraph (a)(10) is revised to read as follows:

§ 173.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).

(a) * * *

(10) Specification 21C (§ 178.224 of this subchapter). Fiber drum. Drums having a wooden head must contain a strong, sift-proof liner. Net weight may not exceed 265 pounds. Shipment by rail freight is prohibited except in trailer-on-flat-car service.

* * * * *

5. In § 173.119, paragraphs (m)(3) is revised and (m)(15) is added to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

* * * * *

(m) * * *

(3) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside metal cans, glass or earthenware containers not over 1-quart capacity each. Inside containers must be cushioned with incombustible packing material in sufficient quantity to absorb the contents of the inner container. Use of the inside metal can is authorized only for materials which will not react dangerously with the metal can, or be decomposed by contact with it.

* * * * *

(15) Specification 51 (§ 178.245 of this subchapter). Portable tank. Authorized only for a flammable liquid which is also a Poison B liquid. Bottom outlets are not authorized.

* * * * *

6. In § 173.124, the first sentence of paragraph (a)(3) is revised to read as follows:

§ 173.124 Ethylene oxide.

(a) * * *

(3) In addition to specification packagings prescribed in this section, ethylene oxide may be shipped when packed in strong noncombustible outside packagings, with inside containers which must be securely sealed glass ampules or vials, contents not over 100 grams each, or inside aluminum cartridges, contents not over 138 grams each, cushioned in vermiculite or equally efficient noncombustible cushioning material. * * *

* * * * *

7. In § 173.224, paragraph (a)(4) is revised to read as follows:

§ 173.224 Cumene hydroperoxide, dicumyl peroxide, diisopropylbenzene hydroperoxide, paramenthane hydroperoxide, pinane hydroperoxide, and tertiary butylisopropyl benzene hydroperoxide.

(a) * * *

(4) Specification MC–310, MC–311 or MC–312 (§ 178.343 of this subchapter). Tank motor vehicles. Authorized for diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent. Bottom outlets are not authorized. Authorized for paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent. Authorized for pinane hydroperoxide of strength not exceeding 45 percent in a nonvolatile solvent. Authorized for cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent in MC–311 or MC–312 cargo tanks only.

* * * * *

8. In § 173.256, paragraph (a)(8) is added to read as follows:

§ 173.256 Compounds, cleaning liquid.

(a) * * *

(8) Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with one inside specification 2U (§ 178.24 of this subchapter) polyethylene container of not over 5-gallon capacity or two inside specification 2U polyethylene containers of not over 2½ gallon capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures. Not authorized for transportation by air.

* * * * *

9. In § 173.262, paragraph (b)(6) is added to read as follows:

§ 173.262 Hydrobromic acid.

* * * * *

(b) * * *

(6) Specification 12A (178.210 of this subchapter). Fiberboard box with not more than four inside glass bottles not over one-quart capacity each, or 12 inside glass bottles not over eight fluid ounces each. Each bottle must be enclosed in a metal can and surrounded by a noncombustible cushioning material. Box shall be constructed of at least 275-pound test (Mullen or Cady) corrugated fiberboard.

10. In § 173.297, paragraph (a)(7) is added to read as follows:

§ 173.297 Titanium sulfate solution containing not more than 45 percent sulfuric acid.

(a) * * *

(7) Specification 34 (§ 178.19 of this subchapter). Polyethylene container without overpack, not over 30-gallon capacity.

11. In § 173.301, paragraph (d)(1) is revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

* * * * *

(d) * * *

(1) Manifolding is authorized for containers of the following gases: argon, air, carbon dioxide, helium, neon, nitrogen, nitrous oxide, oxygen or sulfur hexafluoride provided that each container is individually equipped with pressure relief devices as required by § 173.34(d) or § 173.315(i).

* * * * *

12. In § 173.304, the Table in paragraph (a)(2) is amended by revising the entry for sulfur hexafluoride to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (percent) (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34(a), (b), § 173.301(j) (see notes following table)
* * * * *		
Sulfur hexafluoride	120	DOT-3A1000; DOT-3AA1000; DOT-3AAX2400; DOT-3; DOT-3AL1000; DOT-3E1800; DOT-3T1800.
* * * * *		

13. In § 173.314, the Table in paragraph (c) is amended as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Kind of gas	Maximum permitted filling density, note 1	Required tank car, see § 173.31(a)(2) and (3)
* * * * *		
(Revise)		
Methyl chloride	84	DOT-106A500X, Note 25.
	85	DOT-112T340W, 112J340W, Note 4.
	86	DOT-105A300W, Notes 4 and 23.
* * * * *		
(Add)		
Nitrous oxide	Note 5	DOT-105A500W, 105A600W, Note 6.

14. In § 173.352, paragraph (a)(5) is revised and paragraph (a)(7) is added to read as follows:

§ 173.352 Sodium and potassium cyanide solutions, and cyanide solution, n.o.s.

(a) * * *

(5) Specification MC-300, MC-301, MC-302, MC-303, MC-304, MC-305, MC-306, MC-307, or MC-312 (§§ 178.341, 178.342, 178.343 of this subchapter). Tank motor vehicles.

* * * * *

(7) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene packaging. Not authorized for transportation by air.

15. In § 173.374, the heading, introductory text of paragraph (a) and paragraph (a)(2) are revised; paragraph (a)(4) is added to read as follows:

§ 173.374 Nitrochlorobenzene, meta or para.

(a) Nitrochlorobenzene, meta or para, must be packed in specification containers as follows:

(1) * * *

(2) Specification 21C (§ 178.224 of this subchapter). Fiber drums. Authorized only for nitrochlorobenzene, para, flaked. Net weight not to exeed 400 pounds.

(3) * * *

(4) Specification MC-312 (§ 178.343 of this subchapter). Insulated cargo tank equipped with heating coils. Authorized only for nitrochlorobenzene, para, solid. Not authorized for transportation by water.

16. A new § 173.1015 is added to read as follows:

§ 173.1015 Lithium batteries, for disposal.

(a) Lithium batteries, for disposal, comprised of one or more cells, may be offered for transportation to a permitted storage facility and disposal site by motor vehicle only, if the battery:

(1) When new, contained not more than 2 grams of lithium per cell;

(2) Is equipped with an effective means of preventing external short circuits;

(3) Is classified and offered for transportation as an ORM-C; and

(4) Is overpacked in a strong fiberboard box, or metal or fiber drum which complies with § 173.24.

(b) Paragraph (a) does not apply to lithium batteries which, when new, were excepted from regulation under § 173.206(f).

PART 175—CARRIAGE BY AIRCRAFT

17. In § 175.320, the heading and the introductory text of paragraph (a) are revised; the Table in paragraph (a) is amended by adding the following entry to read as follows:

§ 175.320 Cargo aircraft only; only means of transportation.

(a) Notwithstanding § 172.101 of this subchapter, when means of transportation other than air are impracticable or not available, hazardous materials listed in the following table may be carried on a cargo aircraft only, subject to the conditions stated in the table and in paragraph (b) of this section and, when appropriate, paragraph (c) of this section:

Material description	Class	Conditions
* * *		
Fuel, aviation, turbine engine; Methyl alcohol; or Toluene.	Flammable liquid.	Permitted in DOT specification metal drums having rated capacities of 55 gallons or less. May not be transported in the same aircraft with materials classed as Class A, B, or C explosives, blasting agents, corrosive materials or oxidizing materials. Permitted in installed tanks each having a capacity of more than 110 gal. subject to the conditions specified in paragraph (c) of this section.
* * *		

PART 177—CARRIAGE BY PUBLIC HIGHWAY

18. In § 177.841, paragraph (e) is revised to read as follows:

§ 177.841 Poisons.

* * * * *

(e) A carrier may not transport a package bearing a poison label in the same motor vehicle with material that is marked as or known to be foodstuff, feed or any edible material intended for consumption by humans or animals unless the inside package is overpacked in a liquid-tight and dust-proof container identified as package 4000 in the National Motor Freight Classification 100-I.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

19. In 178.51-15, paragraph (a) is revised to read as follows:

§ 178.51-15 Physical test.

(a) To determine yield strength, tensile strength, elongation, and reduction of area of material. Required on 2 specimens cut from one cylinder or part thereof having passed the hydrostatic test and heat-treated as required, taken at random out of each

lot of 200 or less. Physical test for spheres required on 2 specimens cut from flat representative sample plate of the same heat taken at random from the steel used to produce the sphere. This flat steel from which 2 specimens are to be cut must receive the same heat treatment as the spheres themselves. Sample plates to be taken for each lot of 200 or less spheres.

20. In § 178.102–2, the introductory text of paragraph (c) is revised to read as follows:

§ 178.102–2 Construction requirements.

* * * * *

(c) Two holes not exceeding ¼ inch each are permitted diametrically opposite each other in the overpack body immediately below the top chime or immediately above the double seam of the bottom chime or three holes not exceeding 3/16 inch in diameter on centers 120 degrees apart in the bottom head.

* * * * *

21. A new § 178.140 is added to read as follows:

§ 178.140 Specification 13; metal kegs.

§ 178.140–1 Compliance.

(a) Required in all details.

§ 178.140–2 Composition.

(a) To be open-hearth or electric steel, annealed dead soft; carbon not over 0.14 percent.

§ 178.140–3 Parts and dimensions.

(a) Parts and dimensions as follows:

	Gross weight of kegs and contents			Over 75 pounds but not over 150 pounds
	Not over 15 pounds	Not over 30 pounds	Over 30 pounds but not over 75 pounds	
Thickness of material:				
Body	30 gauge	28 gauge	24 gauge	24 gauge.
Head	....do	....do	28 gauge	28 gauge.
Width of lap for side seam[1]	5/16 inch	7/16 inch	7/16 inch	1/2 inch.
Number of corrugations in each end of body	3	3	5	7.
Minimum depths of corrugations	1/16 inch	3/32 inch	3/32 inch	3/32 inch.
Width of laps on body and head seams[1]	3/16 inch	3/16	3/16 inch	5/16.
Width of laps on head for head seams[1]	5/16	3/8 inch	3/8 inch	3/4 inch.
Head seams	Double lap	Double lap	Double lap	Single lap.

[1] Dimension requirements do not apply for kegs manufactured with double-seamed, compound-lined chime seams and lapped and soldered side seam.

NOTE.—Dimensions of materials specified are minimum requirements. Corrugations not required in body of kegs for gross weights not over 7 pounds.

§ 178.140–4 Seams.

(a) For gross weight over 75 pounds, all seams welded, brazed, soldered, or riveted, rivets at not over 5" centers.

§ 178.140–5 Closures.

(a) *Slide type.* Metal holder, for slide, securely fastened to head; washer of suitable material 0.025" thick; metal drop with depression to fit into bunghole and hold washer in place; metal slide to cover the foregoing. Positive fastening required between slide and slide holder to prevent leakage in transit; friction fastening not authorized.

(b) *Cap or plug type.* Metal holder, for cap or plug, securely fastened to head; metal cap or plug, with gasket when necessary to prevent sifting. Positive fastening required between cap, or plug, and holder to prevent leakage in transit; friction fastening not authorized.

§ 178.140–6 Marking.

(a) Marking on each container by embossing on head with raised marks as follows:

(1) DOT–13.

(2) Name or symbol of person making the mark specified in paragraph (a)(1) of this section. Symbol, if used, must be registered with the Associate Director for HMR.

§ 178.140–7 Size of markings.

(a) Size of markings (minimum): 7/16" high.

§ 178.140–8 Type test.

(a) Keg filled with fine, dry sand in weight equal to that of shipment must be capable of withstanding, without leakage, four successive drops of 4 feet on the head onto solid concrete. Tests to be made of each type and size by each company manufacturing this type of container and to be repeated every 6 months while in production. If production is discontinued and is resumed, this requirement will also apply if prescribed tests have not been made within the previous 6-month period. Samples last tested to be retained until further tests are made or for 1 year, whichever period is shorter.

§ 178.140–9 Filling with contents.

(a) *Lining.* Cloth bag lining required for a gross weight over 32 pounds; neck of bag to be securely tied.

§ 178.140–10 Additional keg.

(a) *Stove-pipe keg.* Authorized only for shipments loaded by the shipper and to be unloaded by consignee and for a gross weight of not over 30 pounds. Must comply with all requirements, except § 178.140–5, and also with the following:

(1) Length to be about 4 times diameter; cap (slip cover) to have snug fit over body with 3" overlap.

(2) Contents to be enclosed in double paper tubes, with pasted seams, not over 2½" diameter and made of tough manila paper weighing at least 50 pounds per 480 sheets 24" × 36"; outside tube to be waxed. Ends of tubes to be folded and tucked between folds of tube to prevent leakage.

22. In § 178.150–4, paragraph (a)(1) and (a)(2) are removed: paragraph (b) is added to read as follows:

§ 178.150–4 Closing for shipment.

(a) * * *

(b) Each case shall be closed for shipment with pressure-sensitive tape, non-metallic strapping, or other efficient means if they perform without failure under the tests prescribed by this section.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). Based on information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment would not, if promulgated, have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment would be minimal. A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C. on November 22, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82–32905 Filed 12–3–82; 8:45 am]

BILLING CODE 4910–60–M

Proposed Rules

Federal Register
Vol. 47, No. 234
Monday, December 6, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-15]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of 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.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before February 7, 1983.

ADDRESSES: Send comments on the 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), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 29, 1982.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the petition
23421	Bell Helicopter Textron Inc.	*Description of Petition:* To add a paragraph (1) to § 21.325 that would permit a manufacturer to provide a statement on shipping documents or other appropriate vehicle identifying the approval basis (TC, PC, TSO), in lieu of an airworthiness approval tag (FAA Form, 8130-3), for the production of the items and attesting to their airworthiness. *Regulations affected:* 14 CFR Part 21, Subpart J, § 21.325. *Petitioner's reason for rule:* "In Advisory Circular 21-2, EXPORT Airworthiness Approval Procedures, numerous countries reference special conditions that state 'must comply with FAR 21'. Our interpretation of this requirement is that for spare parts, they must be accompanied by an Airworthiness Approval Tag (FAA form 8130-3). This imposes a severe economic penalty as Bell Helicopter issues in excess of 19,000 8130-3 tags annually, which results in an annual expense of more than $67,000."

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No	petitioner	Description and disposition of the rule requested
19170	Canadian Owners and Pilots Association	Petitions for amendment to appropriate sections of Part 47 of 14 CFR so as to require that the Certificate of Registration document be surrendered before the aircraft can be deregistered. *Denied 8/9/82.*
18573	Gates Learjet Corp.	To amend § 91.32(b)(1) (ii) to allow operation of certain models of Learjet aircraft up to the maximum operating altitude for which they are certificated without either pilot wearing an oxygen mask, provided there are two pilots at the aircraft controls, and each pilot has a quick-donning type of oxygen mask. *Denied 10/8/82.*
19178	Airline Pilots Association	To permit petitioner to require all airlines operating to include the line-up measure (that runway distance behind the nose wheel) when calculating takeoff weight and distance. *Withdrawn 9/17/82.*
22084	Executive Air Fleet (EAF)	To delete provisions of Section 135.25 (b) and (c) that require a part 135 operator to have the exclusive use for at least 6 months of at least one aircraft that meets the requirements for at least one kind of operation authorized in the certificate holder's operations specifications. *Withdrawn 10/1/82.*

[FR Doc. 82-32994 Filed 12-3-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-CEF-7-AD]

Airworthiness Directives; British Aerospace Aircraft Group Model HP 137 Jetstream Mk 1 and Jetstream Series 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) to require inspection of the wing lower skin panels at the main gear bay cutout on British Aerospace Aircraft Group Model HP 137 Mk 1 and series 200 airplanes. There have been reports of loose rivets and possible fatigue cracks in the lower wing skin of these airplanes. The proposed AD will assure that loose rivets and fatigue cracks in the lower wing skins are detected and repaired before they cause fuel leaks and result in catastrophic wing failure.

DATE: Comments must be received on or before January 9, 1983.

ADDRESSES: Send comments on this proposal, in duplicate to: Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules, Docket No. 82-CEF-7-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

The applicable service bulletin and associated modification leaflets may be obtained from British Aerospace, Incorporated, 13850 McLearen Road, Dulles Industrial Aerospace Park, Herndon, Virginia 22070.

A copy of the service bulletin and modification leaflets is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Christie, Manager, Aircraft Certification Staff, Federal Aviation Administration, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, telephone: 513.38.30, or Mr. Paul Cormaci, Aircraft Certification Division, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-6933.

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. Information on the economic, environmental and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket, before and after the closing date for comments, for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD 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, Central Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 82-CEF-7-AD, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion of Proposed Rule

British Aerospace has reported finding loose or damaged rivets and cracks in the wing bottom skin panel at the main gear bay cutout on a Jetstream fatigue test specimen airplane. Development of these defects could result in fuel leaks and catastrophic failure of the wing. To assure early detection, the manufacturer has issued Jetstream Service Bulletin No. 7/3, dated October 1980, which specifies initial and repetitive inspection of the Jetstream lower wing skins for loose or damaged rivets and cracks, unless British Aerospace Skin Doubler Modification Nos. 5146 and 5149 have been installed. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require the inspections and, if necessary, repairs prescribed in British Aerospace Jetstream Service Bulletin No. 7/3, dated October 1980, on British Aerospace Model HP137 Jetstream Mark 1 and Jetstream Series 200 airplanes. Approximately 21 airplanes could be affected by this proposal. Inspection time is estimated to be 4 hours per inspection, and about three inspections per year, at a labor cost of $30 per hour, for an estimated annual cost of $360 per airplane, and a total annual cost impact of $7,560. Should the owners elect to modify the airplanes rather than accomplish the inspections required by this proposal, the modification is estimated to take approximately 185 man-hours, at a cost of $30 per hour. The modification kit costs approximately $1,758 per airplane. The total estimated cost per airplane is $7,308 and the cost impact on all operators is $153,468. For these reasons, the proposed rule is not considered to be major under the criteria of Executive Order 12291.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

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:

British Aerospace, Aircraft Group: Applies to Model HP 137 Jetstream Mk 1 and Jetstream series 200 airplanes, not incorporating British Aerospace Modification Nos. 5146 and 5149 certificated in any category.

Compliance: Required as indicated unless already accomplished. To detect loose or damaged rivets and to prevent fuel leaks and propagation of fatigue cracks in the lower wing skin panels,

(a) Within 100 hours time-in-service on airplanes having 6,500 or more hours time-in-service on the effective date of this AD or prior to 6,600 hours time-in-service on airplanes having less than 6,500 hours time-in-service on the effective date of this AD, accomplish the following:

(1) Visually inspect lower wing skins between wing stations 60 and 115 for loose or damaged rivets and cracks, in accordance with instructions contained in paragraphs 3(a) through 3(e) of British Aerospace Jetstream Service Bulletin No. 7/3, dated October 1980, hereinafter referred to as the service bulletin, and correct any unsatisfactory conditions as follows:

(i) Replace loose or damaged rivets in accordance with paragraph 3(g) of the service bulletin, or an FAA-approved equivalent, within the next 25 hours time-in-service after detection;

(ii) Repair cracks in accordance with paragraphs 3(h) through 3(l) of the service bulletin and instructions provided by the Divisional Aircraft Service Manager, British Aerospace, Aircraft Group, Scottish Division, Prestwick Airport, Ayshire, Scotland. Repair instructions provided by British Aerospace Aircraft Group must be approved as an equivalent means of compliance in accordance with paragraph (d) below.

(iii) When lower wing skin cracks are detected, further flight is limited by the crack lenght limits prescribed by paragraphs 3(h) through 3(l) of the service bulletin, with inspection for crack growth after each flight.

(b) The intervals between repetitive inspections required by this AD may be adjusted up to 10% of the specified inspection intervals to allow them to be accomplished concurrent with other scheduled maintenance on these airplanes.

(c) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) Any equivalent means of complying with this AD must be approved by Manager, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

(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)); § 11.85 of the Federal Aviation Regulations (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; (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; and (3) 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 draft regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Kansas City, Missouri, on November 19, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-33056 Filed 12-3-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-5]

Proposed Alteration of VOR Federal Airways; Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several airways in the vicinity of Cleveland, OH, by deleting alternate airway segments and renumbering other airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

DATE: Comments must be received on or before January 5, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 82-AWA-5, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

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 (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AWA-5". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several VOR Federal Airways in the vicinity of Cleveland, OH, by deleting the alternate route segements. Those alternate routes required for air traffic control will be assigned new numbers. This action supports our agreement with ICAO to eliminate all alternate route designations from our National Airspace System. Section 71 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

VOR Federal Airways.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. V-26 [Amended]

By deleting the words "Lansing, MI; Salem, MI; including a north alternate via INT Lansing 103° and Salem 308° radials;" and substituting the words "Lansing, MI; Salem, MI;"

2. V-103 [Amended]

By deleting the word "Salem." and substituting the words "Salem; INT Salem 308°T(311°M) and Lansing, MI, 103°T(105°M) radials; to Lansing."

3. V-6 [Amended]

By deleting the words "Waterville; DRYER, OH, including a S alternate via INT Waterville 108° and DRYER 252° radials; Youngstown, OH, including a north alternate via INT DRYER 081° and Youngstown 285° radials;" and substitute for them the words "Waterville DRYER, OH; Youngstown, OH;"

4. V-526 [New]

By adding V-526 From Northbrook, IL; INT Northbrook 095°T(093°M) and South Bend, N, 310°T(310°M) radials; to South Bend. From Waterville, OH; INT Waterville 108°T(110°M) and DRYER, OH, 252°T(257°M) radials; DRYER; INT DRYER, 081°T(086°M) and Youngstown, OH, 285°T(290°M) radials; Youngstown to Clarion, PA.

5. V-228 [Revised]

V-228 is revised to read as follows: "From Northbrook, IL; INT Northbrook, IL, 111° and South Bend, IN, 290° radials; to South Bend, IN.

6. V-7 [Amended]

By deleting the words ", including an east alternate via INT Chicago Heights 013° and Milwaukee, WI, 137° radials to the INT Milwaukee, 137° and Chicago-O'Hare 019° radials"

7. V-192 [Amended]

By deleting under the pending amendment the words "to Indianapolis." and substituting the words "; Indianapolis; Muncie, IN; to Dayton, OH."

8. V-50 [Amended]

By deleting the words "Dayton, OH, including a N alternate from Indianapolis to Dayton, via Muncie, IN." and substitute the words "to Dayton, OH."

9. V-47 [Amended]

By deleting the words "Findlay, OH, including a W alternate via INT Rosewood 309° and Findlay OH, 218° radials;" and substitute the words "Findlay, OH;"

10. V-43 [Amended]

By deleting the words "Youngstown, OH; including a west alternate from Tiverton, via INT Tiverton 040° and Akron, OH, 233° radials; Akron, to Youngstown, including an E alternate from Briggs via INT Briggs 057° and Youngstown 177° radials, to Youngstown;" and substitute the words "Youngstown, OH;"

11. V-523 [New]

By adding V-523 From Appleton, OH; Tiverton, OH; INT Tiverton 040°T(043°M) and Akron, OH, 233°T(237°M) radials; Akron; Youngstown, OH; to Erie, PA.

12. V-443 [Amended]

By deleting the words "Tiverton, OH; DRYER, OH, including an E alternate via INT Tiverton 028° and DRYER 138° radials;" and substitute the words "Tiverton, OH; DRYER, OH;"

13. V-525 [New]

By adding V-525 From Appleton, OH; Tiverton, OH; INT Tiverton 028°T(031°M) and DRYER, OH, 138°T(143°M) radials; to DRYER.

14. V-14 [Amended]

By deleting the words ", Eire, PA, including a N alternate from DRYER to Erie, via INT DRYER 049° and Jefferson 279° radials; Dunkirk, NY;" and substitute the words "; Erie, PA; Dunkirk, NY;"

15. V-522 [New]

By adding V-522 From DRYER, OH; INT DRYER 049°T(054°M) and Erie, PA, 258°T(264°M) radials; Eire; to Dunkirk, NY.

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

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

Issued in Washington, D.C., on November 24, 1982.

Harold W. Becker,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-33144 Filed 12-3-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR PART 207

Navigation Locks and Approach Channels, Columbia and Snake Rivers, Oregon and Washington

AGENCY: Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: This proposed revision changes the order of precedence of vessels and establishes a schedule for lockage of recreational vessels at Corps dams on the Columbia and Snake Rivers, Oregon and Washington. Schedules for the lockage of recreational vessels will be established by the district engineer with a minimum of one lockage upstream and downstream (two lockages) each day. The purpose of the scheduling is to promote energy conservation by reducing the number of lockages required to lock recreational vessels. Water saved through the reduced number of lockages for recreational vessels will be diverted through generators producing electrical energy.

DATE: Comments must be received on or before January 10, 1983.

ADDRESS: Comments should be submitted in writing to: Office of the Chief of Engineers, ATTN: DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Schmidt, Operations Branch, phone number (202) 272-0245.

SUPPLEMENTARY INFORMATION: The purpose of the revision is energy conservation through reduction in the number of lockages for recreational vessels. The water saved by the reduction in the number of lockages will be used to generate electrical energy and thus help meet regional energy goals and the rising demand for electricity through energy conservation.

Prior navigation regulations established an order of precedence for vessels waiting for lockage. Vessels owned or operated by the United States and commercial vessels took precedence over recreational craft. At the discretion of the lockmaster, recreational vessels could be locked through with commercial vessels. If no commercial vessels were scheduled for lockage within a reasonable time, not to exceed one hour after arrival of the recreational vessel, separate lockage was made for the recreational vessel. Under the revised regulation, the District Engineer will establish a daily schedule for recreational lockages. At the scheduled lockage time, recreational vessels will have priority over commercial vessels. At other than scheduled times, recreational vessels will continue to be locked through with commercial vessels at the lockmaster's discretion. Recreational craft will not be locked through separately except at the designated times. The schedule will provide a minimum of one recreation lockage upstream and downstream (two lockages) each day. Additional lockages may be provided depending on the time of year (recreation season) and the anticipated needs of the recreational boater. The schedule and any subsequent changes will be issued at least 30 days prior to implementation. Until the District Engineer issues a recreational schedule, the order of precedence shall be: vessels owned or operated by the United States whose mission requires immediate passage, commercial freight and log-tow vessels, and all other vessels.

The Walla Walla and Portland Districts prepared and circulated for public comment, a draft environmental assessment and Finding of No Significant Impact. Comments on the Portland District's assessment were received until 15 February 1981. Comments on the Walla Walla's assessment were received until 25 March 1981. Comments to the draft environmental assessment were reviewed by the District Engineers and incorporated in the final Environmental Assessment. Copies of the Environmental Assessment and Finding of No Significant Impact are available in the Walla Walla District, Building 602, City-County Airport, Walla Walla, Washington 99362 and the Portland District, P.O. Box 2946, Portland Oregon 97208.

Public hearings on the proposed recreation schedule were held on

February 27, 1980 in Portland, Oregon; February 28, 1980 in The Dalles, Oregon; February 20, 1980 in Richland, Washington; and 21 February 1980 in Lewiston, Idaho. Federal, state and local governments; yacht clubs; tug and barge companies; and other organizations as well as the public were given the opportunity to comment on the proposal at these hearings. Public concerns presented at the hearings, as well as in separate letters, were incorporated in the environmental assessment. The revised regulation reflects the public concerns raised during the public hearings. The major concern in comments received at the public hearings and in response to the environmental assessment was the number of daily lockages, particularly during the recreation season. In response to these comments, several proposed schedules were addressed in the environmental assessment. The Walla Walla District proposal schedules four lockages upstream and downstream per day during the recreation season, 1 May through 30 September and five lockages upstream and downstream per day on holidays and weekends during the recreation season. This increase in scheduled lockages over the schedule first proposed (two lockages upstream and downstream, 7 days a week) responds to the concerns expressed by the recreational boater. The Portland District Proposal Addresses two alternatives: one lockage upstream and downstream per day, seven days a week or a schedule of at least one upstream and downstream lockage per day and additional lockages during times of high recreational traffic (summer, weekends and holidays) from mid-May through mid-October.

Commentors expressed concern that the schedule, once issued, was not subject to change. The revision provides that the schedule is subject to change following a 30-day notice. The district engineer may adjust the schedule to provide for additional lockages or adjust the time of the lockages. These changes are dependent on the number of recreational vessels requiring lockage, the time of year and water levels.

It was suggested that a large number of recreational craft awaiting lockage at the scheduled time might create a safety hazard. There will be an increase in recreation craft per lockage which will increase the chance of accidents during lock operation. However, with an increased number of lockages during the recreation season and Walla Walla's plan to install floating docks, where required, hazardous situations are not anticipated.

In response to comments, the regulation provides that special arrangements may be made with the district engineer for the lockage of recreational or boating groups. This will enable boating clubs, yacht clubs or other recreational organizations to schedule lockages for special events. Several commentors suggested that the schedule should not be in effect during those periods when water is not being passed through the generators and is being spilled. The spring runoff also corresponds with the recreation season. The spill season varies by time, amount of runoff and by project. An increased number of lockages for recreational vessels will correspond to the spill season/recreation season so that while not permitting separate lockages for recreational vessels, even during spill periods, the schedules will reflect the availability of water during that period.

It was also suggested that the schedule be implemented only during periods of water shortage. The benefits of energy conservation require implementation on a continuing basis without regard to the availability of water.

The Corps solicits the cooperation of the boating public in implementing this schedule. It is anticipated that the schedule will establish a balance between energy conservation and recreational opportunities. The schedule may create some inconvenience to the boating public. However, with the increased number of lockages during the recreation season, lockages at designated times, the opportunity to lock through with commercial vessels, the discretion of the lockmaster to respond to special situations (emergency of recreational boater, and early nightfall in the winter) the inconvenience is reduced. In addition, experience will enable the district engineer to adjust the schedule to reduce any inconvenience and promote energy conservation. During the scheduled lockage times, commercial vessels will no longer have precedence over recreational vessels. Commercial vessels may experience delay especially at projects where there is a high use by both commercial and recreational vessels. The Corps estimates the cost of delaying a tug and barge is about $168.00 per hour. The Tugboat Association's estimate is $1,000.00 per hour. It is not possible to accurately determine the number of hours of delay that will result from scheduling recreation lockages. Periods of delay could significantly increase the operating costs of commercial lock users. However, the recreational schedule will give commercial vessels the opportunity to time their lockages to avoid the recreational traffic.

An operator of a commercial passenger vessel indicated the vessel encountered delays because that was classified as recreational rather than commercial. He requested that the lockmaster at the Bonneville Dam be informed of the commercial status of the vessel. Under the previous regulations; there were three classes of precedence for passage through the locks, including: (1) Government; (2) Commercial freight and log tow vessels; and (3) all other vessels. A commercial passenger-carrying vessel was in the third category of precedence. Under the proposed regulation change, these vessels will now be afforded commercial craft status. The Corps originally proposed to maintain passenger-carrying vessels in the recreational category. However, with the increase in passenger-carrying vessels and their special scheduling requirements passenger-carrying vessels will take precedence.

Significant Changes to the Regulation

Section 207.718(a): This section is revised to provide that the district engineer will issue a schedule for lockage of recreational craft. Recreational craft is defined.

Section 207.718(f): The order of precedence during recreational lockage schedules is set out.

Section 207.718(h)(2): This section is revised to indicate that separate lockage will not be made for recreational craft except recreational vessel lockages shall be made in accordance with a schedule issued by the district engineer. Special lockages may be made for recreational craft at the discretion of the lockmaster.

Section 207.718(h)(3): This is a new section providing for special schedules for boating groups.

Executive Order 12291

These regulations have been revised by the Department of the Army in accordance with Executive Order 12291. They are classified as non-major regulations because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary of the Army certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations are made for technical reasons and therefore will not have any significant economic impact.

List of Subjects in 33 CFR Part 207

Navigation (water), Locks and dams, Vessels, Recreation, Traffic regulation, Waterways.

33 CFR, Part 207 is amended by revising § 207.718 as set forth below.

Dated: December 1, 1982.

John O. Roach, II,

Army Liaison Officer With the Federal Register.

PART 207—[AMENDED]

Section 207.718 is amended by revising paragraph (a), (f), (h)(2) and by adding paragraph (h)(3) to read as follows:

§ 207.718 Navigation Locks and Approach Channels, Columbia and Snake Rivers, Oregon and Washington.

(a) *General.* All locks, approach channels, and all lock appurtenances, shall be under the jurisdiction of the district engineer, Corps of Engineers, U.S. Army, in charge of the locality. The district engineer shall issue a schedule for the daily lockage of recreational vessels. Recreational vessels are pleasure boats such as row, sail and motor boats bent on pleasure only. Commercial vessels include licensed commercial passenger vessels operating on a published schedule or regularly operating in the "for hire" trade. Any recreational schedule shall provide for a minimum of one scheduled recreation lockage upstream and downstream (two lockages) each day. At the discretion of the district engineer, additional lockages may be scheduled. Each schedule and any changes to the schedule will be issued at least 30 days prior to implementation. The district engineer's representative at the locks shall be the Project Engineer, who shall issue orders and instructions to the lockmaster in charge of the lock. Hereinafter, the term "lockmaster" shall be used to designate the person in immediate charge of the lock at any given time. In case of emergency and on all routine work in connection with the operation of the lock, the lockmaster shall have authority to take action without waiting for instructions from the Project Engineer.

* * * * *

(f) *Precedence at Lock.* Subject to the order of precedence, the vessel or tow arriving first at the lock will be locked through first; however, this precedence may be modified at the discretion of the or operated by the United States shall take precedence. The precedence of all other vessels shall be as follows:

(1) When a recreational vessel lockage schedule is in effect, at the appointed time for lockage of recreational craft, recreation craft shall take precedence. At other than the appointed times, the lockage of commercial and tow vessels shall take precedence and recreational craft may only lock through with commercial vessels as provided in paragraph (h) of this section.

(2) If a recreational vessel lockage schedule, is not in effect, commercial and tow vessels shall take precedence. Recreational craft may be locked through with commercial craft. If no commercial vessels are scheduled to be locked through within a reasonable time, not to exceed one hour after the arrival of the recreational vessels at the lock, the recreational vessel may be locked through separately. If a combined lockage cannot be arranged, the recreational craft shall be locked through after waiting three commercial lockages.

(h) *Lockage.*

(1) * * *

(2) *Recreational Craft.* By mutual agreement of all parties, recreational vessels may be locked through with commercial vessels. Under the recreational vessel schedule, separate lockage will not be made for recreational vessels except in accordance with the recreational lockage schedule or when circumstances warrant, such as in an emergency. When recreational craft are locked simultaneously with commercial vessels, the recreational vessel will enter the lock chamber after the commercial vessel is secured in the chamber and when practicable will depart while the commercial vessel remains secured.

(3) *Special Schedules.* Recreational boating groups may request special schedules by contacting the district engineer. The schedule for the daily lockage of recreational vessels will indicate the number of boats required for a special schedule and how many days notice is required in order to arrange a special schedule.

(40 Stat. 266; (33 U.S.C. 1))

[FR Doc. 82-33138 Filed 12-3-82; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[WH-FRL 2262-5]

Ocean Dumping; Availability of Draft Final Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft final report.

SUMMARY: EPA today announces the availability for public review and comment of a draft final report titled "Capacity of an Ocean Disposal Site to Contain Dredged Material with Special Reference to Site A, Tampa, Florida." This report was prepared in association with the final extension of interim site designation and final designation of an additional interim site.

DATE: Comments on this report must be received on or before December 17, 1982.

ADDRESSES: Copies of the draft final report may be obtained from, and comments should be addressed to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

The draft final report is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC;

Tampa-Hillsborough County Public Library, Special Collections Department, 900 North Ashley Street, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: On October 6, 1982, EPA published in the **Federal Register** a proposed rule to extend the designation of one of the existing dredged material disposal sites located offshore of Tampa Harbor ("Site A") for the disposal of dredged material from a certain portion of the Corps of Engineers' Tampa Harbor Project. 47 FR 44122. EPA also proposed to designate a new dredge material disposal site offshore of Tampa Harbor ("Site 4") as an interim approved dumping site until an Environmental Impact Statement is completed and a site designated for continuing use. The comment period on this proposed rule expired on November 5, 1982.

A draft final report entitled "Capacity of an Ocean Disposal Site to Contain Dredged Material with Special Reference to Site A, Tampa, Florida," is now available in support of that proposed rule. The report contains additional scientific information assessing the impact of disposing of dredged material at Site A. Copies of this report were made available to Manatee County and the Cities of Holmes Beach and Anna Maria on November 24, 1982.

Dated: December 1, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-33328 Filed 12-3-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6457]

Proposed Zone Designation and Flood Depth Determinations for the Town of Gilbert, Maricopa County, Ariz. Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule

SUMMARY: Technical information or comments are solicited on the proposed zone designations and flood depths as described below.

The proposed zone designations and flood depths are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days folowing the second publication of this proposed rule in the newspaper of local circulation in the above-name community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designations and flood depths are available for review at the Office of the Town Clerk, Gilbert Town Hall, 119 North Gilbert Road, Gilbert, Arizona.

Send comments to: Honorable L. J. Reed, Mayor, Town of Gilbert, P.O. Box 837, Gilbert, Arizona 85234.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0203.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed zone designations and flood depths for the Town of Gilbert, Arizona in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 09-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

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

The proposed zone designations and flood depths, on Panel 5 of 20, are as follows:

Source of flooding	Location	Elevation (feet)	Zone designation
Consolidated Canal.	Area generally located between the Western Canal and Warner Road, and between Ironwood Street and Lindsay Road.	Depth 2.....	AO.
Sheet Flow Area.	Area generally located west of Cooper Road and northwest of the Southern Pacific Railroad.	Depth 2.....	AO.

Additional annexed areas have been identified as Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: November 18, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 82-33016 Filed 12-3-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6458]

Proposed Base Flood Elevation and Zone Designation Determinations for Sacramento County, California Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

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

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the County Drainage Engineer, Water Resources Division of the Public Works Department, 827 Seventh Street, Sacramento, California.

Send comments to: Mr. Brian Richter, Sacramento County Executive, 700 H Street, Sacramento, California 95814.

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

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for Sacramento County, California in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance

Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

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

The proposed base flood elevations and zone designations are as follows:

Source of flooding	Location	Elevation national geodetic vertical datum (feet)	Zone designation
Dry Creek....	At the downstream limit of detailed study.	36	A8.
	At the Southern Pacific Railroad.	40	A8.
	At the upstream limit of detailed study.	47	A8.
Notomas East Main Drainage Canal.	Area located approximately 600 feet south of Cement Way extended and between Notomas East Main Drainage Canal and Sorento Road.	33	A3.

Along Hen Creek, between a point located approximately 950 feet upstream of Orr Road and 170 feet upstream of Sargent Avenue, the proposed special flood hazard area, identified as Zone A, has been added. Also, along an unnamed tributary of Deadman Gulch, the proposed special flood hazard area, identified as Zone A, has been added between a point located approximately 400 feet upstream of Oak Avenue extended and a point located approximately 500 feet upstream of the Southern Pacific Railroad. Along Magpie Creek, the proposed special flood hazard area, identified as Zone A, has been contained in the channel between Palm Avenue and a point located approximately 2900 feet upstream of Sewer Plant Road. The proposed special flood hazard area, generally located north of Cement Way and between Blacktop Road and Sorento Road, has been revised from Zone A3 to Zone A.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: November 18, 1982.

Dave McLoughlin,

Acting Associate Director State and Local Programs and Support.

[FR Doc. 82–33015 Filed 12–3–82; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 81

[Docket No. 82–780; RM–3847; FCC 82–509]

Amendment of the Technical Parameters and Channelling Arrangements Governing the Use of Marine VHF Public Correspondence Frequencies Between Certain Areas of Washington State and Canada

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes amendment of rules governing the channelling arrangements and technical parameters of marine VHF Public Correspondence frequencies in the Puget Sound area. These changes are proposed in order to increase spectrum utilization and reduce potential interference on these channels.

DATES:

Comments must be received by Januray 5, 1983.

Reply comments must be received by January 20, 1983.

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

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Radio, Telephone.

In the matter of amendment of Part 81 of the Commission's rules affecting the use of marine VHF Public Correspondence frequencies between certain areas of Washington State and Canada; PR Docket No. 82–780, RM–3847.

Adopted: November 18, 1982.
Released: November 29, 1982.

1. We are proposing to amend Subpart S of Part 81 of the our Rules in order to increase spectrum utilization and reduce potential interference on marine VHF public correspondence frequencies in the Puget Sound area of Washington State and Canada.

Background

2. Our current rules are based on a channelling arrangement with Canada for west coast VHF maritime mobile public correspondence.[1] The arrangement, which was authorized on March 11, 1978, was established in order to prevent interference between coast stations in the U.S. and those in Canada. This channel assignment plan designates primary, supplementary and local channels for each public correspondence sector of the Puget Sound area. The arrangement also specifies technical standards which each station is required to meet. These technical standards are enumerated in Subpart S.

Petition

3. A Petition for Rulemaking (RM–3847), requesting amendment of Subpart S, was filed with the Commission by the North Pacific Marine Radio Council (NPMRC) on February 16, 1981. According to NPMRC, this petition is the result of extensive studies utilizing the criteria of Subpart R of Part 81 of the Commission's [2] rules. The rule changes requested are the product of a coordinated effort of the Public Correspondence Committee of the NPMRC. Representatives of telephone companies serving the United States and Canada, including a representative of the Western Canada

[1] "Canada/U.S.A. Channelling Arrangement for West Coast VHF Maritime Mobile Public Correspondence."

[2] Subpart R of Part 81 sets forth procedures and standards for computing VHF coverage.

Telecommunications Council, participated. If finally adopted, the amendments proposed herein will be formalized with the Canadian Department of Communications. This proposal has also been informally coordinated with the Canadian Department of Communications by the FCC.

4. The petiton requests several changes in Subpart S which NPMRC believes will improve the VHF service.The petiton sets forth additions to § 81.901 which would specifically identify the west coast as being the only geographic areas involved. The area covered by the Canadian agreement lies entirely within Washington State. The amended rules would also make a distinction between Inland and Coastal waters for technical purposes.

5. The NPMRC states that exhaustive studies have shown that new technical parameters in the area would reduce interference and allow more channel utilization with no degradation of service to the public. Their studies, utilizing the standards and procedures given in subpart R as well as actual field strength measurements, lead to the conclusion that the Effective Radiated Power (ERP) of the primary and supplementary channels can be reduced from the currently authorized 125 watts to 60 watts with no lessening of service. In addition, limitation of the antenna height of stations will inhibit potential interference from high level stations into local channels according to NPMRC. Specifically, it is proposed to limit the antenna height to 500 feet for Inland waters primary and secondary channels, to 50 feet for Inland waters local channels, and to 250 feet for Coastal waters local channels. No antenna restrictions are proposed for Coastal waters primary and secondary channels.

6. Changes I channelling are also proposed. Each public correspondence sector would be assigned one primary and one supplementary channel with the exception of the three sectors where a supplementary channel is not available. Any channel among those which are included in the arrangement can be used as a local channel in a particular sector except those channels which are designated as primary and secondary channels in that sector. the current arrangement assigns up to two primary and supplementary channels per sector and assigns only channels 24 and 25 as local channels. The new channelling arrangement would provide more flexibility to local channels without a degradation of service on other channels, by permitting optimum reuse of available spectrum.

7. Coast stations may still be established by either country in accordance with the provisions of the arrangement without prior coordination with the other country. Preliminary local Canadian/U.S. coordination will be required for all applications in variance with the arrangement. Informal coordination may also take place through a committee comprised of members of the North Pacific Marine Radio Council and appropriate Canadian representatives. Applications in compliance with the plan may also be furnished to the committee for informational purposes.

Proposal

8. These proposed rule amendments would provide more efficient spectrum utilization by enabling reuse of VHF frequencies for local use in the various sectors. Limits on antenna heights should reduce interference between stations. Accordingly, we propose to amend Subpart S of Part 81 of the Commission's rules to revise the technical parameters and channelling arrangement for VHF public coast stations on the west coast (Washington State).

9. The proposed amendments to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

Comments

10. Under procedures set out in Section 1.415, of the rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before January 5, 1983, and reply comments on or before January 20, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public reference room at its headquarters in Washington, D.C.

12. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised the ex parte contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an ex parte presentation is any written or oral communication (other than formal written comments/pleadings and normal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written ex parte presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral ex parte presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each ex parte presentation described above must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

13. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule-making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Only seven U.S. VHF coast stations are located within the boundaries of Canadian coordination on the west coast. Six of these stations are licensed to Pacific Northwest Bell Telephone Company, one to General Telephone Company of the Northwest. Only one licensee, RAD COM Electronics, Inc. can be viewed as a small entity. The maximum impact this rulemaking would have on that licensee would be the cost of lowering their

antenna and/or purchasing a new crystal for their transmitter.

14. Regarding questions on matters covered in this document, contract Robert P. DeYoung at 202–632–7175.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

47 CFR Part 81 is amended by revising §§ 81.901 through 81.904 to read as follows:

§ 81.901 Canada/USA arrangement.

(a) Pursuant to arrangements between the United States and Canada, assignment of VHF frequencies to public coast stations in certain areas of Washington State, the Great Lakes, and the east coast of the United States shall be made in accordance with the provisions of this subpart.

(b) On the west coast, due to topographic constraints and confined waterways, near sea level transmitter/receiver sites have proved to be superior to high level transmitter/receiver sites in providing reliable and high quality communications. The purpose of this subpart is to:

(1) Provide reliable and widespread service to the marine subscriber.

(2) Simplify licensing and provide preliminary testing procedures for those providing service.

(3) Allowing maximum reuse of available channels.

(4) Provide measurable criteria to allow determination of a licensee's compliance.

(5) Provide a means for continued cooperation and coordination with Canada.

§ 81.902 Definitions.

On the west coast, the following terms are defined as follows:

(a) *Inland Waters Public Correspondence Sector.* A distinct geographical area in which one primary and one supplementary channel is allotted. A number of local channels may also be authorized.

(b) *Coastal Waters Public Correspondence Sector.* A distinct geographical area in which one primary and one supplementary channel is allotted. A number of local channels may also be authorized.

(c) *Inland Waters.* Inland waters of western Washington and British Columbia bounded by 47° latitude on the south, the Canada/USA coordination Zone Line B on the north, and to west by 124°40′ longitude at the west entrance to the Strait of Juan de Fuca.

(d) *Coastal Waters.* Waters along the Pacific Coast of Washington State and Vancouver Island within the Canada/U.S.A. coordination Zone.

(e) *Inland Waters Primary Channel.* A channel intended to cover the greater portion of an Inland Waters Public Correspondence Sector. It may provide some coverage to an adjacent sector but must not provide coverage beyond the adjacent sector. Harmful interference beyond the adjacent sector must not occur. Only one primary channel will be authorized in any sector.

(f) *Inland Waters Supplementary Channel.* A channel intended to improve coverage within a sector or to relieve traffic congestion on the primary channel. It may provide some coverage of an adjacent sector but must not provide coverage beyond the adjacent sector. Harmful interference beyond the adjacent sector must not occur. Only one supplementary channel will be authorized in any sector.

(g) *Inland Waters Local Channel.* A channel designed to provide local coverage of certain bays, inlets and ports where coverage by primary or supplementary channels is poor or where heavy traffic loading warrants. A local channel must not cause harmful interference to any primary, or supplementary channels. Coverage shall be confined to the designated sector.

(h) *Coastal Waters Primary Channel.* Same as (e) except for technical characteristics.

(i) *Coastal Waters Supplementary Channel.* Same as (f) except for technical characteristics.

(j) *Coastal Waters Local Channel.* Same as (g) except for technical characteristics.

§ 81.903 Technical characteristics.

On the west coast, technical characteristics of public correspondence stations shall be as follows:

(a) *Inland Waters Primary and Supplementary Channels.* ERP shall not exceed 60 watts. Antenna height shall not exceed 500 feet AMSL with the exceptions noted in § 81.904(e).

(b) *Inland Waters Local Channel.* ERP shall not exceed 8 watts with an antenna height of no more than 50 feet AMSL or the ERP shall not exceed 2 watts with an antenna height of no more than 100 feet AMSL.

(c) *Coastal Waters Primary and Supplementary Channels.* ERP shall not exceed 125 watts with no antenna restrictions.

(d) *Coastal Waters Local Channel.* ERP shall not exceed 10 watts with a maximum antenna height of 250 feet AMSL.

(e) Harmful Interference shall be determined and resolved using the definition and procedures of the ITU international Radio Regulations.

(f) To keep the ERP's and antenna elevations at a minimum and to limit coverage to the desired areas, an informal application may be filed for special temporary authority in accordance with §§ 81.26 and 81.41 to conduct a field survey to obtain necessary data for a formal application. Such data may accompany the application and be used in lieu of theoretical calculations as required in Subpart R. The Seattle FCC District Office shall be notified in advance of scheduled tests.

§ 81.904 Canada/U.S.A. channeling arrangement for west coast VHF Maritime Mobile Public Correspondence.

(a) The provisions of the Canada/U.S.A. channeling arrangement apply to waters of the State of Washington and of the Province of British Columbia within the coordination boundaries of "Arrangement A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz. In addition, all inland waters as far south as Olympia are to be included.

(b) The channeling arrangement applies to the following VHF public correspondence channels: channels 24, 84, 25, 85, 26, 86, 27, 87 and 28.

(c) Public Correspondence stations may be established by either country in accordance with the provisions of the arrangement. There shall, however, be an exchange of information in respect of the establishment of new stations or a change in technical parameters of existing stations. Any channel except that used as primary or supplementary in a given sector is available for use as a local channel in that sector. Local channels shall not be protected from interference caused by primary or supplementary channels in adjacent

sectors if these stations are in compliance with this subpart.

(d) Preliminary local Canada/U.S.A. coordination is required for all applications in variance with this subpart. This coordination will be in accordance with the provisions of Arrangement "A" of the Canada/U.S.A. Frequency Coordination Agreement above 30 MHz. Such stations shall not be protected from interference or cause interference to existing or future stations which are in accordance with the agreement.

(e) Existing stations shall comply with the provisions of the arrangement within 12 months after it becomes effective with the following exceptions:

Public Coast III-B Stations:
KOH627 Tacoma, Wash. ..... VA12 Mount Parke, British Columbia.
KOH630 Seattle, Wash. ..... VAS5 Watts Point, British Columbia.
WXY956 Camano, Wash. ..... XLK672 Bowen Island, British Columbia.

These stations employing current assigned frequencies, may be maintained with existing antenna heights in excess of 500 feet unless harmful interference to existing stations is identified and reported to the Federal Communications Commission through the Public Correspondence Committee of the North Pacific Marine Radio Council.

(f) The agreed channeling arrangements for the west coast are as follows:

Public correspondence sector	Primary channel	Supplementary channel	Remarks
British Columbia (Coastal Waters)			
Tofino	24	26	
Barkley Sound	27	87	
British Columbia (Inland Waters)			
Juan de Fuca West (Canada)	26	24	
Juan de Fuca East (Canada)	86	84	
Gulf Islands	27	(1)	
Strait of Georgia South	26	86	
Howe Sound	24	84	
Strait of Georgia North	26	87	
Campbell River	28	85	
Washington (Inland Waters)			
Cape Johnson	26	85	
Point Grenville	28	25	
Washington (Coastal Waters)			
Juan de Fuca West (U.S.A.)	28	(1)	
Juan de Fuca East (U.S.A.)	25	(1)	
San Juan Islands	28	85	
Puget Sound North	24	87	
Puget Sound Hood Canal	26	25	
Lower Puget Sound	28	85	

(1) Supplementary channel not available.

[FR Doc. 82-33088 Filed 12-3-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-19; Notice 1]

Evaluation Report on Federal Motor Vehicle Safety Standard No. 214 Side Door Strength—Passenger Cars; Request for Public Comment

Correction

Note.—The following document was originally published at page 53754 in the issue of Monday, November 29, 1982; however, some of the paragraphs appeared out of sequence. The document is reprinted correctly as follows:

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

ACTION: Request for Comments.

SUMMARY: This notice announces the publication by NHTSA of an Evaluation Report concerning Safety Standard No. 214, *Side Door Strength*. This staff report evaluates the safety effectiveness and costs of the current performance requirements for side doors in new passenger cars. The report was developed in response to Executive Order 12291, which provides for government-wide review of existing major Federal regulations. The NHTSA seeks public review and comment on this evaluation. Comments received will be used to complete the review required by Executive Order 12291.

DATE: Comments must be received no later than January 28, 1983.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by contacting Mr. Robert Hornickle, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0875). All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. [Docket hours, 8:00 a.m.–4:00 p.m. Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Program Evaluation, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, S.W., Washington, D.C., 20590 (202–426–1574).

SUPPLEMENTARY INFORMATION: Safety Standard No. 214 (49 CFR 571.214) sets static strength requirements for the doors of passenger cars. The requirements have led to the installation of longitudinal reinforcement beams inside the doors. The purpose of a door beam is to reduce the velocity and depth of door intrusion into the passenger compartment in a side impact collision, thereby reducing the severity of occupant injuries involving contact with the door. The standard became effective in January 1973.

Pursuant to Executive Order 12291, NHTSA recently conducted an evaluation of Standard No. 214 to determine the effectiveness of the technology selected by the manufacturers to comply with the standard (in preventing deaths and injuries), and to determine the costs of the technology to consumers. Under the Executive Order, agencies are to review existing regulations to determine whether the regulations are achieving the order's policy goals, i.e., achieving legislative goals effectively and efficiently and without imposing any unnecessary burdens on those affected.

The principal findings and conclusions of the report are as follows:

- Standard 214 prevents approximately 480 fatalities and 4,500 nonfatal hospitalizations per year in side impact collisions with *fixed objects*. Cars complying with the standard tend to glance by a fixed object: Crush was deep and concentrated in pre-standard cars, but was significantly shallower and more dispersed in post-standard cars.
- Occupant ejection was significantly reduced in collisions with fixed objects.
- Standard 214 prevents 4,900 nonfatal hospitalizations per year in *vehicle-to-vehicle* side impacts but has little or no effect on fatalities in these crashes. The standard has significantly reduced door intrusion into the passenger compartment. It has significantly reduced the torso, arm and leg injuries of occupants seated next to the struck door.
- Standard 214 adds $61 (in 1982 dollars) to the cost of purchasing and operating an automobile over its lifetime.

The Evaluation Report was developed from statistical analyses of the Agency's Fatal Accident Reporting System and National Crash Severity Study data files, cost analyses of actual side door beam assemblies, and a review of staged crash test results. The statistical analyses focused on the two model years immediately before and after beam installation, in order to isolate the effect of Standard 214 from the effect of the implementation of other safety standards and side structure design changes.

The Agency published a preliminary evaluation of Standard 214 in September 1979 (44 FR 50878, August 30, 1979) which was based on a National Crash Severity Study file that was less than half complete at that time. The current report, which is based on the complete data file, supersedes the preliminary evaluation, although it supports most of the earlier report's conclusions.

NHTSA welcomes public review of this Standard No. 214 Evaluation Report and invites the public to submit comments.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

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

Issued on: November 23, 1982.

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 82-32549 Filed 11-26-82; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 29

Rights-of-Way General Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking would correct errors and eliminate burdensome, outdated and unneeded provisions concerning wheeling stipulations in the existing right-of-way regulations for right-of-way grants issued under the provisions of section 4(d)(2) of the National Wildlife Refuge System Administration Act of 1966, as amended, and other pertinent statutes.

DATE: Comments by January 20, 1983.

ADDRESS: Comments should be sent to: Director (RE), U.S. Fish and Wildlife Service, 1800 "C" Street, N.W., Washington, D.C. 20240. Comments will be available for public review in the Division of Realty, U.S. Fish and Wildlife Service, 5th Floor, 608 13th Street, N.W., Washington, D.C. during regular working hours (7:45 a.m. to 4:15 p.m.) on regular working days.

FOR FURTHER INFORMATION CONTACT: Richard E. Corthell or Donald H. Bredernitz, Division of Realty, U.S. Fish and Wildlife Service (202) 272-3365.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would revise the general National Wildlife Refuge System regulations to correct minor errors, implement administrative changes, and eliminate a burdensome and outdated provision.

The definitions in 50 CFR 29.21 would be revised to recognize Alaska as an administrative region for purposes of the general refuge regulations and to delete a reference to the Department of Energy.

The reference to "29.218" in § 29.21-1(a) would be corrected to read section "29.21-9"

The word "Bureau" in § 29.21-2(b) would be corrected to read "Service". Paragraph (c) would correct the address of Region 4, the States listed for Regions 3 and 6, and change Area Director to Regional Director for Alaska.

The requirements for electric power transmission line rights-of-way in § 29.21-8 would be revised to delete the requirement for applicants to agree to wheeling stipulations for electric power transmission lines of 66 KV or greater. This revision would delete paragraphs (c) through (e). Wheeling stipulations had been a requirement of the Department of the Interior from 1948 until 1954, and again from 1963 until 1982. By final rulemaking published March 23, 1982, the Bureau of Land Management (BLM) deleted this requirement from its regulations in 43 CFR Part 2800. This revision is consistent with the change implemented by BLM.

The principle author of this proposed rulemaking is Richard E. Corthell, Division of Realty, Fish and Wildlife Service.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department has determined that this document is not a major rule under Executive Order 12291. The regulations are not expected to significantly increase costs to consumers of power marketing agencies; the agencies may negotiate with applicants or seek orders for wheeling from the Department of Energy under 16 U.S.C. 824j. The revised regulations will reduce the cost to the United States of processing some rights-of-way, and the cost to the applicant caused by delays in construction schedules, and will not increase costs to states or local governments. The change will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96-354). This rule does not contain information collection requirements subject to Office of Management and Budget review under 44 U.S.C. 3501 et seq.

List of Subjects in 50 CFR Part 29

National Wildlife Refuge System, Public lands/mineral resources, Public lands/rights-of-way, Wildlife refuges.

PART 29—[AMENDED]

Under the authority of section 4(d)(2) of the National Wildlife Refuge System Administration Act of 1966, as amended, and other applicable statutes, it is proposed to amend Subpart B of Part 29, Title 50 of the Code of Federal Regulations as set forth below:

1. In § 29.21, Definitions, revise paragraphs (c) and (i) to read as follows:

§ 29.21 Definitions.

* * * * *

(c) "Regional director" means the regional director for one of the Service's seven regions.

* * * * *

(i) "Department" means U.S. Department of the Interior unless otherwise specified.

§ 29.21-1 [Amended]

2. In § 29.21-1 paragraph (a) is amended by changing the reference "§29.218" to read "§29.21-9."

3. In 29.21-2 paragraph (b) is amended by changing the word "Bureau" to read "Service."

4. In § 29.21-2 paragraphs (c)(3), (4), (6), and (7) are revised to read as follows:

§ 29.21-2 Application procedures.

(c) *Regional director's addresses.*

* * *

(3) For the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin:

Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

(4) For the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and Virgin Islands:

Regional Director, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, Suite 1200, 75 Spring Street, S.W., Atlanta, Georgia 30303

* * * * *

(6) For the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming:

Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

(7) For the State of Alaska:

Regional Director, U.S. Fish and Wildlife Service, 1101 E. Tudor Road, Anchorage, Alaska 99503.

§ 29.21-8 [Amended]

5. In § 29.21–8, Electric power transmission line rights-of-way, remove paragraphs (c), (d), and (e).

Dated: October 29, 1982.

G. Ray Arnett,

Assistant Secretary of the Interior.

[FR Doc. 82-32990 Filed 12-3-82; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atomspheric Administration

50 CFR Parts 611 and 675

[Docket No. 21105-224]

Foreign fishing; Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed rule; notice of partial approval and availability of plan amendment

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has partially approved Amendment 4 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea/Aleutian Islands Area (FMP). NOAA issues this proposed rule to implement the approved portion of the FMP amendment. NOAA announces the availability of copies of the FMP amendment, and requests comments on this amendment and rulemaking.

The intended effects of this action are (1) to provide sufficient amounts of groundfish to meet the growing needs of the U.S. groundfish fishery; (2) to allow the harvest of a short-term abundance of Pacific cod; and (3) to alleviate some of the restrictive measures placed on the foreign groundfish fishery in areas which are not heavily utilized by U.S. groundfish fisheries.

DATE: Comments on the amendment and the proposed rule must be submitted on or before January 20, 1983.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Individual copies of the amendment and the initial regulatory flexibility analysis may be obtained by contacting the North Pacific Fishery Management Council, P.O. Box 3136–DT, Anchorage, Alaska 99510, 907–274–4563.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Fishery Management Plan for the Groundfish Fishery in the Bering Sea/Aleutian Island Area (FMP) became effective on January 1, 1982 (46 FR 63295), with the exception of one provision that became effective on April 9, 1982 (47 FR 10227). A correction to the final rule was published in the **Federal Register** on January 28, 1982 (47 FR 4083). The FMP governs foreign and domestic fishing for a number of finfish commonly known as groundfish (Section 5.1.2. of the FMP identifies the common and scientific names of each species). Most of the fishery is conducted with on-bottom and off-bottom trawls and longlines at numerous fishing grounds throughout the eastern Bering Sea and Aleutian Islands Area. Foreign fishing takes place primarily along the 200–meter depth contour.

The FMP and proposed regulations to implement the FMP were originally published in the **Federal Register** on November 19, 1979 (44 FR 66356). Since 1979, the North Pacific Fishery Management Council (Council) prepared six amendments to the FMP . A final rule implementing Amendments 1a and 2 was published in the **Federal Register** on January 12, 1982 (47 FR 1295). Amendments 1 and 3 await submission to the Secretary of Commerce (Secretary); Amendment 5 currently is undergoing Secretarial review.

Amendment 4 to the FMP is the subject of this action and was partially approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on October 28, 1982. Rules to implement the approved portion of this amendment (1) adjust the domestic annual harvest (DAH), joint venture processing JVP), and the total allowable level of foreign fishing (TALFF) amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species;" (2) increase the acceptable biological catch (ABC), optimum yield (OY), and reserve amounts for Pacific cod and for "other species" and increase the TALFF for Pacific cod; (3) expand the area in which foreign fishing may be conducted in the fishery conservation zone; (4) amend the coordinates for one area closed to foreign fishing. (The rules do not establish the management authority of the Secretary to issue field orders adjusting any time and area closures for conservation and management reasons because this portion of Amendment 4 was disapproved.) These principal aspects of Amendment 4 are described further below. In addition, Amendment 4 makes the following technical changes to the FMP; (a) Consolidates the description of areas closed to foreign fishing, designates and depicts those areas, and reformats the rationale for such areas; (b) corrects or clarifies the geographical coordinates for two of the management areas; (c) adds a description of the four fishing areas and clarifies the depiction thereof; (d) clarifies the description of the fishery management area; (e) clarifies the substance of Amendment 1a and depicts the salmon savings area; (f) clarifies the specifications of domestic annual processing, domestic non-processed fish, and joint venture processing amounts; (g) deletes references to halibut in various tables; and (h) corrects the base optimum yield (OY) for "Other species" that should have been increased by 1,000 metric tons (mt) (to 75,249 mt), or five percent of the 20,000 mt increase in pacific cod OY, by virtue of Amendment 2.

1. *Species quota adjustments.* Amendment 4 increases the DAHs for pollock, yellowfin sole, "other flatfish," Atka mackerel, and "other species" and assigns the increases to the JVP component of each respective DAH, and reduces the TALFF for these species and species groups by equivalent amounts. The JVP for pollock in the Bering Sea is increased from 9,050 metric tons (mt) to 64,000 mt, the JVP for yellowfin sole is increased from 25,000 mt to 30,000 mt, the JVP for "other flatfish" is increased from 3,000 mt to 10,000 mt, the JVP for Atka mackerel is increased from 100 mt to 14,500 mt, and the JVP for "other species" is increased from 200 mt to 6,000 mt. Current U.S. catches and expressed intention of U.S. fishermen who deliver fish to foreign processing vessels indicate that the existing DAHs and reserved amounts of these species will not be sufficient to allow such "joint venture" operations to continue. Current amounts of these species available for domestic processing (DAP) are adequate. Therefore, the increases in DAH are proposed to be assigned to the JVP components.

Amendment 4 also increases the ABC and the OY for Pacific cod. This action responds to a short-term increase in the abundance of harvestable Pacific cod due to a strong 1977 year-class entering the fishery. The ABC estimate is increased from 160,000 mt. to 168,000 mt, based upon the most recent scientific information available; the prior estimate was based on 1980 survey information. The increase in OY from 78,700 mt to 120,000 mt would allow the groundfish fisery to harvest the 1977 year-class while it is available. Due to possible inaccuracies in the data upon which the new ABC estimate is based, the OY is set conservatively at 120,000 mt rather

than at a level closer to the ABC.

The 41,300 mt increase in Pacific cod OY is apportioned to reserves and TALFF. The DAH for Pacific cod will remain at 43,265 mt in response to testimony from the U.S. fishing industry to the Council which indicated that this amount will satisfy the projected needs of domestic processors and fishermen who use this species. The amount of Pacific cod held in reserve is increased by 2,065 mt, from 3,935 mt to 6,000 mt. The remainder of the increase in OY is apportioned to TALFF, which is increased by 39,235 mt from 31,500 mt to 70,735 mt.

The ABC and OY amounts for the species category "other species" are established by the FMP as five percent of the combined ABCs and OYs, respectively, of specified target species or species groups. Therefore, the increase in the ABC amount for Pacific cod occasioned by Amendments 2 and 4 results in an increase in the ABC amount for "other species" from 74,249 mt to 79,714 mt. The OY amount for "other species" similarly is increased from 74,249 mt to 77,314 mt. The amount of "other species" held in reserve is increased (to five percent of the revised OY) from 3,712 mt to 3,866 mt. The increase in DAH and reserve amounts for "other species" more than offsets the increase in OY; hence, the TALFF for "other species" is decreased, from 68,537 mt to 65,648 mt.

Lastly, the maximum sustainable yield (MSY) figures for sablefish in section 3 of the FMP and in Table I.1 of Annex I to the FMP are corrected to reflect accurately the MSY figures established for sablefish in section I.7.1 of Annex I.

The foregoing changes in OY, DAH, JVP, reserve, and TALFF for the species affected by Amendment 4 are summarized in the table below. This table will serve as notice of the changes to be effected by Amendment 4 in lieu of an amendment to the "TALFF table" which formerly was codified as Appendix 1 to 50 CFR 611.20, but which was removed by a final rule appearing at 47 FR 44264 (October 7, 1982).

Species	Species code	Areas	OY	DAH [1]	DAP	JVP	DNP	Reserve	TALFF
Pollock	701	Bering Sea [2]	1,000,000	74,500	10,000	64,000	500	50,000	875,500
Yellowfin sole	720		117,000	31,200	1,000	30,000	200	5,850	79,950
Other flatfish	129		61,000	11,200	1,000	10,000	200	3,050	46,750
Pacific cod	702		120,000	43,265	26,000	17,065	200	6,000	70,735
Atka mackerel	207		24,800	14,500	0	14,500		1,240	9,060
Other species [3]	499		77,314	7,800	1,400	6,000	400	3,866	65,648

[1] DAH = DAP + JVP + DNP.
[2] Bering Sea means fishing areas, I, II, and III in Figure 2, Appendix II of 50 CFR 611.9.
[3] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, octopus, and all other finfish and marine invertebrates except those listed in the table and "unallocated species." See § 611.93(b)(1)(ii) for the definition of "unallocated species."

2. Foreign fishing: management area limitations. The continental shelf between 170°00′ W. longitude and 172°00′ W. longitude is very narrow, making it impracticable to fish for groundfish in this area seaward of 12 nautical miles from the baseline used to measure the U.S. territorial sea. For this reason, Amendment 4 allows both foreign trawling and longlining between three and 12 nautical miles from the baseline in the area (1) bounded by 170°00′ W. longitude and 172°00′ W. longitude on the south side of the Aleutian Islands, and (2) bounded by 170°30′ W. longitude and 172°00′ W. longitude on the north side of the Aleutian Islands. In addition, Amendment 4 allows foreign longlining between three and 12 nautical miles from the baseline in the area bounded by 170°00′ W. longitude and 170°30′ W. longitude on the north side of the Aleutian Islands. Foreign trawling is prohibited in the latter area to avoid gear conflicts and grounds-preemption problems between U.S. crab fishermen who fish this area and foreign trawl fleets.

Finally, one set of coordinates for the Winter Halibut Savings area is modified to conform with coordinates specified for that area in the preliminary fishery managment plan for this fishery.

3. *Management authority of the Secretary.* One portion of Amendment 4 would establish for this FMP the authority of the Secretary to issue field orders adjusting time and area closures for conservation and management reasons. This authority would allow the Secretary to take immediate action and adjust fishing areas or seasons if (1) the condition of any groundfish or prohibited species stock in any part of the management area is substantially different from the condition anticipated in the FMP; and (2) the difference reasonably requires a modification of time or area limitations to adequately conserve and manage any groundfish of prohibited species stock. NOAA supports the purpose of this portion of the amendment; it is consistent with NMFS policy of encouraging flexibility in fishery management plans. Several concerns with the proposed field order authority, however, indicate that it should not be approved in its present form. First, discrepancies between the specification of field order authority and the rationale for that authority raise ambiguities as to what the Council intended. In addition, further analyses of the regulatory impacts of the field order portion of the amendment need to be completed. These impacts must be analyzed to satisfy requirements of the National Environmental Policy Act and NMFS guidelines for framework measures under the Magnuson Act, and to ensure that inseason actions taken by field order are in compliance with Executive Order 12291. Finally, while the field order authority described in Amendment 4 specifies the circumstances in which a management adjustment would be made, it does not specify (or specifies inadequately) the procedures, limits, and types of responses that could be made—which are necessary to ensure that the Secretary's actions are limited to implementing the Council's FMP.

For these reasons, this portion of Amendment 4 cannot be approved.

Classification

The Assistant Administrator has determined that the approved portion of this amendment to the FMP Is necessary and appropriate for the conservation and management of fishery resources in the Bering Sea and Aleutian Islands area, and that the action is consistent with the national standards of the Magnuson Fishery Conservation and Management Act (Magnuson Act), other provisions of the Magnuson Act, and othe rapplicable law. He has, therefore, under sections 304 and 305 of the Magnuson Act, approved all of Amendment 4 except for that portion relating to the field order authority.

The Assistant Administrator has determined that Amendment 4 will not significantly affect the quality of the human environment. This determination was based on an environmental assessment that was filed with the Environmental Protection Agency on March 3, 1982. Accordingly, a supplement to the FEIS for the FMP is not required.

The Assistant Administrator also has determined that approval and implementation of this amendment will be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, as required by section 307(c) of the Coastal Zone Management Act of 1972 and its implementing regulations at 15 CFR Part 930, Subpart C.

The Administrator of NOAA has determined that this proposed rulemaking is not a major rule requiring a regulatory impact analysis under Executive Order 12291, since the sector of the U.S. fishing industry dealing in groundfish from the Bering Sea and Aleutian Islands is to small for the proposed actions to have a significant effect on the economy. By providing additional amounts of groundfish for domestic harvest, Amendment 4 will beneficially affect the domestic groundfish fishery and encourage its development.

The Administrator has determined that the rule to implement Amendment 4 will have a significant economic impact upon a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The following is a summary of the initial regulatory flexibility analysis.

The proposed increases in JVP amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species" would result in an 87,150 mt increase in the total JVP available to domestic fishermen. The mean ex-vessel value of these species to domestic fishermen fishing for joint venture operations has recently been about $141 per mt. Assuming that all of the 87,150 mt increase in JVP is harvested, the additional total gross revenues to the 30 U.S. vessels that are projected to deliver groundfish to foreign processors in 1982 could approach $12.3 million.

The proposed increases in JVP amounts for pollock, yellowfin sole, "other flatfishes," Atka mackerel, and "other species" would result in a corresponding decrease in the TALFF amounts for these species. If this amendment had been implemented earler in 1982, and assuming that all of the 87,150 mt decrease in the TALFF would have been harvested by foreign fishermen, the loss in revenue to the U.S. Treasury through foreign fishing fees assessed in 1982 on groundfish harvested by foreign fishermen would have approximately $1.7 million. This loss, however, would have been offset by the proposed 39,235 mt increase in TALFF for Pacific cod, a higher value species. Given the current poundage fee of $45 per mt of Pacific cod, and assuming that all of the increase in Pacific cod TALFF were harvested, the additional revenue to the U.S. Treasury would have approached $1.8 million, for a net increase of revenue to the U.S. Treasury of $100,000.

This proposed rulemaking does not contain a collection of information requirement or involve any collection of information within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 675

Fish, Fisheries, Reporting requirements.

Dated: November 30, 1982.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management Enforcement Division National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Parts 611 and 675 are proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Section 611.93 is amended by revising paragraphs (c)(2)(i) and (c)(3)(i) to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(c) * * *

(2) * * *

(i) Trawling by foreign vessels between 3 and 12 nautical miles from the baseline used to measure the territorial sea is allowed (A) at all times in the areas bounded by 170°00′ W. longitude and 172°00′W. longitude south of the Aleutian Islands and by 170°30′ W. longitude and 172°00′ W. longitude north of the Aleutian Islands; (B) from July 1 through December 31 on Petrel Bank; and (C) from May 1 through December 31 in other areas west of 178°30′ longitude. Petrel Bank is bordered by straight lines connecting the following coordinates in the order listed:

Latitude	*Longitude*
52°51′ N.	178°30′ W.
52°51′ N.	179°00′ E.
51°15′ N.	179°00′ E.
51°15′ N.	178°30′ W.
52°51′ N.	178°30′ W.

* * * * *

(3) * * *

(i) Longlining by foreign vessels between 3 and 12 nautical miles from the baseline used to measure the territorial sea is allowed west of 170°00′ W. longitude.

* * * * *

3. In addition to the amendments set forth above, § 611.93 is amended by removing the second set of coordinates, "52°40′ N. latitude, 170°00′ W. longitude," in paragraphs (c)(2)(ii)(C) and (c)(3)(ii), and inserting in their place "52°48′ N. latitude, 170°00′ W. longitude."

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for Part 675 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. Section 675.20 is amended by revising Table 1 to read as follows:

§ 675.20 General limitations.

* * * * *

TABLE 1.—BERING SEA AND ALEUTIAN ISLANDS FISHERY OPTIMUM YIELDS AND INITIAL DAHS, TALFFS, AND RESERVES

[In metric tons]

Reference: Species group	Subarea[1]	OY	Reserve	Initial DAH	Initial TALFF
Pollock:					
	Bering Sea	1,0001000	50,000	74,500	875,500
	Aleutians	100,000			100,000
Yellowfin sole		117,000	5,850	31,200	79,950
Turbots		90,000	4,500	1,075	84,425
Other flatfishes		61,000	3,050	11,200	46,750
Pacific cod		120,000	6,000	43,265	70,735
Pacific ocean perch:					
	Bering Sea	3,250	162	1,380	1,708
	Aleutians	7,500	375	1,380	5,745
Other rockfish		7,727	500	1,550	5,677
Sablefish:					
	Bering Sea	3,500	350	700	2,450
	Aleutians	1,500	150	700	650
Atka mackerel		24,800	1,240	14,500	9,450
Squid		10,000	500	50	9,450
Other species		77,314	3,866	7,800	65,648
Total		1,623,591	76,543	189,300	1,357,748

* * * * * * * *

[1]Bering Sea = Equal Fishing Areas I, II, and III combined. Aleutians = Fishing Area IV. Includes territorial waters.

[FR Doc. 82-33104 Filed 12-3-82: 8:45 am]

BILLING CODE 3910-22-M

Notices

Federal Register
Vol. 47, No. 234
Monday, December 6, 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.

OFFICE OF THE FEDERAL INSPECTOR

For the Alaska Natural Gas Transportation System

[Order No. 3]

Tentative Determination Regarding Northern Border Pipeline Company Rate Base; Invitation for Comments

Issued December 3, 1982.

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Tentative determination.

EFFECTIVE DATE: December 3, 1982.

FOR FURTHER INFORMATION, CONTACT: J. Richard Berman, Office of Audit and Cost Analysis, Office of the Federal Inspector, ANGTS, Room 2319, 1200 Pennsylvania Avenue, N.W., Washington, DC 20044; (202) 275–1153.

SUPPLEMENTARY INFORMATION: The Federal Inspector has received from the Director of the Office of Audit and Cost Analysis (the Director) a Tentative Determination on the expenditures (including Allowance for Funds Used During Construction) incurred by Northern Border Pipeline Company related to the Eastern Leg of the Alaska Natural Gas Transportation System (ANGTS) during the period, January 1, 1980 through March 31, 1982.[1] Copies of the Tentative Determination can be obtained from the Office of the Federal Inspector (OFI) at the indicated address.

The Director's Tentative Determination is based on five separate audit reports: A Federal Energy Regulatory Commission (FERC) report covering the period January 1, 1980 through December 31, 1980, and four Main Hurdman (the Office of the Federal Inspector's audit contractor) reports covering the period January 1, 1981 through March 31, 1982. The Director's Tentative Determination also relies on OFI staff reviews of the sponsor's financial and management control systems and the informal comments of the sponsors on the various analyses and audit reports.

In accordance with established FERC procedures [2] and the OFI's Statement of Policy on General Standards and Procedures for Rate Base Audit and Approval for the ANGTS, (46 FR 51726) the Director tentatively determines Northern Border's rate base for the period in question. This includes the following findings: expenditures are properly assignable to the project and of a nature that would qualify the expenditures for inclusion in the rate base; the accounting used by the sponsors meets the Uniform System of Accounts and generally accepted accounting principles; the project sponsors are in compliance with other accounting and reporting regulations and requirements of the Natural Gas Act, the Decision and the certificate of public convenience and necessity; and the sponsor's management and cost control systems were in place and operating as planned during the period under review.

Northern Border's submitted Construction Work in Progress costs for the period under review totaled $1,020,034,000. The Tentative Determination approves $1,018,747,000 of this amount, including $110,035,000 for Allowance for Funds Used During Construction, for inclusion in rate base. The Tentative Determination also deals with the relationship between Northern Border and the Project Management Contractor, Northern Engineering International Company (NEICO), an affiliate of Northern Border's managing partner, and includes an evaluation of project costs attributable to NEICO.

Comments

(A) Within 30 days of the notice date any interested person should comment as to why, or why not, for purposes of rate base determination pursuant to OFI Order No. 3,[3] the attached tentative determination should be made final.

(B) No later than 45 days after the notice date, any interested person may submit comments in response to any comment submitted within the 30-day period provided by paragraph (A) above.

Dated: December 3, 1982.

Peter L. Cook,

Deputy Federal Inspector.

[FR Doc. 82-33285 Filed 12-3-82; 8:45 am]

BILLING CODE 6119-01-M

[1] ANGTS was authorized by the Alaska Natural Gas Transportation Act (ANGTA) 15 U.S.C. 719–7190 and the *President's Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Executive Office of the President, Energy Policy and Planning, September 1977) as enacted into law by H.J. Res. 621, Pub. L. 95–108 (November 2, 1977). The FERC by an order issued December 16, 1977, in Docket No. CP78–123, *et al.*, issued conditional certificates of public convenience and necessity to construct and operate the ANGTS.

[2] FERC Directive to the Office of the Chief Accountant, Administrative Order No. 4, dated April 18, 1981.

[3] 10 CFR, Chapter XV, Order No. 3, Statement of Policy on General Standards and Procedures for Rate Base Audit and Approval for the Alaska Natural Gas Transportation System, dated October 22, 1981.

CIVIL AERONAUTICS BOARD

Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Filed Under Subpart Q of the Board's Procedural Regulations; Weekly applications; Week ended November 26, 1982.

Subpart Q Applications

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

Date filed	Docket No	Description
Nov. 22, 1982	41110	Northwest Airlines, Inc., Minneapolis/St. Paul Int'l Airport, St. Paul, Minnesota 55111.
	xl	Application of Northwest Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its certificates of public convenience and necessity for Routes 140 and 3-F or for a new certificate or certificates so as to authorize it to perform scheduled foreign air transportation (of mail, passengers and property):
	xl	Between Los Angeles, California and the co-terminal points of Edmonton and Calgary, Alberta, Canada.
	xl	Conforming Applications, Motions to Modify Scope, and answers may be filed by December 20, 1982.
Nov. 22, 1982	41111	Northwest Airlines, Inc., Minneapolis/St. Paul Int'l Airport, St. Paul, Minnesota 55111.
	xl	Application of Northwest Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's procedural Regulations requests a new certificate of public convenience and necessity or for a amendment to its certificate for route 3-F and 140, authorizing Northwest to engage in the scheduled air transportation of persons, property and mail on an unrestricted basis between San Francisco, California, U.S.A., on the one hand, and Calgary and Edmonton, Alberta, Canada on the other.
	xl	Conforming applications, Motions to Modify Scope, and Answers may be filed by December 20, 1982.
Nov. 22, 1982	41117	Wright Air Lines, c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W. Suite 900 south, Washington, D.C. 20036.
	xl	Application of Wright Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to provide scheduled foreign air transportation of persons, property, and mail as follows: Between Erie, Pennsylvania and Toronto Ontario.
	xl	Conforming applications, Motions to Modify Scope, and Answers may be filed by December 22, 1982.
Nov. 26, 1982	40994	Unicorn Air, Ltd., c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007.
	xl	Amended Application of Unicorn Air, Ltd., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations attaches the additional information concerning Unicorn Air, Ltd and the services it proposes to operate which were specified in Order 82-9-121 deferring processing of this application.
	xl	Conforming Applications, Motions to Modify Scope, and Answers may be filed by December 27, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-33152 Filed 12-3-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40829]

Aeroamerica, Inc., A. Joel Eisenberg; Enforcement Proceeding; Cancellation of Hearing

Notice is hereby given that the hearing in the above-entitled matter assigned to commence on December 2, 1982 (47 FR 51778, November 17, 1982) is hereby cancelled.

Dated at Washington, D.C., December 1, 1982.

John M. Vittone,

Administrative Law Judge

[FR Doc. 82-33153 Filed 12-3-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40235]

Gulf Air Transport, Inc,; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause 82-11-128.

SUMMARY: The Board has tentatively decided to issue a certificate to Gulf Air Transport, Inc. authorizing it to engage in foreign charter air transportation of persons, property, and mail.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this action be taken as described in the order cited above, shall no later than December 22, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40235, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Gulf Air Transport, Inc. and the Departments of State and Transportation. A statement of objections must cite the docket number and must include a summary of testimony, statistical data or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and issue a certificate authorizing Gulf Air Transport, Inc. to engage in overseas and foreign charter air transportation of cargo.

To get a copy of the complete order, request it from the Civil Aeronautics Board, Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Don Hainbach, (202) 673-5035, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 26, 1982.

Phyllis T. Taylor,

Secretary.

[FR Doc. 82-33151 Filed 12-3-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40847]

Mid Pacific Airlines, Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 14, 1982, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., December 1, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-33150 Filed 12-3-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

District of Columbia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 3:00 p.m. and will end at 5:00 p.m., on December 22, 1982, at the Carnegie Library, University of the District of Columbia, Mt. Vernon Campus, Board of Trustees Room 204, 800 Mt. Vernon Place, N.W., Washington, DC 20008. The purpose of this meeting is to discuss the status of the housing opportunity project, hate group monitoring, subcommittee activity, program planning and a report on the National Conference of Chairpersons.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Walter E. Washington, 1025 Fifteenth Street, N.W., Washington, DC 20005, (202) 659-3300; or the Mid-Atlantic Regional Office, 2120 L Street, N.W., Room 510, Washington, DC 20037, (202) 254-6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 1, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-33170 Filed 12-3-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Fasteners From Japan; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain fasteners from Japan. The review covers the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined the amount of the aggregate net subsidy to be 0.15 percent of the f.o.b. invoice price of the merchandise. The Department considers this rate to be de minimis. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 6, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 29, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 53484) the final results of its last administrative review of the countervailing duty order on certain fasteners from Japan (42 FR 23147, May 6, 1977; 44 FR 31972, June 4, 1979) and announced its intent to conduct the next administrative review by the end of May 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are all fasteners currently classifiable under items 646.5400 and 646.5600, and non-metric fasteners currently classifiable under items 646.1700, 646.4000, 646.4100, 646.4920, 646.4940, 646.5100, 646.5300, 646.5800, 646.6020, 646.6040, 646.6320, 646.6340, 646.6500, 646.7200, 646.7400, 646.7500, 646.7600 and 646.7800 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1980 through December 31, 1980, and two programs found countervailable in the final determinations plus other lending programs that were included in our last review.

These programs are: (1) The deferral of income taxes on export earnings under the Overseas Market Development Reserve ("OMDR"), (2) benefits received under the "Temporary Measures Act for Small and Midsized Businesses With Regard to the High Yen Exchange Market" ("High Yen Law"), and (3) other loans given at preferential rates by the People's Finance Corporation, the Bank of Commerce and Industrial Cooperatives, the Small Business Finance Corporation, and the Japan Development Bank. We determined in our last administrative review that the benefits from one additional program, export promotion assistance provided by the Japanese External Trade Organization ("JETRO"), which had been previously held countervailable, were not subsidies within the meaning of the Tariff Act.

Analysis of Programs

(1) OMDR. The OMDR program is offered by the Japanese government to firms with a total capitalization of 500 million yen, or less. The program allows a firm the opportunity to set aside a portion of income earned on overseas operations. The amount set aside escapes taxation for upt to 5 years. Twenty percent of the amount set aside must be returned to taxable income each year, and the total amount must be returned by the end of the fifth year. We have treated the taxes owed on these amounts set aside as zero interest loans made by the government, and have calculated the benefit under the OMDR program to be 0.12 percent ad valorem.

(2) High Yen Law. During the period of review, the fastener industry took advantage of two of the four methods of assistance originally available under the High Yen Law, loans at preferential rates and deferment of repayment of those loans. The third method, the right to carry back current losses for up to three years in order to offset income, corporate, and local taxes paid in prior years, was terminated in 1979. The final method of assistance, special government credit guarantees, was not utilized by the fastener industry. We have calculated the aggregate benefit derived from the High Yen Law to be 0.03 percent ad valorem.

(3) Other Preferential Loan Programs. Based on information received from the Japanese government we find that there were no preferential loans given to the fastener industry during the period of review by the People's Finance Corporation, the Bank of Commerce and Industrial Cooperatives, the Small Business Finance Corporation or the Japan Development Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred by the programs cited above is 0.15 percent ad valorem. We consider this rate, since it is less than 0.5 percent ad valorem, to be de minimis.

Accordingly, the Department intends to instruct the Customs Service to liquidate shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980 without regard to countervailing duties.

Further, the Department intends to instruct the Customs Service to continue to waive the collection of a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 1, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-33169 Filed 12-3-82; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders; Litharge, Red Lead and Lead Stabilizers From Mexico

AGENCY: United States Department of commerce, International Trade Administration.

ACTION: Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders.

SUMMARY: We have determined 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 litharge, red lead and lead stabilizers as described in the "Scope of Investigations" section of this notice. The net bounty or grant is 3.73 percent ad valorem for each product.

EFFECTIVE DATE: December 6, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or 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:

Final Determinations and Final Orders

Based upon our investigations and in accordance with section 705(a) of the Tariff Act of 1930, as amended (the Act), we have determined that the government of Mexico provides certain benefits which constitute, bounties or grants within the meaning of section 303 of the Act to manufacturers, producers or exporters in Mexico of litharge, red lead and lead stabilizers, as described in the "Scope of Investigations" section of this notice. We have determined the net bounty or grant to be 3.73 percent ad valorem for each product.

Case History

On June 22, 1982, we received a petition from counsel for the Committee for Litharge, Red Lead and Lead Stabilizers, on behalf of the U.S. industry producing litharge, red lead and lead stabilizers. 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 in Mexico of litharge, red lead and lead stabilizers.

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and certain of the merchandise at issue here (litharge and red lead) is dutiable, the domestic industries are not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of these products cause or threaten material injury to the U.S. industries in question. Similarly, no injury determinations are required by the ITC with respect to the merchandise which is nondutiable (lead stabilizers including lead compounds not specifically provided for (NSPF) and pigments containing lead NSPF) because there are, within the meaning of section 303(a)(2) of the Act, no "international obligations" which require such determinations for nondutiable merchandise from Mexico.

We reviewed the petition, and on July 12, 1982, determined that investigations should be initiated (47 FR 31717).

We presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. On August 30, 1982, we received a response to the questionnaire. The response provided information on the operations of three firms which exported litharge and red lead. No information was provided on the production, exportation, or provision of bounties or grants on lead stabilizers. Import statistics of the Department of Commerce show that there were imports of lead stabilizers from Mexico during the period for which we are measuring subsidization. On the basis of the best information available, we are determining that lead stabilizers received the same benefits as the other products under investigation.

The government of Mexico requested that its response to our questionnaire be classified pursuant to Executive Order 12356 (effective August 1, 1982). In a letter dated September 27, 1982, we declined to accept the response as classified confidential foreign government information and returned the response to the government of Mexico. On October 7, 1982, the Mexican government submitted a business confidential and a non-confidential version of its earlier response. No request for classification pursuant to Excutive Order 12356 was included.

On September 15, 1982, we issued our preliminary determinations in these investigations (47 FR 41607). These stated that the government of Mexico provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Act to manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers. The programs preliminarily determined to bestow countervailable benefits were the Certificates of Fiscal Promotion (CEPROFI) program and the preferential financing programs of the Fund for the Promotion of Mexican Manufactured Products (FOMEX) program.

Scope of Investigations

The merchandise covered by these investigations consists of litharge, red lead and lead stabilizers which includes lead compounds NSPF and pigments containing lead NSPF from Mexico. The imported merchandise is currently classifiable under the following Tariff Schedules of the United States (TSUS) numbers: litharge under TSUS number 473.52, red lead under TSUS number 473.56, lead compounds NSPF under TSUS number 419.04, and pigments containing lead NSPF under TSUS number 473.90.

The merchandise under investigation is also used in the manufacture of storage batteries, ceramics, plastics as a stabilizer, chemicals, protective coatings, sonar devices, and other special applications.

Pigmentos y Oxidos, S.A., Productos Industriales de Plomo, S.A., and Productos de Zinc y Plomo, S.A. are the known producers and exporters in Mexico of litharge and red lead which were exported to the United States. The period for which we are measuring subsidization is the first half of 1982.

Analysis of Programs

In its response, the government of Mexico provided data for the applicable periods. As discussed above, no information was provided on lead stabilizers.

Based upon our analysis of the petition, the response to our questionnaire, our verification and oral and written comments by interested parties, we determine the following.

I. Programs Determined To Confer Bounties or Grants

We have determined that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers under the programs listed below.

A. The CEPROFI Program

In 1979 the government of Mexico introduced a four-year National Industrial Development Plan (NIDP)

which sets forth broad economic goals for the country. Tax credits, which are called CEPROFIs, are used to promote the NIDP goals, which include increased employment, the promotion of regional decentralization, and industrial development particularly of small and medium-sized firms.

CEPROFI certificates are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. Certain CEPROFI certificates are granted for carrying out investments in "priority" industrial activities; others are available to all industries in equal terms. The amount of the CEPROFI is based upon the location of the activity, the number of jobs generated, the value of the investments in new plant and equipment, or the value of purchases of capital goods produced in Mexico.

The Mexican producers of the merchandise under investigation received two CEPROFI certificates during the period for which we are measuring subsidization. One of the CEPROFIs is granted for the purpose of improving environmental conditions and increasing employment at the company's facility in Monterrey. We consider this CEPROFI to be countervailable because it was obtained for a priority industrial activity in a particular region of Mexico. The other CEPROFI was granted for the acquisition of new Mexican-made capital goods. Since CEPROFI's for new Mexican-made capital goods are generally available to all industries on equal terms without regard to the region of the country or the industrial activity, we do not consider this type of CEPROFI provided for this purpose to be countervailable

The Department determines that the government of Mexico is providing bounties or grants to its manufacturers, producers and exporters of litharge, red lead and lead stabilizers under the CEPROFI program. We have allocated the countervailable CEPROFI benefits received in the first six months of 1982 over the total sales of the merchandise under investigation produced during that period, which results in a net subsidy of .01 percent *ad valorem* for each product.

B. Preferential Financing Programs

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. The financial institutions establish contracts for lines of credit with manfuacturers and exporters of merchandise.

The producers, manfuacturers, and exporters of litharge and red lead obtained loans from the Fund for the Promotion of Mexican Manufactured Products (FOMEX) for two purposes: pre-export (production) financing and export financing.

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 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. We found that the maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation. Some exporters received FOMEX loans at rates below the maximum rates.

We used as benchmarks for the commercial rate of interest in Mexico the national average commercial rate for comparable short-term peso or dollar-denominated loans, as applicable during the first half of 1982. We have determined that during the first six months of 1982, comparable peso-denominated loans were available at 46.95 percent, and comparable dollar-denominated loans were available at 18.80 percent. The peso rate was determined from information supplied by the Department of the Treasury and the dollar rate was determined from information supplied by the Federal Reserve Board.

For those FOMEX loans obtained by manufacturers during the period January 1, 1982–June 30, 1982, we computed the difference in interest rates between the FOMEX loans and that which would have been incurred had the loans been made at the benchmark commercial rates of interest. We allocated the amount of benefits for all pre-export FOMEX loans to all countries for the merchandise under investigation over the value of total exports of the subject merchandise. The reason we allocated pre-export FOMEX loans over total exports rather than over exports to the United States was because the loans were for exports to all countries and the companies could not show which loans were associated with merchandise exported to the United States. We allocated the amount of benefit for export financing FOMEX loans to the United States for the merchandise under investigation over the value of exports to the United States of the subject merchandise during the same period.

We determine the net amount of the benefit for loans granted for pre-exports to be 1.92 percent *ad valorem* and the net amount of the benefit for export financing to be 1.80 percent *ad valorem*, for a total subsidy under the two programs of 3.72 percent *ad valorem* for each product.

II. Program Determined To Be Suspended and Not Used Recently

The 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 used, 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 Treasury to issue the CEDIs in the amount specified. The CEDIs are non-transferable and may be applied against a wide range of various 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 suspended the eligibility of the products under investigation for CEDI tax rebates by an executive order published on August 25, 1982, in the *Diario Oficial de la Federacion* (Official Gazette). The order abrogates prior executive orders which contained the lists of products eligible to recieve CEDI certificates. Suspension of the eligibility to apply for the CEDI was effective one day after publication of the executive order in the *Diario Oficial*.

Although exporters of the merchandise under investigation received benefits under the CEDI program during the first half of 1982, the CEDIs ceased to be available after August 25, 1982. Because the exporters used the CEDI certificates on a current basis, the litharge, red lead and lead stabilizers that were accorded benefits under this program are not likely to enter the United States on or after the

date of the suspension of liquidation of the merchandise. Therefore, although the CEDI program is countervailable, we are not setting a cash deposit rate. If this program were to be reactivated, the Department will review its application to respondents in the annual reviews under section 751 of the Act.

III. Petitioner's Comments

Comment 1

Counsel for the petitioner contends that a one-year temporary countervailing duty of 10 percent *ad valorem* should be imposed to offset advantages the Mexican producers received as a result of the CEDI program being in effect until August 25, 1982.

DOC Position

We verified that the government of Mexico suspended eligibility of the products under investigation for tax rebates by an executive order published in the Official Gazette on August 25, 1982. We also verified that the exporters used the CEDI certificates on a current basis. Therefore, the Department Concludes that the merchandise which was accorded benefits is not likely to enter the United States on or after the suspension of liquidation.

Comment 2

Counsel for the petitioner contends that the Mexican producers are supplied lead at an artificially established "Boletin price" which is below the U.S. lead price.

DOC Position

This allegation was not made in a timely manner permitting its thorough investigation and verification. Accordingly, we cannot consider this issue until we conduct administrative reviews under section 751 of the Act. However, normally, the mere allegation that a product in a foreign country is being sold for a lower price than the price for a similar product sold in the United States does not demonstrate that a bounty or grant is being provided.

IV. Respondent's Comments

Comment 1

Counsel for the three Mexican companies which comprise the Mexican lead oxide industry argues that the appropriate market rate for comparison with FOMEX pre-export and export financing is the actual cost to the industry of non-FOMEX short-term credits denominated in dollars. Because the companies used dollar-denominated loans for the majority of their short-term loans, counsel argues that a nationwide peso rate is not appropriate to measure the true benefit received by the companies. Counsel cites *Michelin Tire Corp.* v. *United States*, 3 ITRD 1177 (C.I.T. 1981); for the proposition that the countervailing duty law is concerned only with offsetting the true benefit received by a party from preferential financing programs and that a company with the ability to obtain financing from international sources would not necessarily receive a bounty from a loan which appeared preferential within a particular national financial market.

DOC Position

We have used as a benchmark for pre-export loans a comparable countrywide peso loan rate of 46.95 percent and as a benchmark for export loans a comparable countrywide dollar-denominated loan rate of 18.80 percent. Since FOMEX is part of a broad, national lending program, we use national average commercial interest rates on comparable loans as our benchmarks rather than the rates at which individual companies received loans. Loans in the national currency of the country are not considered comparable to loans in a foreign currency. Accordingly, we have considered pre-export and export financing FOMEX loans separately.

Comment 2

Counsel argues that the actual effective rate of interest on 60-day FOMEX export shipments is 6.36 percent rather than 6 percent because the Rules of Operation of FOMEX require that interest on export shipment loans be paid in advance. The effictive interest rate on the loan is thus increased by payment of the interest charge in advance.

DOC Position

It is typical in Mexico for interest on commercial loans to be paid in advence. Since the benchmark for dollar-denominated loans is based upon the same terms, the net effect is the same as before any adjustment.

Comment 3

Counsel alleges that the FOMEX rate for export financing should be increased by the fee for commercial risk insurance because the FOMEX Rules of Operation list as a requirement that exporter have an insurance policy to cover the credit issued by a company authorized to insure against commercial risks. Counsel states that his clients would not carry such commercial risk insurance in the absence of the FOMEX requirement.

DOC Position

It is common commercial practice in Mexico for exporters to obtain commercial risk insurance on their shipments to the United States. While banks may not, per se, explicitly require such insurance as a condition to receipt of a commercial export loan, it is reasonable to expect that the terms would be adjusted accordingly.

The Department has no evidence to indicate that exporters of this merchandise: (a) Do not normally obtain commercial risk insurance for their non-FOMEX export loans, or (b) that the terms for obtaining a commercial export loan would not be adjusted to reflect the fact that the shipments are uninsured.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturers' operations and records. In certain cases where no information was provided, we used best information available as discussed in the notice.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). No request for a public hearing was received in these investigations. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative countervailing duty determinations shall remain in effect until further notice. The net bounty or grant is 3.73 percent *ad valorem*. We are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered on or after the date of publication of this notice in the **Federal Register**. Although the net bounty or grant is larger than the 3.389 percent ad valorem bounty or grant preliminarily determined to be countervailable, section 707 of the Act provides that the difference between the deposit of an estimated countervailing duty and the final assessed duty under a countervailing duty order shall be disregarded for entries of merchandise entered, or withdrawn from warehouse, for consumption prior to the date of publication of this notice.

The Department intends to conduct administrative reviews within 12 months of the publication of these determinations as provided in section 751 of the Act.

This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671e).

Dated: November 29, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-33168 Filed 12-3-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Taiwan Under a New Agreement

November 30, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing the import restraint levels for certain cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982, under a new agreement.

SUMMARY: On November 18, 1982 representatives of the American Institute in Taiwan and the Coordination council for North American Affairs signed an agreement concerning cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan, and exported during the six year period beginning on January 1, 1982 and extending through December 31, 1987. The new agreement establishes specific ceilings, among other categories, for Categories 331, 333/334, 335, 338/339, 341, 347/348, 353/354/653/654, 435, 445/446, 604, 633/634/635, 638, 639, 640, 641, 645/646, 647, 648, and 659 for the agreement year which began on January 1, 1982. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in Categories 331, 333/334, 335, 338/339, 341, 347/348, 353/354/653/654, 435, 445/446, 604, 633/634/635, 638, 639, 640, 641, 645/646, 647, 648, and 659 be limited to the designated amounts during the agreement year which began on January 1, 1982. In accordance with the flexibility provisions of the new agreement which provide for swing, special shift, and carryforward, among others, the base level for Category 640 includes a one percent adjustment for swing and the base levels for Categories 633/634/635, 645/646, and 659 have been adjusted to include four percent swing. In addition to the foregoing adjustments, the indicated flexibility adjustments are being applied to the levels for the categories listed below:

Category	Level dozen	Adjustment	Adjusted level dozen
338/339	551,144	Swing Special Shift	639,327
340	641,341	Swing Special Shift Carryforward	783,398
341	371,510	Swing	390,086
353/354/653/654	216,164	Swing out	82,831
633/634/635	1,497,759	Swing Carryforward	1,619,251
(633/634)	987,796	Swing Carryforward	1,067,921
(635)	734,626	Swing Carryforward	794,216
638	1,618,551	Swing Special Shift	1,829,653
639	5,033,179	Special Shift out	4,815,520
640	3,238,095	Swing Special Shift out	3,302,202
645/646	3,947,021	Swing out	3,922,588
659 pt. (T.S.U.S.A. Nos. 703.0500 and 703.1000).	[2]3,291,466	Special shift	[1]3,785,186
659 pt. (T.S.U.S.A. Nos. 730.1515)	[1]1,700,000	Special shift	[1]1,206,280

[1] Pounds.

(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)).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: December 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

November 30, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of December 14, 1981, as amended, which directed you to prohibit entry on certain specific categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral textile agreement of November 18, 1982, concerning cotton, wool, and man-made fiber textile products from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 5, 1977, you are directed to prohibit, effective on December 1, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in following categories, produced or manufactured in Taiwan, in excess of the indicated levels of restraint:

Category	12-month level of restraint [1]
331	470,653 dozen pairs.
333/334	59,206 dozen.
335	70,802 dozen.
338/339	639,327 dozen.
340	783,398 dozen.
341	390,086 dozen.
347/348	895,650 dozen of which not more than 439,883 dozen shall be in Cat. 347 and not more than 710,131 dozen shall be in Cat. 348.
353/354/653/654	82,831 dozen.
435	19,518 dozen.
445/446	125,658 dozen.
604	454,522 pounds.
633/634/635	1,619,251, dozen of which not more than 1,067,921 dozen shall be in Cat. 633/634 and not more than 794,216 dozen shall be in Cat. 635.
638	1,829,653 dozen.
639	4,815,520 dozen.
640	3,302,202 dozen.
641	700,225 dozen.
645/646	3,922,588 dozen.
647	2,343,469 dozen.
648	3,074,279 dozen.
659 pt.[2]	3,785,186 pounds.
659 pt.[3]	1,206,280 pounds.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.
[2] In Category 659, only T.S.U.S.A. numbers 703.0500 and 703.1000.
[3] In Category 659, only T.S.U.S.A. number 703.1515.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 647 and 659 pt.[1], which

[1] In Category 659, only T.S.U.S.A. number 703.1515.

have been exported to the United States on and after January 1, 1983 and extending through December 31, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Entries of textile products in Categories 647 and 659 pt.[1] which have been exported before January 1, 1982 shall not be subject to this directive.

Except as already so adjusted, the levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement on November 18, 1982, which provide, in part, that: (1) specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits and limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equivalent quantity in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be make to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. number was published in **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 actions taken with respect to the authorities of Taiwan and with respect to imports of cotton, wool, and man-made fiber textile products from Taiwan have been determined by the Committee of 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,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-33167 Filed 12-3-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

A. Johnson & Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on Consent Order.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") announces that it has adopted a Consent Order with A. Johnson & Company as a final order of the Department.

EFFECTIVE DATE: December 6, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadelphia, Pennsylvania 19102 (215-597-2633).

SUPPLEMENTARY INFORMATION: On September 27, 1982, Vol. 47, No. 187, **Federal Register** 42433-42434, the ERA published a notice in the **Federal Register** that it had executed a Proposed Consent Order with A. Johnson & Company ("Johnson") on September 7, 1982, which would not become effective sooner than thirty (30) days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the Proposed Consent Order.

As the notice of September 27, 1982 stated, the remedial aspect of the Proposed Consent Order required Johnson to issue credit memoranda in the amount of $2,050,000 to stated residual fuel end users who purchased from Johnson's subsidiary C.H. Sprague & Son Company during the period October 1, 1973 through December 31, 1974. The Proposed Consent Order provided other pertinent details, including a confidential Appendix A listing the customers, alleged overcharge and amount of credit memo. Those customers are located in the New England area.

Only one comment about the Proposed Consent Order was received, on behalf of the State of Oregon. The comment did not criticize any aspect of the Proposed Consent Order except the form of relief. The comment suggested that consistent with the commentator's views expressed in other, supposedly similar, cases, the states should be the recipients of certain funds obtained by the Department of Energy in consent orders. While the states may be recipients of relief in appropriate cases such as when end users cannot be identified, the comment made no indication of why this particular Proposed Consent Order was similar to any other case. Indeed, the Proposed Consent Order identifies the particular end user customers to receive credit memoranda. There is no indication of involvement by purchase of residual fuel from C. H. Sprague by the State of Oregon or any end user located in Oregon from October 1, 1973 through December 31, 1974.

The Proposed Consent Order is therefore made final and effective on the date of publication of this Notice.

Issued in Philadelphia, Pennsylvania on this 19th day of November, 1982.

Robert J. McKee, Jr,

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 33111- Filed 12-3-82; 8:45 am]

BILLING CODE 6450-01-M

Gary Energy Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Gary Energy Corporation (Gary) of Englewood, Colorado. This Proposed Remedial Order charges Gary with pricing violations in the amount of $703,693 connected with the sale of natural gas liquids and natural gas liquid products from its natural gas processing plants at prices in excess of those permitted by 10 CFR Part 212, Subparts E and F during the time period September 1, 1973 through August 31, 1976.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Ben L. Lemos, Director, Dallas Field Office, Economic Regulatory Administration, U.S. Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7401. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave., N. W., Room 3426, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 18th day of November, 1982.

Ben L. Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 82-33110 Filed 12-3-82; 8:45 am]

BILLING CODE 6450-01-M

[Case No. 640C00409]

Jack W. Grigsby d/b/a Grigsby Oil & Gas; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Jack W. Grigsby d/b/a Grigsby Oil and Gas (Grigsby), 1108 Commercial National Bank Building, Shreveport, Louisiana 71101. This Proposed Remedial Order charges Grigsby with allocation and price violations in the amount of $864,017.37 plus interest, connected with its sales of crude oil during the period June 1974 through December 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 660, Houston, Texas 77002.

Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 16th day of November 1982.

Sandra K. Webb,

Houston Field Office, Economic Regulatory Administration.

[FR Doc. 82-33112 Filed 12-3-82; 8:45 am]

BILLING CODE 6450-01-M

T&M Petroleum Corp., et. al.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to T&M Petroleum Corporation, Old Antler Corporation and Ted R. Adkins of Longview, Texas. This Proposed Remedial Order alleges pricing violations in the amount of $1,904,046.16 plus interest in connnection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L during the time period September 1979 through November 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Deputy Director, Crude Reseller Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 206.193.

Issued in Dallas, Texas, on the 15th day of November, 1982.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 82-33109 Filed 12-3-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Monthly Power Plant Report; Form EIA-759

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of the Revision of the Form EIA-759 and Solicitation of Comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) has carefully considered the responses to the "Monthly Power Plant Report," (**Federal Register**, Vol. 47, No. 119, June 21, 1982, pp. 26691-26694). This published notice indicated the intent to begin collecting unit-level data for all generating units with an installed nameplate capacity of greater than or equal to 50 megawatts, and the intent to begin collecting gross generation and plant service load rather than net generation.

The EIA received 27 responses to the **Federal Register** Notice published on June 21, 1982. All but one response to the EIA proposal were negative with the major concern being an incease in respondent burden. The EIA carefully weighed the responses in conjunction with its data requirements and determined that the respondents truly demonstrated that burden would be increased. In an effort to reduce both the time and cost involved, the EIA, in careful consideration of industry's responses, is withdrawing this proposal.

A new data collection form for the EIA-759 has been developed to incorporate minor changes that will not increase respondent burden but will make needed improvements in the data collection system. These changes include better instructions and definitions; provisions for collecting wind power, solar power, and other new technologies; and the addition of a comment section and a signature block. The form will be printed on sheets that are 11 inches by 14 inches to provide better readability and permit the printing of definitions.

DATES: January 5, 1983.

ADDRESSES: Comments must be sent to Ms. Carol L. French at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: Ms. Carol L. French (EI-541), Energy Information Administration, Department of Energy, Mail Station: 2F-021, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-5311.

Issued in Washington, D.C., November 30, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

BILLING CODE 6450-01-M

MONTHLY POWER PLANT REPORT

U.S. Department of Energy
Energy Information Administration
Form EIA-759

This report is mandatory under Public Law 93-275. Failure to respond may result in criminal fines, civil penalties, and other sanctions as provided by law. Data reported on EIA-759 are not considered to be confidential.

Form Approved
OMB No.
Approval Expires

Signature of the Certifying Official: _____
Title: _____
Contact: _____
Phone: _____

Instructions: See back of form for detailed instructions. Please submit by the 10th of the month. Verify all preprinted information and correct if required. Submit two copies of each page. For more information call: at:

REPORT FOR

→ PLEASE RETURN THE TWO WHITE COPIES BEFORE THE 10TH OF THE MONTH ←

PLANT NAME AND IDENTIFICATION NUMBER	PRIME MOVER TYPE AND FUEL TYPE	MAXIMUM INSTALLED NAMEPLATE CAPACITY KILOWATTS	NET GENERATION KILOWATT HOURS	FUEL FOR GENERATION INCLUDING STANDBY SERVICE (NEAREST SHORT TONS, 42 GAL. BBL; Mcf)	
				CONSUMED DURING MONTH	STOCKS END OF MONTH

→ PLEASE REPORT CAPACITY CHANGES—SEE INSTRUCTION D. ON BACK OF FORM FOR INFORMATION VERIFICATION ←

COMMENTS

Form EIA-759

EIA (TWO WHITE COPIES) — RESPONDENT (YELLOW COPY)

BILLING CODE 6450-01-C

Instructions for the Monthly Power Plant Report

A. Purpose

Form EIA–759 is designed to collect information from all U.S. electric utilities on electric generation, fuel consumption, and end-of-month fuel stock. This report is required by the Energy Information Administration (EIA) to carry out its responsibilities in accordance with Section 13 of the Federal Energy Administration Act of 1974 (Public Law 93–275).

B. Who Shall Submit

The Form EIA–759 shall be submitted by all U.S. electric utilities engaged in the production of electric power for public use. U.S. electric utilities include all investor-owned companies, municipals, cooperatives, power districts and state projects, and government-owned facilities operated in the 50 States and the District of Columbia.

C. Where To Submit

The two white copies of the Form EIA–759 must be returned no later than ten (10) days after the end of each month in the business reply envelope provided with the form or mailed to: U.S. Department of Energy, Energy Information Administration, EI–41, Mail Station: Forstl BF–118 (Form EIA–759), Washington, D.C. 20585.

The yellow copy is for your files. Requests for further information, additional forms, or business reply envelopes may be directed to the above address; alternatively, you may call the telephone number printed on the front side of this form under "Instructions."

D. Information Verification

All information provided in this form, including all preprinted information, must be true and accurate. If preprinted information at the top of the form (including utility name and address, contact, and phone number) is incorrect, draw a line through the incorrect entry, and provide the correct information. If preprinted information on the data lines (including plant name and identification number, prime mover type, fuel type, and maximum nameplate installed capacity) is incorrect, draw a line through the incorrect entry and enter the correct number(s) in the Comments Section at the bottom of the page, with an explanation. For capacity changes, please show details by unit name or number, with the reason(s) for the change and the status of that unit. If additional space is needed, please provide the information on a blank sheet of paper and attach it to the form.

E. Definitions

For reporting purposes, the following definitions should be used:

Cogeneration Prime Mover: A prime mover that produces electric energy and any other form of useful energy (such as steam, exhaust gas, or heat) which is used for industrial, commercial, or space heating purposes. The reported fuel consumption for a cogeneration prime mover should be only that portion of the total fuel consumption which is attributed to the generation of electric energy.

Combined Cycle Prime Mover: A prime mover that can be either gas turbine or steam. Electricity is generated in a process whereby one or more combustion turbines have exhaust gas that flows to a fired or unfired heat exchanger (waste heat boiler). Generation and fuel consumption must be reported separately for the two combined cycle prime mover types, gas turbine and steam.

Comments: Explanatory information, additions, deletions, or corrections.

Contact: Person in charge of completing the form.

Fuel Consumption: Amount of fuel used in generating electric energy, including fuel consumed for providing standby service, and oil or gas used for start-up and/or flame stabilization of steam-electric plants. For cases where multiple fuels are used, a separate line on the data collection form must be used for each type of fuel. For the hydroelectric pumped storage prime mover, report energy for pumping in kwh.

Fuel Stock: A supply of fuel accumulated for future use, including coal, oil, and petroleum coke stocks at the plant site, in coal cars or barges at the plant site, and stocks held in central storage yards. Fuel stock quantity should include all fuel stock at the end of the month. If fuel stock quantities cannot be assigned to plants because stock is held in central storage, a central storage site should be indicated in the Comments Section. In subsequent months, the central storage site will be preprinted.

Fuel Type: For reporting purposes, the allowable fuel types are as follows: Anthracite Coal, Bituminous Coal, Coal-Oil Mixture, Electricity (hydroelectric pumping energy), Heavy Oil (fuel oil nos. 4, 5, and 6, crude, and topped crude), Lignite Coal, Light Oil (fuel oil nos. 1 and 2, kerosene, and jet fuel), Natural Gas, Other Gas, Petroleum Coke, Refuse, Waste Heat (without supplemental firing), Wood, Other, Not Applicable (i.e., used for nuclear, hydroelectric, geothermal, etc.).

Maximum Installed Nameplate Capacity: The maximum installed nameplate rating expressed in kilowatts of the generator(s) associated with a prime mover. The kilowatt capacity of each prime mover should represent the manufacturer's maximum generator nameplate rating total at the end of the reporting month, exclusive of auxiliary or house generators. When a generator nameplate shows two or more kilowatt ratings, use the maximum kilowatt rating. If the maximum installed nameplate capacity is not given, use the KVA times the power factor. Do not use the maximum achieved capacity of the generator.

Net Generation: The total amount of electric energy produced, less use for plant operation or auxiliary equipment, expressed in kilowatthours. For pumpted storage plants, the energy required for pumping is subtracted from the gross generation.

Phone: The telephone number of the contact person to whom questions about the data may be addressed.

Plant Identification Number: The number assigned to the plant by the DOE person responsible for the form.

Plant Name: The name assigned to the plant by the utility.

Prime Mover: The engine, turbine, water wheel, or similar machine which drives an electric generator. For reporting purposes, prime mover represents the aggregation of all like equipment within a plant. The allowable prime mover types are as follows: Compressed Air Energy Storage, Fuel Cell, Gas Turbine, Gas Turbine Combined Cycle, Gas Turbine—Steam (Single Generator), Hydroelectric, Hydroelectric Pumped Storage, Internal Combustion, Solar Photovoltaic, Solar Steam, Steam, Steam Cogeneration, Steam Combined Cycle, Steam Geothermal, Steam Nuclear, Wind, Other.

Signature: Signature of person designated by the utility to certify the accuray of the reported data.

Title: Title of the person signing this form (e.g., President, etc.).

[FR Doc. 82–33113 Filed 12–3–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER82–853–000 and ER82–854–000]

Appalachian Power Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Consolidating Dockets, and Establishing Hearing Procedures

Issued: November 30, 1982.

On September 30, 1982, Appalachian Power Company (APCo) tendered for filing increased rates for service to fifteen wholesale customers in the States of Virginia and West Virginia (Docket No. ER82–853–000).[1] The revised rates would increase jurisdictional revenues by approximately $942,000, based on the twelve-month test period ending June 30, 1982. APCo requests that the proposed rates become effective on December 1, 1982, subject to no more than a one day suspension.

APCo concurrently tendered for filing (Docket No. ER82–854–000) increased rates for service to its affiliate, Kingsport Power Company (Kingsport). These rates would increase revenues by about $666,000, during the test period. APCo also requests that the rates to Kingsport become effective on December 1, 1982.

Notices of APCo's filings were published in the **Federal Register**, with comments due on or before October 26, 1982. The Virginia Cities of Bedford, Danville, Martinsville, Radford, Richlands, and Salem, and the Virginia Polytechnic Insititute and State University (Virginia Customers) jointly filed a timely motion to intervene and protest in Docket No. ER82–853–000. They request that APCo's filing be suspended for five months, citing

[1] *See Attachment A for rate schedule designations.*

changes in the claimed rate of return and APCo's inclusion of undistributed subsidiary earnings in its capital structure. The Tennessee Public Service Commission filed a timely notice of intervention in Docket No ER82–584–000 and the Public Service Commission of West Virginia filed an untimely notice of intervention in Docket No. ER82–853–000. Neither of these notices raises any particular substantive issues.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely pleadings serve to make the Tennessee Commission and the Virginia Customers parties to this proceeding. Given the early stages of this proceeding and as a matter of comity, we shall permit the West Virginia Commission to intervene Several days out of time.

Our preliminary examination of APCo's proposed rates indicates that they have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

We recently explained the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), noting that where our preliminary examination indicates that revised rates may be unjust and unreasonable and may yield substantially excessive revenues, as described in *West Texas*, we will ordinarily suspend the rates for a period of five months. Because our preliminary review suggests that APCo's proposed rates may produce substantially excessive revenues, we shall suspend the rates for five months, to become effective on May 1, 1983, subject to refund.

Inasmuch as common questions of law and fact may be presented in Docket Nos. ER83–853–000 and ER 82–854–000, we shall consolidate those dockets for purposes of hearing and decision.

As a final matter, we note that APCo has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, the instant filing reflects a normalization method of accounting for all post–1980 property additions, APCo's cost of service correctly reflects the effects of normalization, and APCo's submittal satisfies the requirements of the Economic Recovery Tax Act of 1981.

The Commission orders: (A) APCo's proposed rates are hereby accepted for filing and suspended for five months from the proposed effective date, to become effective, subject to refund, on May 1, 1983.

(B) The West Virginia Commission's untimely motion to intervene is hereby granted subject to the Commission's Rules of Practice and Procedure.

(C) Pursuant to the authority contained in and subject to the jurisidiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of APCo's rates.

(D) Docket Nos. ER82–853–000 and ER82–854–000 are hereby consolidated for purposes of hearing and decision.

(E) The Commission staff shall serve top sheets in this proceeding on or before December 8, 1982.

(F) A Presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (Except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Attachment A—Appalachian Power Company; Rate Schedule Designations

Filed: September 30, 1982.
Instrument: Rate and Fuel Clause, respectively.

Designation and Other Party

(1) *Docket No. ER82–854–000*, Supplement No. 11 to Rate Schedule FPC No. 23 (Supersedes Supplement No. 9), Kingsport Power Company
(2) Supplement No. 12 to Rate Schedule FPC No. 23 (Supersedes Supplement No. 10)
(3) *Docket No. ER82–853–000*, Supplement No. 7 to Rate Schedule FPC No. 96 (Supersedes Supplement No. 5), City of Danville
(4) Supplement No. 8 to Rate Schedule FPC No. 96 (Supersedes Supplement No. 6)
(5) Supplement No. 11 to Rate Schedule FPC No. 76 (Supersedes Supplement No. 9), City of Martinsville
(6) Supplement No. 12 to Rate Schedule FPC No. 76 (Supersedes Supplement No. 10)
(7) Supplement No. 11 to Rate Schedule FPC No. 78 (Supersedes Supplement No. 9), Black Diamond Power Company (Elkhurst)
(8) Supplement No. 12 to Rate Schedule FPC No. 78 (Supersedes Supplement No. 10)
(9) Supplement No. 11 to Rate Schedule FPC No. 79 (Supersedes Supplement No. 9), Black Diamond Power Comapny (East Hartland)
(10) Supplement No. 12 to Rate Schedule FPC No. 79 (Supersedes Supplement No. 10)
(11) Supplement No. 11 to Rate Schedule FPC No. 80 (Supersedes Supplement No. 9), Black Diamond Power Company (Sophia)
(12) Supplement No. 12 to Rate Schedule FPC No. 80 (Supersedes Supplement No. 10)
(13) Supplement No. 11 to Rate Schedule FPC No. 81 (Supersedes Supplement No. 9), Chesapeake Light & Water Company
(14) Supplement No. 12 to Rate Schedule FPC No. 81 (Supersedes Supplement No. 10)
(15) Supplement No. 11 to Rate Schedule FPC No. 82 (Supersedes Supplement No. 9), Elk Power Company
(16) Supplement No. 12 to Rate Schedule FPC No. 82 (Supersedes Supplement No. 10)
(17) Supplement No. 3 to Rate Schedule FERC No. 97 (Supersedes Supplement No. 1), Elk Power Company (Reed's Fork)
(18) Supplement No. 4 to Rate Schedule FERC No. 97 (Supersedes Supplement No. 2)
(19) Supplement No. 11 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 9), Elkhorn Public Service Company (Elkhorn)
(20) Supplement No. 12 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 10)
(21) Supplement No. 11 to Rate Schedule FPC No. 84 (Supersedes Supplement No. 9), Elkhorn Public Service Company (Crozier)
(22) Supplement No. 12 to Rate Schedule FPC No. 84 (Supersedes Supplement No. 10)
(23) Supplement No. 11 to Rate Schedule FPC No. 85 (Supersedes Supplement No. 9), Kimball Light & Water Company
(24) Supplement No. 12 to Rate Schedule FPC No. 85 (Supersedes Supplement No. 10)
(25) Supplement No. 11 to Rate Schedule FPC No. 87 (Supersedes Supplement No. 9), United Light & Power Company
(26) Supplement No. 12 to Rate Schedule FPC No. 87 (Supersedes Supplement No. 10)
(27) Supplement No. 11 to Rate Schedule FPC No. 88 (Supersedes Supplement No. 9), Union Power Company (Rhodell)
(28) Supplement No. 12 to Rate Schedule FPC No. 88 (Supersedes Supplement No. 10)
(29) Supplement No. 11 to Rate Schedule FPC No. 89 (Supersedes Supplement No. 9), Union Power Company (Mullens)
(30) Supplement No. 12 to Rate Schedule FPC No. 89 (Supersedes Supplement No. 10)
(31) Supplement No. 11 to Rate Schedule FPC No. 90 (Supersedes Supplement No. 9), War Light & Power Company
(32) Supplement No. 12 to Rate Schedule FPC No. 90 (Supersedes Supplement No. 10)
(33) Supplement No. 11 to Rate Schedule FPC No. 92 (Supersedes Supplement No. 9), City of Bedford
(34) Supplement No. 12 to Rate Schedule FPC No. 92 (Supersedes Supplement No. 10)
(35) Supplement No. 11 to Rate Schedule FERC No. 93 (Supersedes Supplement No. 9), City of Radford
(36) Supplement No. 12 to Rate Schedule FERC No. 93 (Supersedes Supplement No. 10)

(37) Supplement No. 11 to Rate Schedule FERC No. 95 (Supersedes Supplement No. 9), City of Salem
(38) Supplement No. 12 to Rate Schedule FERC No. 95 (Supersedes Supplement No. 10)
(39) Supplement No. 14 to Rate Schedule FPC No. 54 (Supersedes Supplement No. 12), Town of Richland
(40) Supplement No. 15 to Rate Schedule FPC No. 54 (Supersedes Supplement No. 13)
(41) Supplement No. 14 to Rate Schedule FPC No. 57 (Supersedes Supplement No. 12), Virginia Polytechnic Institute
(42) Supplement No. 15 to Rate Schedule FPC No. 57 (Supersedes Supplement No. 13)

[FR Doc. 82-33158 Filed 12-3-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CI79-462-001, et al.]

Cities Service Co.; Applications To Amend Certificates To Establish Entitlement To Section 109 Price [1]

November 29, 1982.

Take notice that each of the Applications listed herein has filed a petition to amend certificate pursuant to Section 7 of the Natural Gas Act to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd* v. *FERC*, 649 F 2d. 376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

An person desiring to be heard or to make any protest with reference to said applications should on or before December 10, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
CI79-462-001, Nov. 15, 1982	Cities Service Company	Michigan Wisconsin Pipe Line Company	(1)	
CI79-541-001, Nov. 15, 1982	do	do	(1)	
CI80-310-001, Nov. 15, 1982	do	Northern Natural Gas Company	(1)	
CI80-422-001, Nov. 15, 1982	do	Michigan Wisconsin Pipe Line Company	(1)	
CI80-471-001, Nov. 15, 1982	do	Tennessee Gas Pipeline Company	(1)	
CI81-5-001, Nov. 15, 1982	do	Southern Natural Gas Company	(1)	
CI81-31-003, Nov. 15, 1982	do	El Paso Natural Gas Company	(1)	
CI81-44-001, Nov. 15, 1982	do	Texas Eastern Transmission Corporation	(1)	
CI81-202-001, Nov. 15, 1982	do	Tennessee Gas Pipeline Company	(1)	
CI81-300-001, Nov. 15, 1982	do	Transcontinental Gas Pipe Line Corporation	(1)	
CI81-353-001, Nov. 15, 1982	do	Sea Robin Pipeline Company	(1)	
CI82-204-003, Nov. 15, 1982	do	Trunkline Gas Company	(1)	

[1] Applicant proposes to amend certificate to establish Applicant's entitlement to collect section 109 price consistent with court order issued in *Tenneco Exploration, Ltd.* v. *FERC*, 649 F 2d. 376.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 82-33159 Filed 12-3-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-67-000]

Consumers Power Co.; Application

December 1, 1982.

Take notice that on November 5, 1982, Consumers Power Company (Applicant), 212 West Michigian Avenue, Jackson, Michigan, 49201, filed in Docket No. CP83-67-000, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity or, in the alternative, approval pursuant to Section 311 of the Natural Gas Policy Act of 1978 and Section 284.127 of the Commission's Regulations, authorizing the transportation and storage of natural gas for Kansas Power and Light Company (KP&L) and for a declaration that the above mentioned service would not affect Applicant's exemption pursuant to Section 1(c) of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Applicant states that since June 15, 1982, it has been providing a gas storage and transportation service for KP&L pursuant to Subpart C of Part 284 of the Commission's Regulations on a two-year limited term basis which would terminate on June 14, 1984, unless the subject application is approved. Applicant is seeking authorization to continue the above-mentioned service for a term of 10 years from the date of first deliveries. The maximum quantities of natural gas anticipated to be stored and transported pursuant to the subject agreement are 50 billion Btu per day and 5 trillion Btu per year (assuming 1,000 Btu per cubic foot).

It is stated that KP&L would pay Applicant a capacity charge of 42.25 cents per million Btu, a commodity charge of 12.64 cents per million Btu, and competitive discount of 2.6 cents per million Btu (assuming 1,000 Btu per cubic foot), to be paid in 12 equal monthly installments of $217,875.00.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1982, file with the Federal Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on the application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33161 Filed 12-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-73-000]

Kansas-Nebraska Natural Gas Company, Inc.; Application

December 1, 1982.

Take notice that on November 8, 1982 Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-73-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a direct sales tap and appurtenant facilities on its mainline facilities near Leoti, Kansas, in order to provide interruptible service to E.S.E. Alcohol, Inc. (E.S.E.), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the construction and operation of a tap and appurtenant facilities on its 6-inch mainline near Leoti, Kansas, to serve E.S.E. Applicant states that this filing is being made pursuant to the mandate of the Kansas Corporation Commission (KCC) in KCC Docket No. 130, 150-U. It is asserted that this mandate directs Applicant to serve E.S.E. and to obtain certificate authority from this Commission in order to provide such service.

E.S.E. as stated is an alcohol plant which Applicant believes qualifies as an essential agricultural user for its grain drying requirements. The estimated costs of installing the tap and metering facilities to serve E.S.E. is $4,500 which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a fromal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33162 Filed 12-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-673-001]

Kentucky Utilities Co.; Order Granting Rehearing

Issued December 1, 1982.

On October 19, 1982, Jackson Purchase Electric Cooperative Corporation (Jackson Purchase) filed a request for rehearing of an order issued September 22, 1982 in this docket which, *inter alia*, suspended Kentucky Utilities Company's (KU) step-one rates for one day, suspended its step-two rates for five months, and established hearing procedures.

In its request for rehearing Jackson Purchase contends that KU has improperly used a direct assignment of certain transmission lines rather than "rolling in" those facilities for cost allocation purposes. Jackson Purchase argues that this approach is contrary to KU's traditional costing practices and is inconsistent with general Commission precedent. For purposes of determining the suspension period for the step-one rates applicable to Jackson Purchase, the customer states that the Commission's preliminary analysis should use this traditional "rolled in" approach rather than KU's proposed departure from this method.

While we have stated (and here reaffirm) that we do not intend to open up the Commission's preliminary conclusions regarding suspension to debate,[1] the Commission has reevaluated the appropriateness of the suspension period for the step-one rates as they apply to Jackson Purchase. Upon reconsideration, we have concluded that the proposed increase may yield substantially excessive revenues as it applies to Jackson Purchase. In *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982), we noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed increase may be unjust and unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. Since KU's proposed step-one rates for service to Jackson Purchase may yield substantially excessive revenues, we

[1] See *Southern California Edison Company*, Docket Nos. ER82-427-001 and ER82-427-002, 20 FERC ¶ 61,128 (August 2, 1982).

shall suspend those rates for five months, rather than one day, as they apply to Jackson Purchase, to become effective, subject to refund, on September 23, 1982.

The Commission orders: (A) The request for rehearing of the September 22, 1982 order filed by Jackson Purchase is hereby granted.

(B) Ordering Paragraph B of the Commission's September 22, 1982 order in this proceeding is modified to read: KU's proposed step-one and step-two rates are hereby accepted for filing; the step-one rates are suspended for one day from 60 days after filing, to become effective, subject to refund, on September 23, 1982, *provided however,* that the step-one rates which apply to Jackson Purchase, are suspended for five months from 60 days after filing to become effective subject to refund, on February 22, 1983; the step-two rates are suspended for five months from 60 days after filing, to become effective, subject to refund, on February 22, 1983.

(C) Within thirty (30) days of the date of this order, KU shall refund to Jackson Purchase any amounts which may have been collected since September 23, 1982, pursuant to the Commission's original order in this docket, that are in excess of amounts billable under the rates in effect prior to KU's filing in this docket. Such refunds shall be made with interest as provided in section 35.19a of the Commission's regulations.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-33163 Filed 12-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-59-000 and CP83-59-001]

Lone Star Gas Co.; Application

December 1, 1982.

Take notice that on October 29, 1982, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP83-59-000 an application as amended November 3, 1982, in Docket No. CP83-59-001, pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests that the Commission waive that portion of Section 157.204(a) that conditions eligibility to apply for a blanket certificate upon prior Commission acceptance of a company's rate.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 33164 Filed 12-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-69-000]

Michigan Gas Storage Co.; Application

December 1, 1982.

Take notice that on November 5, 1982, Michigan Gas Storage Company (Applicant), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in docket No. CP83-69-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity or, in the alternative, approval pursuant to Section 311 of the Natural Gas Policy Act of 1978 and Section 284.107 of the Commission's Regulations, authorizing the transportation of natural gas for Consumers Power Company (Consumers), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since June 15, 1982, it has been providing a gas transportation service for Consumers pursuant to Subpart B of Part 284 of the Commission's Regulations on a two-year limited-term basis in order to assist Consumers in providing storage and transportation service for Kansas Power and Light Company. Applicant is seeking authorization to continue the above service for a term of 10 years from the date of first deliveries. The maximum quantities to be transported pursuant to the requested certificate would be 50 billion Btu per day and 5 trillion Btu per year (assuming 1,000 Btu per cubic foot).

It is stated that Consumers would pay Applicant a capacity charge of 1.79 cents per million Btu and a commodity charge of 0.51 cent per million Btu; and the overall transportation rate would be 2.30 cents per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

intervene in accordance with Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-33165 Filed 12-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER38-21-000 and ER82-79-000]

Ohio Edison Co.; Order Accepting for Filing and Suspending Tax Adjustment, Denying Waiver of Notice, Noting Intervention, Consolidating Dockets, and Establishing Hearing Procedures

Issued: December 1, 1982.

On November 9, 1981, Ohio Edison Company (Edison) filed a proposed increase in rates for full and partial requirements service to twenty-one municipal customers in Docket No. ER82-79-000. The rates proposed by Edison included a tax adjustment clause. By order issued on January 8, 1982, the Commission suspended those rates for five months to become effective, subject to refund, on June 9, 1982. The Commission's order also advised Edison that implementation of its tax adjustment provision would require a timely filing with the Commission pursuant to section 35.13 of the regulations.[1]

On October 8, 1982, Edison tendered for filing in Docket No. ER82-21-000, a proposal to implement the tax adjustment provisions in its full and partial requirements rate schedules.[2] Edison states in its filing that on November 15, 1981, and November 24, 1981, the State of Ohio imposed permanent and temporary tax measures, among which were three increases in the public utilities excise tax on gross receipts: (1) a permanent increase of .25% in the current 4% tax rate; (2) a temporary increase in the tax rate of .25%; and (3) a temporary surtax of 5.55% of the total excise tax payments for the tax year 1982. The company asserts that the effect of the tax increase based on revenues for the fiscal year May 1, 1981, through April 30, 1982, is $284,539. Edison requests waiver of notice and an effective date of December 1, 1982, in order to apply the tax adjustment provision on the basis of calendar months.

Notice of Edison's filing was published in the **Federal Register**, with comments due on or before November 2, 1982. On November 2, 1982, the twenty-one municipal wholesale customers of Ohio Edison (Cities)[3] filed a protest, motion to intervene, and a motion requesting rejection or suspension of Edison's filing. The Cities are participating in the ongoing proceeding in Docket No. ER82-79-000. They contend that Edison's filing is unsupported by cost data and should be rejected or at least made deficient until additional support data have been provided. Absent rejection, the Cities request a five month suspension and a hearing. The Cities assert that the underlying rates and thus the revenues to which Edison now seeks to apply its tax increase are themselves excessive and are being collected subject to refund. They also claim that the proposed increase in the gross receipts tax should not be allowed since it is outside the scope of the Period II estimated data filed in Docket No. ER82-79-000.[4] Finally, the Cities object to the fact that Edison's filing does not clearly establish whether the gross receipts tax increase is a prepayment or a postpayment, nor does it make clear on exactly what date the tax was paid.

Discussion

Pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene serves to make the Cities parties to this proceeding, absent opposition witin 15 days of their pleading.

With regard to the Cities' motions for rejection or issuance of a deficiency letter, we disagree that such action is appropriate. The company has provided a detailed explanation of the nature and circumstances of the additional gross receipts tax. We do not believe that the nature of the filing lends itself to substantially more extensive cost support and we note that the Commission previously accepted for filing a similar submittal by Edison in Docket No. ER81-306-000 based upon essentially the same supporting materials. Because we believe that Edison's submittal substantially complies with the Commission's filing requirements,[5] we shall deny the Cities' motions to reject or to require further information prior to acceptance for filing.

Concerning the Cities' questions as to whether the increased tax represents a prepayment or a postpayment, when the additional tax was in fact paid, and the implications of test period constraints, we conclude that these are matters to be further pursued during an evidentiary hearing. However, we agree with the Cities that implementation of the tax adjustment clause might produce excess revenues since the additional taxes are equivalent to a percentage of Edison's revenues which remain subject to refund in Docket No. ER80-454-000.[6]

Our preliminary examination of Edison's submittal and the pleadings indicates that the proposed operation of the tax adjustment clause has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the submittal for filing and suspend its operation as ordered below. We find that good cause has not been shown for waiver of the notice requirements inasmuch as the timing of the instant filing was within the exclusive control of Edison and no reason whatsoever is provided as to why the filing could not have been submitted several days earlier if the intent was to provide for calendar billings.

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[1] An Ohio gross receipts tax rate of 4% was included in Edison's computations of the base rates which are currently being collected subject to refund in Docket No. ER82-79-000.

[2] *See* Attachment A for rate schedule designations.

[3] The Cities are: Amherst, Beach City, Brewster, Columbiana, Cuyahoga Falk, Galion, Grafton, Hubbard, Hudson, Lodi, Lucas, Milan, Monroeville, Newton Falls, Niles, Oberlin, Prospect, Seville, South Vienna, Wadsworth, and Wellington.

[4] The Cities cite *Public Service Company of Indiana*, Opinion NO. 783-A, 57 FPC 1173 (1977) as authority for their position.

[5] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

[6] The Ohio public utilities excise tax payable in any current fiscal year is based on gross receipts during the previous fiscal year. In this case, the amount is based on the period ending April, 1982. During this time, Edison's rates filed in Docket No. ER80-454-000 were being collected subject to refund.

The Commission explained its suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (February 26, 1982). As noted there, where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we will ordinarily suspend the filing for one day. Because our preliminary review suggests that the rates resulting from the tax adjustment may not be substantially excessive, we shall suspend the operation of the clause for one day from sixty days after filing, to become effective on December 9, 1982, subject to refund.

Because the proceeding in Docket No. ER82–79–000 is still pending before a presiding judge and issues have been raised with respect to the test period utilized to support those rates, we believe it is appropriate to consolidate this new filing with the pending docket for purposes of hearing and decision. If this procedural action requires that the record be reopened, then the presiding judge is directed to do so.

The Commission orders: (A) The Cities' motions to reject Edison's filing or to require additional cost support are hereby denied.

(B) Waiver of the notice requirements is hereby denied. Ohio Edison's proposed tax adjustment is hereby accepted for filing and suspended for one day from sixty days after filing, to become effective on December 9, 1982, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Ohio Edison's tax adjustment.

(D) Docket Nos. ER83–21–000 and ER82–79–000 are hereby consolidated for purposes of hearing and decision.

(E) The administrative law judge designated to preside in Docket No. ER82–79–000 shall convene a conference in this consolidated proceeding to be held within approximately fifteen (15) days after the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule for promptly resolving the additional matters presented by Edison's instant filing. The presiding judge is authorized to establish appropriate dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Attachment A—Ohio Edison Company; Rate Schedule Designations

(1) Supplement No. 7 to Rate Schedule FPC No. 140 (letter dated October 8, 1982).

(2) Original Sheet Nos. 22, 23, and 24 under FERC Electric Tariff Original Volume No. 1 (letter dated October 8, 1982).

[FR Doc. 82–33166 Filed 12–3–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CI69–802–001, et al.]

Columbia Gas Development Corp., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

November 29, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applictions should on or before December 14, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
CI69–802–001, Nov. 16, 1982	Columbia Gas Development Corp., 1700 W. Loop South, P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Blocks 272 and 292 Fields, Eugene Island Area, Offshore Louisiana.	(1)	15.025
CI75–747–002, C, Nov. 15, 1982	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Eugene Island Blocks 342 and 343 Field, Offshore Lousiana.	(2)	15.025
CI83–46–000, F, Nov. 10, 1982	Pioneer Production Corp. (partial successor in interest to Cities Service Co.), P.O. Box 2542, Amarillo, Tex. 79189.	Natural Gas Pipeline Company of America (Undesignated Eddy Morrow (Gas) Field), Eddy County, N. Mex.	(4)	14.65
CI83–47–000 (CI76–382), B, Nov. 12, 1982.	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kans. 67201.	Tennessee Gas Pipeline Co., East Placedo Field, Victoria County, Tex.	(5)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
CI83-48-000 (CI75-280), B, Nov. 12, 1982.	Amoco Production Co., 1670 Broadway, Room 1754, Denver, Colo. 80202.	Transwestern Pipeline Co., C. H. Imke Well No. 1, situated in the West Follett Field, Lipscomb County, Tex.	[4]	
CI83-49-000, A, Nov. 15, 1982	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.	Panhandle Eastern Pipe Line Co., Block 648, West Cameron Area, South Addition, Offshore (federal) Louisiana.	[5]	14.73
CI83-50-000, A, Nov. 15, 1982	do	Texas Eastern Transmission Corp., Block 264, Vermilion Area, South Addition, Offshore (federal) Louisiana.	[6]	14.73
CI83-51-000, B, Nov. 12, 1982	Aries Petroleum Corp., Rt. 5, Box 555, Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., Greenbrier District, Doddridge County, West Virginia and Union District, Harrison County, W. Va.	[7]	
CI83-52-000 (CI69-503), B, Nov. 15, 1982.	Getty Oil Co., Post Office Box 1404, Houston, Tex. 77001.	United Gas Pipe Line Co., Mustang Island Block 904 Tract 773-L, Offshore Texas.	[10]	
CI83-53-000 (CI69-561), B, Nov. 15, 1982.	Getty Oil Co. (successor in interest to Skelly Oil Co.), Houston, Tex. 77001.	United Gas Pipe Line Co., Mustang Island Block 904 Tract 773-L, Offshore Texas.	[10]	
CI83-54-000, B, Nov. 8, 1982	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77252	Phillips Petroleum Co., Allen and Parker (Marmaton) Fields, Ochiltree County, Tex.	[11]	
CI83-55-000, E, Nov. 16, 1982 [12]	Grace Petroleum Corp. (successor in interest to Nelson Petroleum Co.), Broadway Executive Park, 6501 North Broadway, Oklahoma City, Okla. 73116.	Panhandle Eastern Pipe Line Co., Berryman-Richfield Unit, Morton County, Kans.	[13]	14.73
CI83-56-000, E, Nov. 16, 1982 [12]	do	Southwest Gas Corp., Blanco Pictured Cliffs Field, San Juan County, N. Mex.	[11]	14.73
CI83-57-000, E, Nov. 16, 1982 [12]	do	Arkansas Louisiana Gas Co., Kinta Field, Haskell County, Okla.	[15]	14.73
CI83-58-000, E, Nov. 16, 1982 [12]	do	Northern Natural Gas Co., Gomez Field, Pecos County, Tex.	[16]	14.73
CI83-59-000, E, Nov. 16, 1982 [12]	do	Arkansas Louisiana Gas Co., Kinta Field, Haskell County, Okla.	[17]	14.73
CI83-60-000, E, Nov. 16, 1982 [12]	do	Panhandle Eastern Pipe Line Co., Berryman-Richfield Unit, Morton County, Kans.	[18]	14.73
CI83-61-000, E, Nov. 16, 1982 [12]	do	Colorado Interstate Gas Co., Greenwood Field, Morton County, Kans.	[19]	14.73
CI83-62-000, E, Nov. 16, 1982 [12]	do	Northwest Pipeline Corp., Blanco Pictured Cliffs Field, San Juan County, N. Mex.	[20]	14.73
CI83-63-000, E, Nov. 16, 1982 [12]	do	Northern Natural Gas Co., Gomez Field, Pecos County, Tex.	[21]	14.73
CI83-64-000, A, Nov. 19, 1982	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125.	Transcontinental Gas Pipe Line Corp., Galveston Blocks 391, 392 and 393, Offshore Texas.	[22]	14.65
CI83-65-000, A, Nov. 17, 1982	Odeco Oil & Gas Co., et al., P.O. Box 61780, New Orleans, La. 70161.	Michigan Wisconsin Pipe Line Co., High Island Block A-542, Gulf of Mexico, Offshore Texas.	[23]	14.65
CI83-66-000 (CI76-130), B, Nov. 12, 1982.	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77252	Cities Service Gas Co., North Waterloo Field, Logan County, Okla.	[24]	

[1] Applicant is filing to add additional delivery point.
[2] Applicant is filing under Gas Sales Contract dated June 12, 1975, amended by Amendatory Agreement dated February 11, 1982.
[3] NOT USED.
[4] Applicant is filing under Gas Purchase Contract dated August 1, 1979.
[5] The well was plugged Sept. 5, 1981.
[6] Imke well is no longer able to produce against the pressure in Transwestern's pipeline.
[7] Applicant is filing under Gas Purchase and Sales Agreement dated Apr. 10, 1982.
[8] Applicant is filing under Gas Purchase Contract dated Aug. 20, 1982.
[9] Non production. Purchasers are no longer interested in purchasing the gas and have pulled its gas measuring equipment.
[10] The last well ceased production on Sept. 15, 1982 and was subsequently shut-in. The last well will be plugged and abandoned in the next 2 or 3 weeks.
[11] Gulf's interest in the leases covered by the basic contract has been surrendered or assigned to another party and the contract has been cancelled as of Dec. 21, 1982 pursuant to Notice given by Gulf dated Oct. 15, 1982. All producing wells have been plugged and abandoned.
[12] Effective as of July 1, 1981, Grace acquired all of Nelson Petroleum Company's interest in properties. Sales of such gas was previously made by Nelson Petroleum Company under a small producer certificate issued in Docket No. CS75-0346.
[13] Applicant is filing under Gas Purchase Contract dated Oct. 9, 1969.
[14] Applicant is filing under Gas Purchase Contract dated July 15, 1977.
[15] Applicant is filing under Gas Purchase Contract dated Mar. 31, 1975.
[16] Applicant is filing under Gas Purchase Contract dated Mar. 17, 1977.
[17] Applicant is filing under Gas Purchase Contract dated Jan. 11, 1974.
[18] Applicant is filing under Gas Purchase Contract dated Mar. 8, 1976.
[19] Applicant is filing under Gas Purchase Contract dated Mar. 9, 1976.
[20] Applicant is filing under Gas Purchase Contract dated Jan. 13, 1975.
[21] Applicant is filing under Gas Purchase Contract dated Dec. 1, 1970.
[22] Applicant is filing under Gas Purchase Contract dated Oct. 29, 1982.
[23] Applicant is filing under Gas Purchase Contract dated Oct. 20, 1982.
[24] The lease covered by this rate schedule has expired and the only well under the contract was plugged and abandoned on June 20, 1980.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total succession; F—Partial succession.

[FR Doc. 82-33160 Filed 12-3-82; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals announces the procedures for disbursement of the funds obtained as the result of the consent order which the DOE entered into with The Charter Company. The funds will be available to customers which purchased No. 2-D diesel fuel from Charter during the period December 1, 1973 through June 20, 1975.

DATE AND ADDRESS: Applications for refund of a portion of the Charter settlement funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Charter Consent Order Refund Proceedings, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461. All applications should conspicuously display a reference to case number HEF-0005.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with section 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the decision and order set out below. The decision and order concerns the consent order which the DOE entered into with The Charter Company. *See* 46 FR 42741 (1981). The consent order settled the dispute between the DOE and the firm regarding Charter's compliance with the DOE price and allocation regulations. Under the terms of the consent order, approximately $3.2 million is being held in an interest-bearing escrow account which Charter established with the First National Bank of Boston pending determination of its proper distribution. It was stipulated in the consent order that the refund amount was in settlement of possible enforcement actions based on allegations that Charter had violated DOE regulations.

The Office of Hearings and Appeals previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the Charter settlement funds. The proposed decision and order discussing the distribution of the Charter settlement funds was issued on April 9, 1982. 47 FR 16396.

The decision and order published with this Notice reflects an analysis of the comments received from interested parties. As the decision indicates, applications for refund from the escrow funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this decision and order in the **Federal Register.** Applications will be accepted from customers who purchased No. 2–D diesel fuel from Charter during the period December 1, 1973 through June 20, 1975. In order to establish entitlement to a portion of the settlement funds, a purchaser must generally establish, in addition to proof of purchase of the volume claimed, that the purchaser did not pass through price increases to its own customers. The specific information required in an application for refund is set forth in the decision and order.

The decision does not establish mechanical standards for the proper allocation of funds among successful claimants, such as a *pro rata* volumetric distribution. Instead, the decision discusses a number of equitable factors which will be considered in the process of allocating funds among successful claimants. The decision and order also reserves the question of the proper disposition of any remaining settlement funds until the first stage claims procedure is completed.

Dated: November 29, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Porcedures

Name of Petitioner: Office of Special Counsel, Economic Regulatory Administration: In the Matter of the Charter Company.

Dates of Filing: October 16, 1981.

Case Number: HEF–0005.

This proceeding concerns a Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration's Office of Special Counsel (OSC) with the Office of Hearings and Appeals pursuant to the provisions of 10 CFR, Part 205, Subpart V. Under those procedural regulations the OSC may request that the Office of Hearings and Appeals formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of DOE regulations. OSC filed the petition in this case in connection with the consent order which the DOE and The Charter Company (Charter) entered. Charter, headquartered in Jacksonville, Florida, is engaged in the refining and sale of crude oil and petroleum products, and was subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR, Part 212.

A DOE audit of Charter's records revealed possible violations of the DOE price regulations with respect to sales of No. 2–D diesel fuel from December 1, 1973 through June 20, 1975. The diesel fuel was sold through five Charter subsidiaries: Charter International Oil Co., Kern County Refinery, Inc., Billups Western Petroleum Co., Supertest Oil & Gas Co., and Southern Stores, Inc. In order to settle the dispute between Charter and the DOE regarding those sales, Charter and the DOE entered into a consent order on June 4, 1976. Under the terms of the consent order, Charter agreed to refund the amount of the alleged overcharges plus interest to its purchasers of No. 2–D diesel fuel. This was to be done through a complex mechanism which depended on the continued existence of federal price controls on that product. Federal price controls on diesel fuel were lifted on June 30, 1976, and the refunds could not be made in the manner specified in the 1976 consent order. On December 29, 1978, Charter deposited the amount of the alleged diesel fuel overcharges plus interest in an escrow account at the First National Bank of Boston for the benefit of its customers or for the benefit of the United States Treasury. Subsequently, the DOE and Charter entered into a broader consent order which resolved virtually all issues concerning the firm's compliance with the federal petroleum price and allocation regulations for the period August 1973 through November 1980. The parties executed a proposed consent order on January 16, 1981, which was adopted as a final order of the Department on August 24, 1981. See 46 FR 42741 (1981). The consent order explicitly stated that it superseded the 1976 consent order. The 1981 consent order required Charter to take the following remedial actions: (1) make $15 million in refunds to certain purchasers of residual fuel oil from New England Petroleum Company, a Charter subsidiary; (2) issue $10 million worth of credit memoranda to current utility customers; and (3) reduce its banks of unrecouped increased costs for motor gasoline to $40,880,000, which represented a bank reduction of approximately $67 million. Finally, Section 404 of the consent order provided that the $3,200,000 escrow account which Charter established in 1978 at the First National Bank of Boston in settlement of its alleged No. 2–D diesel fuel overcharges would be distributed "as directed by the OSC."

On October 16, 1981, OSC filed the present Petition for the Implementation of Special Refund Procedures requesting OHA to distribute the funds held in the escrow account at the First National Bank of Boston to customers who purchased No. 2–D diesel fuel from Charter. On April 9, 1982, we issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by Charter's alleged violations in the sale of No. 2–D diesel fuel between December 1, 1973 through June 20, 1975. *Office of Enforcement,* No. HEF–0005 (April 9, 1982) (proposed decision); 47 FR 16396 (1982). In the proposed decision we described a two-stage process for distribution of the funds made available by the Charter consent order. Specifically, we proposed to disburse funds in the first stage to claimants who could demonstrate that they were adversely affected by Charter's alleged overcharges in sales of No. 2–D diesel fuel during the applicable period. We also proposed several procedures for disbursing any funds remaining after the meritorious claimants had received appropriate refunds. We suggested that the amount of money available for the second-stage refund process would influence the ultimate disposition of those funds. We proposed that such funds be distributed to state governments in areas affected by the alleged overcharges for use in energy-related programs that would benefit injured persons. In the alternative, we suggested that any remaining funds might be deposited in the United States Treasury.

The purpose of this decision is the establishment of procedures to be used for filing claims in the first stage of the Charter refund process. This decision sets forth the information that a Charter customer should submit in order to establish entitlement to a portion of the consent order funds. In establishing these requirements, we will address comments filed in response to the first-stage proposal in the April 9 decision. We will not, however, determine procedures for the second stage of the refund process in this decision. Our determination concerning the final disposition of any remaining funds will necessarily depend on the size of the fund. *Office of Enforcement (Coline),* 9 DOE ¶ 82,508 (1981). It would therefore be premature for us to address the issues raised by commenters concerning the proposed

disposition of funds remaining after all the meritorious claims have been paid.

Jurisdiction

In our April 9 proposed determination and in other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See* 47 FR 16396 (April 16, 1982); *Office of Enforcement (Olin),* 9 DOE ¶ 82,539 (1982). We have received no comments challenging our authority to fashion special refund procedures in this case. We will therefore exercise jurisdiction over distribution of the Charter consent order funds.

Eligible Claimants and Required Information

OHA received comments concerning the scope of the present Subpart V proceeding on behalf of Pep-O Petroleum Co., U.S. Oil Co., Savings Oil Co. and Sumrall Services, Inc.(*1*) All of the commenters are independent marketers of petroleum products. The commenters contend that purchasers of gasoline from Charter should also be eligible for refunds from the $3.2 million fund. They argue that because the 1981 consent order explicitly superseded the 1976 consent order, the terms of the 1976 consent order are of no relevance in determining the distribution of the $3.2 million fund established pursuant to § 404 of the 1981 consent order. They additionally maintain that because the 1981 consent order settled all of Charter's alleged regulatory violations from the onset of controls through November 30, 1980, the $3.2 million fund should be distributed in such a manner as to provide restitution to all parties injured by Charter's alleged violations for which a specific remedy is not provided in the 1981 consent order.

We believe that the commenters have seriously misconstrued the clear intent of the two Charter consent orders. The $3.2 million fund originated from the 1976 diesel fuel consent order. The 1981 consent order stated that the $3.2 million fund shall be disbursed at the direction of OSC. OSC has specifically directed this Office through its Petition for the Implementation of Special Refund Procedures to distribute the escrow fund to Charter's diesel fuel customers. We believe OSC's directions are entirely reasonable. Because the remedy in the 1976 consent order concerning diesel fuel was rendered unworkable by the decontrol of that product, the 1981 consent order sought to establish a new mechanism for distribution of the funds Charter placed in the escrow account to settle the alleged diesel fuel violations. Therefore, pursuant to § 404 of the 1981 consent order OSC directed, in its present Subpart V petition to OHA, that all the money in the escrow account be distributed to Charter's diesel fuel customers. In effect, the commenters' request that we ignore OSC's express directions is an attempt to have OHA rewrite the 1981 consent order to provide for cash payments to motor gasoline purchasers instead of the bank reduction remedy. We cannot do this. A consent order represents a binding exercise of prosecutorial discretion by OSC. In a number of recent decisions, this office and the federal courts have uniformly held that a third party lacks standing to challenge the remedial provisions in a DOE consent order unless exceptional circumstances are shown to have affected the agency's decision. *See, e.g., State of California,* 9 DOE ¶82,585 (1982); *U.S. Oil Co. v. DOE,* 510 F. Supp. 910 (E.D. Wis. 1981), and cases cited therein. No such allegation has been made in this case. Accordingly, we will follow OSC's instructions and permit only Charter's diesel fuel purchasers to submit refund applications.

Any party who purchased No. 2–D diesel fuel sold by Charter and believes it is eligible for a refund may file an application. To establish eligibility for a portion of the Charter consent order funds, we proposed in our April 9 determination that claimants that are resellers or that are involved in the production or distribution of goods or services be required to demonstrate that during the period covered by the consent order they kept their prices for diesel fuel or goods and services at the same level had the alleged overcharges not occurred. In other words, we stated that we wanted an indication that the claimant did not simply pass on to its customers any Charter price increases. We stated that a claimant should demonstrate that at the time it purchased No. 2–D diesel fuel from its supplier, market conditions would not permit it to pass through the additional costs associated with the alleged overcharges. In addition, we suggested that a reseller must have maintained a "bank" of unrecovered product costs until June 30, 1976, the date on which No. 2–D diesel fuel was decontrolled. Finally, we stated that a purchaser who is an ultimate consumer and not engaged in the sale of goods or services would not have to make these showings.

We received comments on this issue from the Association of American Railroads. It asks us to follow our previous decisions and add regulated transportation companies to the class of claimants that would not be required to demonstrate that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel (Tenneco),* 9 DOE ¶ 82,538 (1982). The Association contends that any overcharges which regulated transportation companies had incurred would have been channeled to their customers by the regulatory bodies. It contends that any refunds which regulated transportation companies receive would also be passed through to their customers. The Association thus argues that regulated transportation companies should be treated in the same manner as ultimate purchaser claimants, which need only demonstrate that they purchased a specific quantity of product sold by Charter during the relevant time period in order to qualify for refunds.

We will accept the Association's proposal. This position is consistent with our determination in prior cases to accept similar proposals because they would assist us in distributing refunds in an efficient, cost-effective, and equitable manner. *See, e.g., Office of Special Counsel (Pennzoil),* 9 DOE ¶ 82,545 at 85,244 (1982). OSC has reviewed the operation of the agencies that regulate transportation companies and public utilities and has determined that refunds to these firms are indeed factored into their rate making systems. *Id.* Similarly, we believe that refunds to claimants that are agricultural cooperative will likewise directly influence the prices charged to their member customers. These cooperatives are owned by their customers, and the ultimate consumers of the petroleum products purchased by the cooperative will therefore receive the benefit of the refund either as a price reduction or as a distribution at the close of the cooperative's fiscal year. *See Tenneco,* 9 DOE at 85,203. Consequently, we have concluded that refund applications from firms whose prices for goods or services are regulated by a government agency or by the terms of a cooperative agreement will not be required to show that they absorbed alleged Charter overcharges. Instead, those firms should supply us with a full explanation of the manner in which refunds will be passed through to their customers. In addition, the receipt of refunds by those applicants will be conditioned on notice to the appropriate regulatory body or membership group.

We suggested in our proposed decision that another group of purchasers be excused from having to document more than the fact that they purchased diesel fuel from Charter during the relevant period of time. We stated that we would consider establishing a threshold level of purchases under which applicants, primarily small firms and individuals, would not be required to make a detailed showing of acutal injury. We proposed a purchase threshold of 50,000 gallons per month. Firms with purchases below that level would be permitted to claim a refund without having to submit evidence concerning their banks of unrecouped product cost increases or prevailing market conditions which had prevented them from passing through the alleged overcharges. In addition, firms that purchased more than the threshold level would be excused from the requirement of showing that the effects of the alleged violations were not passed through, provided that they limit their claims to that level.

The State of New York in its comments urges us not to adopt any threshold purchase level. Instead, the State requests us to adopt a presumption that any reseller that was overcharged would have passed through the alleged violation to its customers. After careful consideration we have concluded that it is in the best interests of efficient resolution of these proceedings to establish a threshold level of purchases below which a claimant need not demonstrate injury. The State of New York has offered no evidence whatsoever in support of its position that most small resellers should be presumed to have passed on all of the alleged overcharges to their customers. The adoption of a small claims threshold purchase level below which firms do not have to submit evidence of injury is based upon several factors. First, it has been our experience that small businesses with a relatively low level of sales will not have maintained sophisticated recordkeeping systems. A requirement that these firms produce records of transactions that occurred eight years ago, if those records even exist, would prove to be an onerous one. Secondly, the cost of compiling this

information from a recordkeeping system of this type would in may cases exceed the refund to be gained. Consequently, we believe that it will advance the restitutionary objecitves of the Subpart V process and the Charter consent order to establish a threshold figure in this case. However, for the reasons set forth below, we have decided to change the threshold level from the 50,000 gallon per month figure that has been used in a number of previous refund cases.

The threshold figure selected for a refund case should strike an appropriate balance between competing considerations. If the threshold is set too low, the whole purpose of exempting smaller firms from the effort and expense of submitting a detailed refund application is frustrated. On the other hand, if the per-gallon refund amount available for distribution is relatively high, the cost of preparing a more detailed application is not out of proportion to the size of the expected refund, even for a smaller firm. It is therefore important to consider the amount of the per-gallon refund in relation to the costs associated with preparing a claim. In the present case, the per-gallon refund amount is more than three cents, plus interest. In *Vickers*, where the per-gallon refund amount was approximately one-twentieth of the amount available for distribution to Charter's diesel fuel customers, we established a threshold purchase level of 50,000 gallons per month. *Office of Enforcement* (Vickers), 8 DOE ¶82,597 (1981). In the present case, we have decided to establish a threshold level of 25,000 gallons per month. If a refund applicant purchased this amount of diesel fuel from Charter during the entire consent order period, it would be entitled to receive approximately $21,000 without further proof of injury. In our view, this represents an appropriate balancing of the factors discussed above, in view of the product and the time period involved.

In summary, we will require only proof of purchase from Charter from applicants who claim a refund based on purchases of less than an average of 25,000 gallons per month of Charter diesel fuel. Applicants claiming a refund based on purchase volumes greater than that amount must show that they did not pass through the price increases to their own customers. Retailers and resellers who claim refunds on the basis of purchases exceeding an average of 25,000 gallon per month should submit two types of data in order to make the required showing. They should submit data summarizing the applicant's unrecouped increased product costs (bank) for each calendar quarter for which the firm claims a refund. If the applicant used its banked costs to increase its selling price at a later date, such data should be included in the application so that the firm's refund may be appropriately reduced. We note that even if a firm's bank was reduced to zero during the period covered by the consent order, it may nevertheless be possible for the firm to establish eligibility for a refund by showing that during the period, market forces reduced its sales and compelled the applicant to purchase and consequently to sell a smaller volume of relevant product with correspondingly lessened profits. In addition, applicants should submit any other type of available data showing that they were not able to increase their prices to pass through the alleged overcharges due to market conditions. Although we shall not engage in a time-consuming legal and factual analysis leading to a precise measure of damages, we wish to emphasize that the burden of establishing eligibility for a refund rests on the claimant.

Allocation of Refund Money

In *Vickers*, we used a "pure" volumetric method of allocating refunds to claimants. Refunds in that case were based on the proportion of the product bought by the applicant to the total amount of product sold by the supplier during the relevant time period. Based on our experience in Subpart V cases since that time, we stated in our proposed decision that the adoption of the "pure" volumetric plan of distribution would not be the best mechanism for allocating the Charter consent order funds. Because of the nature of consent orders, the amount of money available for distribution is likely to be less than the amount needed to make full restitution to injured claimants. Where a "pure" volumetric refund distribution scheme is adopted, there is in effect an additional limitation on the amount of refund which can be distributed to a successful claimant because of the per gallon refund ceiling. In the event that a significant number of applicants fail to demonstrate the merits of their claims, the total amount of refunds made to successful claimants may be far less than the amount of the settlement funds available for distribution. We therefore believe that it is fully consistent with the restitutionary objectives of the present proceeding to distribute available funds by a method other than the *Vickers* "pure" volumetric distribution scheme. Accordingly, we proposed an alternative means of distribution based on a modified version of the "pure" volumetric refund formula which takes into account certain equitable considerations.

In its comments, the State of New York expresses a concern that our proposal to use a modified volumetric mechanism for distribution of first-stage funds may deprive some injured consumers of a share of the refunds. The State's concern is based on the possibility that meritorious claims filed during the first stage of the Charter refund proceeding might exhaust the settlement fund and thereby obviate the need for a second stage. (2) We believe this concern is unfounded. First, Charter consumers will not be precluded from sharing in the refund pool. Individual consumers and groups of consumers that can document the volumes of Charter diesel fuel they purchased during the relevant time period will have the opportunity to file applications for refund. Secondly, even if the consent order funds are depleted in the first stage of the proceeding because of the large number of eligible claimants that successfully document their injuries attributable to the alleged charges, the purpose of this proceeding would not be frustrated, as New York State contends. (3) Distribution of settlement funds to those who may have been injured by the alleged overcharges is the goal of a Subpart V proceeding. That goal is not compromised if the settlement funds can be distributed in a first-stage proceeding, rather than in two stages.

Consequently, we will use a modified volumetric scheme of the type discussed in the proposed decision because we believe that it will best achieve the restitutionary objectives of the present proceeding. We will first establish a "floor" or minimum amount that a successful claimant could receive. The refund floor in this case is $0.0363881 per gallon. (4) OHA will also consider the following factors in determining individual refunds: (i) the number of qualified claimants, and the aggregate volume of their purchases from the firms as compared to the amount of products sold by these firms during the consent order period; (ii) the impact of the alleged violations on the claimant's business; (iii) the market conditions prevalent during the consent order period; (iv) the claimant's position in the distribution chain, that is, whether it is a refiner, reseller, or ultimate consumer; and (v) the manner in which the claimant's business is governed by federal, state or local regulatory agencies or other relevant private contractual agreements, such as those affecting agricultural cooperatives. A balancing of these factors will enale us to further the restitutionary goals of Subpart V and the underlying statutory objectives.

We will also establish a minimum amount of $15 for first-stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the modest benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 at 85,225 (1982); *see also* 10 CFR 205.286(b).

Application for Refund Procedures

After having considered all the comments received concerning the first-stage proceedings tentatively adopted in our April 9 decision, we have concluded that application for refunds should now be accepted from parties who purchased No. 2–D diesel fuel from Charter. Applications must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.286. Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify that it pertains to the Charter Consent Order Fund, Case No. HEF–0005. If the applicant is not a direct purchaser from Charter, it should indicate from whom the diesel fuel was purchased and why it believes that the diesel fuel originated from Charter.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 1200 Pennsylvania Avenue, N.W., Washington, D.C. Any applicant who believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information that the applicant claims is confidential has been

deleted, together with a statement specifying why any such information is privileged or confidential. Each application must indicate whether the applicant or any person acting on its instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application must also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, title, and telephone number of a person who may be contacted by OHA for additional information concerning the application. All applications should be sent to: Charter Consent Order Refund Proceedings, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following subjects should be covered by each purchaser of Charter diesel fuel:

A. Each applicant should report its volume of purchases by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges.

B. Each applicant should specify how it used the Charter product, such as whether it was a reseller or ultimate user.

C. If the applicant is a reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation through June 30, 1976. It should furnish OHA with quarterly bank calculations.

D. The applicant must state whether it or any of is affiliates have filed any other applicants for refunds which might affect its level of banks.

E. The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible.

F. The applicant should report whether it is or has been involved as a party in DOE or private § 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its application for refund. *See* 10 CFR 205.9(d).

It is therefore ordered that:

The Petition for Implementation of Special Refund Procedures filed by the Economic Regulatory Administration in Case Number HEF-0005 is hereby granted. The $3.2 million escrow account established by The Charter Company for restitution to its No. 2-D diesel fuel customers will be distributed in the manner set forth in the foregoing decision.

Dated: November 29, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) The comments submitted on behalf of U.S. Oil Co., Savings Oil Co. and Sumrall Services, Inc. were virtually identical.

(*2*) In our April 9 decision we proposed that if a second stage should prove necessary in either case, state governments in the affected areas may be designated as refund recipients for the purposes of reducing energy-related expenses subject to their control.

(*3*) Based on our experience in previous Subpart V cases, it is unlikely that the settlement funds will be exhausted in the first stage.

(*4*) If valid claims exceed the total amount of money available for refund, there will be a pro rata reduction.

[FR Doc. 82-33114 Filed 12-3-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 140025; TSH—FRL 2258-7]

Toxic Substances Control; CRCS, Inc. and Dynamac Corp.; Transfer of Data to Contractor and Subscontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with CRCS, Inc. (CRCS) (primary contractor) and Dynamac Corporation (Dynamac) (subcontractor) to review and analyze information reported under section 8(b) of the Toxic Substances Control Act (TSCA) and information submitted voluntarily for the purpose of providing technical support to the TSCA Interagency Testing Committee (ITC). Some of the material which CRCS and Dynamac will review will contain confidential business information.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

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).

SUPPLEMENTARY INFORMATION: The ITC is required by section 4(e) of TSCA to recommend to the EPA Administrator chemical substances and mixtures (chemicals) which should be given priority consideration for the promulgation of testing rules. In making its recommendations the ITC must consider, among other relevant factors, the quantities of chemicals manufactured and the extent of human and environmental exposure to the chemicals. To accomplish this, the ITC will require the assistance of outside experts. The EPA and ITC have selected CRCS, Inc. (primary contractor) of Reston, Virginia, and Dynamac Corporation (subcontractor) of Rockville, Maryland, to perform analyses of information which may be helpful to the ITC in making its recommendations. (Contract No. 68-01-6650)

CRCS and Dynamac will examine information obtained from the TSCA Chemical Substances Inventory (section 8(b) of TSCA) to estimate the quantities of chemicals manufactured and the extent of human and environmental exposure. They also will review information submitted voluntarily to EPA by industry. Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to CRCS and Dynamac. Any reports prepared by CRCS and Dynamac dealing with this confidential business information will be treated as confidential. After evaluating the information obtained, CRCS and Dynamac will return the information and any reports they prepare containing confidential business information to EPA.

Under the EPA security manual "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," CRCS and Dynamac will be authorized to have access to this information. EPA has approved the security plans of CRCS and Dynamac, has conducted the required inspections of their facilities, and has found them to be in compliance with the requirements of the manual.

Since CRCS and Dynamac will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of information listed under section 8(b) of TSCA and information which may be submitted voluntarily that this contractor and subcontractor will have access to confidential business information from EPA.

In accordance with the contractor requirements security manual, CRCS and Dynamac are legally required to safeguard this information from any unauthorized disclosure. CRCS and Dynamac personnel will be required to sign nondisclosure agreements and be briefed on appropriate security procedures before they are permitted access to such information.

Dated: November 17, 1982.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 82-33177 Filed 12-3-82; 8:45 am]

BILLING CODE 6560-50-M

[A-3-FRL 2258-5]

Memorandums of Understanding for New Source Performance Standards Program and National Emission Standards for Hazardous Air Pollutants Program

AGENCY: Environmental Protection Agency.

ACTION: Information Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region III and the West Virginia Air Pollution Control Commission (Commission) have developed Memorandums of Understanding (MOUs) that provide for interagency cooperation regarding the implementation and enforcement of the New Source Performance Standards (NSPS) program and the National Emission Standards for Hazardous Air Pollutants (NESHAP) program for stationary sources located in West Virginia. Although EPA will retain final NSPS and NESHAP authority and responsibility in West Virginia, the Commission will perform specified procedures with EPA overview.

EFFECTIVE DATE: December 6, 1982.

ADDRESSES: Copies of the MOUs and related documents are available for inspection during normal business hours at the following offices.

U.S. Environmental Protection Agency, Air Programs & Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106, Attn: Lillie R. Ellerbe (3AW13)

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311, Attn: Mr. Carl G. Beard

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

FOR FURTHER INFORMATION CONTACT: Lillie R. Ellerbe (3AW13) 215/597-8170 at the EPA, Region III address indicated above.

SUPPLEMENTARY INFORMATION: The MOUs have been developed between EPA and the Commission for the NSPS and NESHAP programs for stationary sources in West Virginia. These MOUs are an interim step prior to full State acquisition towards the implementation and enforcement of the NSPS program, which is subject to the requirements of Section 111 of the Clean Air Act (CAA) and 40 CFR Part 60, and the NESHAP program, which is subject to the requirements of Section 112 of the CAA and 40 CFR Part 61. The EPA and the Commission have agreed to the provisions and procedures of these MOUs. Full interagency cooperation has been agreed upon between EPA and the Commission in implementing effective and efficient NSPS and NESHAP programs consistent with Federal and State laws and regulations.

The EPA will continue to have final NSPS and NESHAP authority and responsibility for the State of West Virginia and agrees to provide assistance to West Virginia while maintaining overview responsibility. The Commission will be responsible for the administrative processing and review procedures necessary.

The MOUs will become effective as of December 6, 1982. The Regional Administrator finds good cause for making the MOUs effective immediately in that they are administrative changes and not of substantive content.

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

(42 U.S.C. 7411-7412)

Dated: November 19, 1982.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 82-33176 Filed 12-3-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS 81007A; TSH-FRL-2248-4]

TSCA Chemical Substances Inventory; Removal of Incorrectly Reported Substances

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA, in reviewing the chemical substances included on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory, has concluded that certain chemical substances were incorrectly reported. The Agency, in an earlier notice published in the **Federal Register** of May 27, 1982 (47 FR 23205), announced its intent to remove from the TSCA Inventory 27 chemical substances which were believed to have been incorrectly reported. Two comments were received in response to the May 27, 1982 notice. EPA has now determined that 24 of the substances listed in the May 27, 1982 notice were incorrectly reported, that there is no ongoing manufacture, importation, or processing of these 24 substances, and that they have not been manufactured, imported or processed since January 1, 1975. Acordingly, the 24 substances are no longer on the TSCA Inventory as of the date of publication of this notice.

DATE: Effective on December 6, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460; Toll free (800-424-9056), In Washington, D.C. (554-1404), Outside the U.S.A. (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

A. Background

EPA announced in the **Federal Register** of May 27, 1982 (47 FR 23205) its intent to remove from the Toxic Substances Control Act Chemical Substances Inventory 27 chemical substances which were believed to have been incorrectly reported. The proposed removal action was initiated when persons who originally reported these substances for the Inventory notified EPA that the chemical identities for these substances had been incorrectly reported. In each case, the correct identity was added to the Master Inventory File maintained by the Agency. The erroneously reported substances, therefore, became candidates for removal from the TSCA Inventory.

The **Federal Register** notice of May 27, 1982 solicited public comments on the proposed removal action. The Agency was specifically interested in knowing whether any of the 27 substances had been manufactured, imported, or processed for non-exempt commercial purposes by anyone during the period of January 1, 1975 through May 27, 1982, or whether any person could show that any of the 27 substances could have been properly reported for the Inventory.

EPA received two comments in response to the May 27 **Federal Register** notice. One comment addressed whether EPA has the legal authority to remove erroneously reported substances from the Inventory. The other comment

requested that two of the 27 substances not be removed from the Inventory.

B. EPA's Authority To Delist

Section 8(b) of TSCA requires the Administrator of EPA to "compile, keep current, and publish" The TSCA Chemical Substances Inventory. The role of the Inventory is to define which chemical substances are in U.S. commerce and which chemical substances are new substances for which a premanufacture notification (PMN) is required under section 5(a) of TSCA. Furthermore, the Inventory informs the public which chemical substances are being manufactured, imported, or processed in the United States for non-exempt commercial purposes.

For the Inventory to perform its functions, it must be continuously "kept current" as required by section 8(b) of TSCA. Obviously, there are two ways by which the Inventory can be kept current. First, new substances which have completed section 5 PMN review and which are being introduced into U.S. commerce must be added to the Inventory. Second, corrections for previously reported information must be made, especially corrections that relate to chemical identity.

The Inventory Reporting Regulations (40 CFR Part 710) specified that to be eligible for the Inventory a chemical substance must have been manufactured, imported, or processed for non-exempt commercial purposes in the United States since January 1, 1975. A chemical substance incorrectly described or reported probably would not satisfy this requirement.

When the Inventory was compiled in 1978–1979, neither the Agency nor industry had the time to verify most of the reported information. EPA received a total of nearly 100,000 submissions. Except for certain obvious discrepancies which were corrected via problem letters, the Agency was not in a position to verify information which appeared on its face to be correct. In using the Inventory for the past 3½ years, industry has discovered that some of the substances on the Inventory were not correctly reported. Recognizing industry's need for making corrections to erroneous submissions, EPA announced in the **Federal Register** of July 29, 1980 (45 FR 50544) guidelines for submitting Inventory corrections. The 27 substances proposed for removal from the Inventory (47 FR 23205) were identified by industry via correction requests in accordance with the correction guidelines.

EPA has the legal authority to remove from the Inventory those substances which were erroneously or inappropriately reported, if they were never manufactured, imported, or processed for non-exempt commercial purposes as prescribed by the Inventory Reporting Regulations. Such substances were not eligible for Inventory reporting in the first place. Had the errors been detected when the Inventory submissions were processed, the erroneous or inappropriate substances would have never been included on the Inventory. If such substances are not removed from the Inventory after the errors have been discovered, EPA would be including on the Inventory chemical substances which were not manufactured, imported, or processed for non-exempt commercial purposes since January 1, 1975—a clear violation of the Inventory Reporting Regulations.

EPA recognizes that industry has been relying upon the Inventory to make some manufacturing decisions. Persons who use the Inventory do not know that a substance has been incorrectly or inappropriately reported. Therefore, the agency developed removal procedures which would not peremptorily delete any erroneous or inappropriate substance from the Inventory. These procedures, described in the **Federal Register** notice of May 27, 1982 (47 FR 23205), provide adequate protection to persons who use the Inventory to make manufacturing decisions. In short, when an error is discovered, EPA will conduct a search of the Inventory data base to determine whether the same chemical substance was reported by more than one person. EPA will not propose a removal action if other persons correctly reported the same substance. In the event EPA's search shows the substance was not properly reported by any person, the erroneous or inappropriate substance would become a candidate for removal. A notice of intent to remove would be published in the **Federal Register**, and the public would have 60 days to comment on the proposed removal. Any person who could show that he/she has been manufacturing, importing, or processing that substance for a non-exempt commercial purpose prior to the publication of the notice proposing the removal action could request EPA not to remove the substance. These procedures reduce the potential adverse impacts on those who use the Inventory to make manufacturing decisions.

EPA believes that removing the erroneously reported substances from the Inventory is an administrative action which does not require rulemaking. The Agency has the legal authority to take such an action. The procedures provide adequate protection to industry and an opportunity to be heard. There is a 60-day comment period for persons to provide information and arguments to EPA on the proposed removal. A public hearing is not necessary.

C. Substances Not To Be Removed

One comment requested the Agecny not to delete from the Inventory the two substances identified by the following Chemical Abstracts Service (CAS) Registry Number and CAS Index Names:

4677–09–2 1*H*-Indole, 2,3-dihydro-1,3,3-trimethyl-2-[(phenylazo)methylene]- and

65122–05–6 Diazene, [(1,3-dihydro-1,1,3-trimethyl-2*H*-inden-2-ylidene)methyl] (2-methoxyphenyl)

Subsequent clarification by the submitter concerning these two substances and Agency investigation indciated that they were correctly reported for the Inventory. These two substances are currently in non-exempt commercial production. Accordingly, these two substances will remain on the Inventory and premanufacture notifications will not be required.

Further EPA internal review subsequent to May 27, 1982 revealed that another substance listed in the **Federal Register** notice of May 27, 1982 (47 FR 23205) was correctly reported by a second submitter and is currently in commerce. This substance is identified by the following CAS Registry Number and CA Index Name:

65717–13–7 4-Pyrimidinecarboxylic acid, 1,2,3,6-tetrahydro-5-nitro-2,6-dioxo-, monopotassium salt

This substance will remain on the Inventory and premanufacture notifications will not be required.

D. Substances That Are Removed From the Inventory

Twenty-four of the 27 substances identified in the **Federal Register** notice of May 27, 1982 are now removed from the TSCA Inventory. For each of these 24 substances, the only Inventory report received by EPA incorrectly identified the substance. The Agency has received no comments on any of these chemicals during the comment period. The Agency has concluded that the 24 substances have not been manufactured, imported, or processed for non-exempt commercial purposes since January 1, 1975 and, thus are not and were not eligible for the Inventory. The substances are listed as follows, in ascending order sequence by their corresponding CAS Registry Numbers accompanied by CA Index Names:

76–08–4 2-Propanol, 1,1,1-tribromo-2-methyl-

145–73–3 7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
372–44–1 Phenol, compd. with trifluoroborane (1:1)
622–04–8 2-Propanol, 1,3-diphenoxy-
4769–73–7 2-Propanol, 1-chloro-3-phenoxy-
25416–81–3 Copper, [dihydrogen disulfamoylphthalocyaninedisulfonato (2-)]-
60130–75–8 1,2-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, 1,4-butanediol and a-hydro-w-hydroxypoly(oxy-1,4-butanediyl)
63494–59–7 Ethanesulfonamide, 2-[ethyl(3-methyl-4-nitrosophenyl)amino]-*N*-methyl-
65036–54–6 Benzenediazonium, 4-(6-methyl-7-sulfo-2-benzothiazolyl)-, chloride
65060–25–5 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with butyl 2-propenoate, ethenylbenzene and 2-propenoic acid
65072–13–1 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with ethenylbenzene and 2-propenoic acid
65086–37–5 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with ethenylbenzene, 2-hydroxyethyl 2-propenoate, 1,3-isobenzofurandione and methyl 2-methyl-2-propenoate
65121–76–8 Phenol, 2-methyl-4,6-din'tro, lead(2+) salt
65151–55–5 Docosanoic acid, 1,3,5-triazine-2,4,6-triyltris [(methoxymethyl) imino]methylene ester
65530–81–6 Poly(difluoromethylene), a-(2,2-dichloro-1,1,2-trifluoroethyl)-w-hydro-
67892–76–6 Nonanoic acid, 2,2-dimethyl-, oxiranylmethyl ester, polymer with butyl 2-propenoate, methyl 2-methyl 2-methyl-2-propenoate and 2-propenoic acid
67892–78–8 Nonanoic acid 2,2-dimethyl-, oxiranylmethyl ester, polymer with butyl 2-propenoate, ethenylbenzene, 2-hydroxyethyl 2-propenoate and 2-propenoic acid
68110–21–4 Zincate(1-), trichloro-, hydrogen, compd. with *N,N*-diethyl-4-[(1-methyl-1*H*-1,2,4-triazol-5-yl)azo) benzenamine (1:1)
68213–43–4 Fatty acids, tall-oil, polymers with bisphenol A, bisphenol A diglycidyl ether, Bu acrylate, 2-(dimethylamino)ethyl methacrylate, 2-[(1,1-dimethylethyl)amino]ethyl methacrylate, glycidyl 2,2-dimethylnonanoate, hydroxyethyl methacrylate and Me methacrylate
71002–23–8 1,1'-Bi-1*H*-imidazole, 2,2',5,5'-tetrakis(2-chlorophenyl)-4,4'-bis(3,4-dimethoxyphenyl)-
71735–70–1 b-Alanine, *N*-[3-(nonyloxyl)propyl]-
71799–76–3 9,11-Octadecadienoic acid, (*Z,Z*)-, polymer with 2-hydroxyethyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, (*Z,Z*)-9,12-octadecadienoic acid and oxiranylmethyl 2,2-dimethylnonanoate
74398–77–9 Benzenediazonium, 2-methoxy-5-methyl-4-[(3-sulfophenyl)azo]-, chloride
74642–98–1 Cuprate(2–), [bis(aminosulfonyl)-29*H*,31*H*-phthalocyaninedisulfonato(4–)-N^{29},N^{30},N^{31},N^{32}]-, lithium sodium

Effective December 6, 1982, these 24 substances are no longer included on the Inventory—the presence of the names of these substances in previously published Inventory editions notwithstanding. Any persons wishing to manufacture or import any of these 24 substances must comply with the premanufacture notification requirements of section 5 of TSCA.

Dated: November 8, 1982.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–31763 Filed 12–3–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies: Proposed De Novo Nonbanking Activities

Correction

In FR Doc. 82–32370, beginning on page 53498, on page 53499 in the middle column, 6th line from the top, the date "December 1, 1982", should be "December 13, 1982".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Chopaka Mountain Wilderness Study, Upper Columbia Management Framework Plan, Amendment and Environmental Assessment

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability and notice of public hearings.

SUMMARY: Pursuant to § 1503.1 of the Council on Environmental Quality's regulations (40 CFR) for implementation of the National Environmental Policy Act, the BLM has prepared a draft environmental assessment (DEA) for a proposed amendment of the Upper Columbia Management Framework Plan in the Spokane District, Washington. The amendment comprises a step in the wilderness study of the Chopaka Mountain Wilderness Study Area in northern Okanogan County. The preferred alternative in the amendment and DEA would recommend the study area as nonsuitable for wilderness designation.

Pursuant to Section 3(d) of the Wilderness Act of 1964, two public hearings will be held to receive public comments regarding the draft recommendation on the nonsuitability of the study area for inclusion in the National Wilderness Preservation System. Comments regarding the adequacy of the DEA may also be submitted at the hearings. The hearings will be held in Okanogan and Spokane, Washington.

Based on information in this DEA, it is expected that a Finding of No Significant Impact will be made and that an environmental impact statement will not be prepared.

DATES: Comments on the DEA must be received in the Spokane District Office no later than the close of business on February 28, 1983.

The hearing in Okanogan will be held at the Okanogan Public Utility District Office, located at 1331 North 2nd Street, on January 26, 1983. The hearing in Spokane will be held at the BLM District Office, East 4217 Main, on January 27. Both hearings will start at 7:00 P.M.

ADDRESS: Comments should be sent to Jerry Kidd, Bureau of Land Management, Spokane District Office, East 4217 Main, Spokane, Washington 99202.

FOR FURTHER INFORMATION CONTACT: Gary Yeager, EA Team Leader, at the above address. Telephone: (509) 456–2570.

SUPPLEMENTARY INFORMATION: Copies of the DEA are being distributed to parties on a mailing list in the Spokane District Office. A limited number of additional copies are available at the above address. Reviewers are encouraged to retain the DEA for future reference because the final EA may not repeat all of the information in the DEA.

Dated: November 22, 1982.

Paul M. Vetterick,

Acting State Director.

[FR Doc. 82–32983 Filed 12–3–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Exxon Co., U.S.A.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the Grand Isle Block 16 Federal Unit Agreement No. 14–08–001–2932, submitted on November 12, 1982, a proposed annual plan of development describing the activities it proposes to conduct on the Grand Isle Block 16 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 Regional 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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 24, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–33120 Filed 12–3–82; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Belton Chalets, Inc.; Intention To Negotiate Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Regional Director of the National Park Service, proposes to negotiate a concession permit with Belton Chalets, Inc., authorizing it to continue to provide lodging and food facilities and services for the public at Glacier National Park, Montana for a period of five (5) years from January 1, 1983, through December 31, 1987.

This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1982, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision in effect, grants Belton Chalets, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Belton Chalets, Inc. If Belton Chalets, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new permit will be negotiated with Belton Chalets, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Denver, Colorado 80255, for information as to the requirements of the proposed permit.

Dated: November 24, 1982.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 82–33148 Filed 12–3–82; 8:45 am]

BILLING CODE 4310–70–M

Rocky Mountain Outfitters, Inc.; Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Regional Director of the National Park Service, proposes to negotiate a concession contract with Rocky Mountain Outfitters, Inc., authorizing it to continue to provide saddle and pack horse transportation and horse-drawn sightseeing facilities and services for the public at Glacier National Park, Montana for a period of five (5) years from January 1, 1983, through December 31, 1987.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1982, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect, grants Rocky Mountain Outfitters, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Rocky Mountain Outfitters, Inc. If Rocky Mountain Outfitters, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Rocky Mountain Outfitters, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Denver, Colorado 80225, for information as to the requirements of the proposed contract.

Dated: November 24, 1982.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 82–33149 Filed 12–3–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Decision Notice OP-5FC 266]

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, (202) 275-7289.

MC-FC-81022. By decision of November 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to MARK F. CAVANAUGH d/b/a CAVANAUGH TRUCKING & BUS SERVICE, Monmouth, IL of Permit No. MC-388 issued August 4, 1953, to FRANK M. CAVANAUGH, of Monmouth, IL, authorizing the transportation over irregular routes of (1) *canned foods,* from Belvidere, IL, Terre Haute, IN, and Stoughton, WI, to Davenport, IA and Galesburg and Quincy, IL, (2) *eggs,* from St. Louis, MO to Davenport, IA, and Galesburg and Quincy, IL, (3) *farm implements and tractors and parts therefor,* from West Allis and Racine, WI, to Monmouth, IL, (4) *washing machines,* from Newton, IA to Monmouth, IL, (5) *pneumatic tires,* from Eau Claire, WI, to Monmouth, IL, and (6) *stoneware, and supplies, materials and equipment* used in the manufacture thereof, between Monmouth and Macomb, IL, on the one hand, and, on the other, Sioux Falls, SD, South Bend, IN, points in WI, IA, NE, KS and MO, and that part of MN on and south of U.S. Hwy. 12. Representative: James R. Standard 209 North Main St., Monmouth, IL 61462.

MC-FC-81052. By decision of November 26, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to COUGAR EXPRESS LINES, INC., Auburn, NY, of Certificate No. MC-87109 Sub 26, issued September 9, 1982, to TIDEWATER INLAND EXPRESS, INC., Auburn, NY, authorizing the transportation of *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between those points in the U.S. in and east of MN, IA, MO, AR, and TX. Representative: Leonard A. Jaskiewicz, 1730 M Street, NW, Washington, DC 20036.

Note.—Transferee is not a carrier but is affiliated with transferor, and transferor is affiliated with Red Star Express of Auburn, Incorporated, a carrier under MC-59135, and Red Star Express Lines of Ontario, Limited, a carrier under MC-141577.

[FR Doc. 82-33133 Filed 12-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Decision-Notice OP4F-046]

Motor Carriers; Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securites issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be 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 1182.2. 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 1182.2(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, 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.

By the Commission, Review Board No. 3, Members Joyce Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team Four at (202) 275-7669

MC-F-15005, filed November 9, 1982. CARL W. REAGAN (REAGAN) (8418 Tallmadge Road, R.D. #6, Ravenna, OH 44266)—Control—HELEN REAGAN, d.b.a. SOUTHEAST TRUCKING COMPANY (SOUTHEAST) (8418 Tallmadge Road, R.D. #6, Ravenna, OH 44266). Representative: William P. Jackson, Jr. 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Reagan, a motor common carrier, seeks authority to control through management Southeast. The operating rights of Southeast sought to be controlled by Reagan are contained in Certificate No. MC-149397 and subs thereunder, authorizing the transportation of (1) *building materials,* between points in Clara County, MI, on the one hand, and on the other points in described portions of OH; those points in Franklin, Muskingum, and (b) between points in Milwaukee County, WI, on the one hand, and on the other, named points in OH; (2) *such commodities* as are dealt in or used by a manufacturer of (a) construction materials, (b) clay products, and cement products, between points in Summit County, OH on the one hand, and, on the other, points in IN, IL, KY, MN, IA, MI, WV, PA, NY, MD, DE, NJ, and DC; (3) *metal products,* (a) between points in DE, IL, IN, IA, KY, MD, MI, MN, NJ, NY, OH, PA, WV, and DC, on the one hand, and on the other, points in Summit, Portage, Tuscarawas, and Hamilton Counties, OH; points in Kalamazoo County, MI.; Croydon, PA, and points in Allegheny County, PA; and points in Baltimore County, MD.; and (b) between the counties and city named in (3)(a) above; (4) *machinery,* (a) between points in DE, IL, IN, IA, KY, MD, MI, MN, NJ, NY, OH, PA, WV, and DC, on the one hand, and, on the other points in Summit, Portage, Tuscarawas and Hamilton, Counties, OH; points in Kalamazoo County, MI; Croydon, PA, and points in Allegheny County, PA.; and (b) between the counties and city named in (4)(a) above; (5)(a) *such commodities* as are dealt in or used by a manufacturer of construction materials and supplies, and (b) *materials, equipment and supplies* used in the installation of the commodities in (5)(a) above, between points in Portage County, OH, on the one hand, and, on the other, points in DE, MI, MD, NJ, NY, PA, WV and DC, (6) *such commodities as are dealt in or used by manufacturer or distributors of bricks,* between the facilities of The Belden Brick Company, in the United States, on the one hand, and, on the other, points in the United States, (7) *general commodities,* between Health, Hebron and National Road, Ohio, on the one hand, and, on the other, points in the United States, (8) *building materials,* between points in Ohio, on the one hand, and, on the other, points in Illinois and Indiana. Reagan is owner of Charter Express, Inc., a motor carrier, holding Certificates No. MC-123279 and subs thereunder, and is part owner of National Trucking, Inc., a motor carrier, holding authority in No. MC-149401. A temporary authority application has been filed. Applicants have been relieved from filing of Attachments A-1 through A-8, and B-1 through B-6, to Form OP-F-45, pursuant to decision in No. MC-F-14738.

MC-F-15006, filed November 12, 1982. RALPH J. MARQUARDT & SONS, INC. (Marquardt), P.O. Box 1040, Yankton, SD 57078—purchase (portion)—ECKLEY TRUCKING INC. (Eckley), P.O. Box 156, Mead, NE 68041. Representatives: Bradfort E. Kistler, P.O. Box 82028, Lincoln, NE 68501; and A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Marquardt seeks authority to purchase a portion of the interstate operating rights of Eckley. Ralph J. Marquardt and Lucille M. Marquardt, who jointly control Marquardt, seek authority to acquire control of said rights. Marquardt is purchasing Eckley's Certificates No. MC-5227 (Sub-Nos. 13, 20, 22, 36F, and 77F), as follows: Subs 13, 20, 22, and 36F authorize the transportation of *buildings,* knocked down and in sections, *building sections and panels, metal prefabricated structural components, building equipment, materials, supplies and accessories* used in the construction and completion of buildings, and *materials, equipment and supplies* used in their manufacture and distribution, (1)(a) from the facilities of American Buildings Company, at Atlantic, IA, to points in AZ, AR, CO, ID, IL, IN, KS, MI, MO, MT, NE, NM, ND (except Fargo and points in its commercial zone), OK, OR, SD, TX, WI, and WY; and (b) between the facilities of American Buildings Company, at Atalantic, IA, and facilities of American Buildings Company at Jamestown, OH. The operations authorized in (a) and (b) are restricted to the transportation of shipments originating at the named origins and destined to the indicated destinations. (2) from the facilities of American Buildings Company, at or near Atlantic, IA, and facilities of Behlen Manufacturing Company, at or near Columbus, NE, to points in AK. (3) from the facilities of American Buildings Co., at or near Atlantic, IA, to points in CA, NV, UT, and WA: and (4) (a) from the facilities of American Buildings Co., at or near Carson City, NV, to points in AZ, CA, ID, MT, NV, NM, OR, UT, WA, and WY; and (b) from the destinations specified in 4(a) above to the origin specified in 4(a) above. Sub 77F authorizes the transportation of *retail store and office fixtures and equipment,* and *materials and supplies* used in their manufacture, between points in Sedgwick County, KS, on the one hand, and, on the other, points in the United States.

Note.—An application for temporary authority has been filed. Transferor holds, certificates and numbers in No. MC-147771.

MC-F-15007, filed November 12, 1982. NORTH & SOUTH LINES, INC. (North) (1610 South Main St., Harrisonburg, VA 22801)—merger—HARTMANS, INCORPORATED (Hartmans) (P.O. Box 898, Harrisonburg, VA 22801). Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th St., NW., Washington, DC 20004. North seeks authority to merge the interstate operating rights and property of Hartmans, its wholly-owned subsidiary, into North for ownership, management and operation. Robert E. Plecker, the sole stockholder of North, seeks authority to acquire control of said rights and property through the merger. The operating authority to be merged into North is contained in Hartmans' certificates No. MC-112696 and sub-numbers thereunder, which authorize regular and irregular route transportation of general commodities (with exceptions), and various specified commodities such as shoes, petroleum products, auto parts, furniture, textiles, coal, farm machinery, chemicals, foodstuffs, and plastic film, generally from, to, and between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

Notes.— (1) North was authorized to control Hartmans in MC-F-14446. (2) All operating authority of Hartmans is to be merged into North. (3) North is a motor common carrier pursuant to certificates

issued in MC-28068 and sub-numbers thereunder.

[FR Doc. 82-33134 Filed 12-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP-5-268]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: November 29, 1982.

The following applications, are governed by 49 CFR 1160.1–1160.23 of the Commission's Rules of Practice. These rules were published in the **Federal Register** on December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 3, 1982. 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 1160.40–1160.49. 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 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.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

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 5, (202) 275–7289.

MC 140268 (Sub-6), filed November 15, 1982. Applicant: J-GEM TRANSPORTATION, INC., 1418 17th St., Long Beach, CA 90813. Representative: Ensley Weimer (same address as applicant), 213–437–5558. 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 HI).

MC 164529, filed November 3, 1982. Applicant: WALL DELIVERY SERVICE, INC., 3501 Manchester Drive, Charlotte, NC 28210. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164658, filed November 12, 1982. Applicant: CARL MESSENGER SERVICE, INC., 829 West Baltimore St., Baltimore, MD 21201. Representative: Carl W. Parr, Jr. (same address as applicant), 301–685–3220. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 164668, filed November 12, 1982. Applicant: RICHARD SOLWOLD, 880 District Line Road, Burlington, WA 98233. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228–3807. 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 HI).

MC 164699, filed November 12, 1982. Applicant: GEORGE OLESIAK TRUCKING, 1625 CO. Hwy 4, Carlton, MN 55718. Representative: George Olesiak (same address as applicant), (218) 389–3151. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

[FR Doc. 82-33130 Filed 12-3-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications are governed by 49 CFR 1160.1–1160.23 of the Commission's Rules of Practice. These rules were published in the **Federal Register** of December 31, 1980, at 45 FR 86771 and redesignated at 47 FR 49583, November 1, 1982. 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 1160.40–1160.49. 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.

Fundings

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 3, (202) 275–5223.

Volume No. OP3–30

Decided: November 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 41635 (Sub-55), filed November 15, 1982. Applicant: SHALE AUTO TRANSPORT, INC., 3370 Old Kings Road, Jacksonville, FL 32205. Representative: Paul M. Daniell, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303, (404) 522–2322. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with Southeast Toyota Distributors, Inc., of Deerfield Beach, FL.

MC 114274 (Sub-84), filed November 12, 1982. Applicant VITALIS TRUCK LINES, INC., 137 N. E. 48th St. Pl. Des Moines, IA 50306. Representative: William H. Towle, 180 No. LaSalle St., Rm. 3520, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI).

MC 129135 (Sub-11), filed November 12, 1982. Applicant: KATUIN BROS. INC., 102 Terminal St., P.O. Box 1127, Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001, (319) 557–1320. Transporting (1) *lumber and wood products*, between points in IL, IA, MN, MO, ND, SD, and WI, and (2) *sand and sand products*, between points in Green Lake, Jackson, and Marienette Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *salt and salt products*, between points in the U.S. (except AK and HI), and (4) *food seasoning compounds*, between points in IL, IA, MN, MO, and WI.

MC 142114 (Sub-20), filed November 17, 1982, Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067, (617) 784–6041. Transporting *such commodities* as are dealt in by retail department stores, between points in the U.S., under continuing contract(s) with Hill Department Stores, Division of SCOA Industries, Inc., of Canton, MA.

MC 144345 (Sub-26), filed November 16, 1982, Applicant: DON'S FROZEN EXPRESS, INC., P.O. Box 1197, Caldwell, ID 83605. Representative: John H. Goslin, 2417 Bank Dr., Ste. 8, Boise, ID 83705, (208) 344–7714. Transporting (1) *such commodities* as are dealt in by food and grocery business houses, and (2) *chemicals and related products*, between points in the U.S. (except AK and HI).

MC 146035 (Sub-8), filed November 12, 1982. Applicant: SOUTHERN DRAYAGE, INC., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *covered copper wire* and *flourescent lamp ballasts*, between points in the U.S. (except AK and HI).

MC 149284 (Sub-6), filed November 12, 1982. Applicant: MARION D. DAY, d.b.a. DAY'S EXPRESS, a Corporation, 1942 7th St., Columbus, IN 47201. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IN and KY, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, ID, IL, KS, LA, MI, MO, MN, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 147454 (Sub-4), filed November 16, 1982. Applicant: JAMES CONDOSTA, 807 Exeter Ave., W. Pittston, PA 18643. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *coal and coal products* (a) between points in Luzerne, Northumberland and Schuylkill Counties, PA, on the one hand, and, on the other, points in VA, (b) between points in Northumberland County, PA and Logan County, WV, on the one hand, and, on the other, points in CT, MA, ME, NH, OH, and RI and (c) between points in Armstrong, Cambria, Centre, Clarion, Clinton, Indiana, Sullivan, Jefferson and Lackawanna Counties, PA, on the one hand, and, on the other, points in CT, DE, GA, IL, IN, ME, MD, MA, MI, NJ, NY, OH, RI, VT, NH and VA.

MC 151094 (Sub-4), filed November 17, 1982. Applicant: I–GO VAN & STORAGE, INC., 3747 Gilmore Ave., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306 (805) 872–1106. Transporting *such commodities* as are dealt in or used by manufacturers of fiberglas tanks and plastic products, between points in the U.S. (except AK and HI), under continuing contract(s) with Owens-Corning Fiberglas Corporation of Toledo, OH.

MC 156924 (Sub-2), filed November 12, 1982. Applicant: QUAD CITIES EXPRESS, INC., 3159 23rd Avenue, Moline, IL 61265. Representative: Kenneth Coleman, 4109 West 52nd Place, Chicago, IL 60632, (312) 581–7655. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in IA, IL, and those in Lake, Porter, and LaPorte Counties, IN.

MC 160255 (Sub-2), filed November 12, 1982. Applicant: ARTESIAN TRANSPORTATION, INC., 201 East Fifth Street, Mansfield, OH 44901. Representative: Roger C. Wallace (same address as applicant), (419) 522–4211. Transporting *plastic and plastic products*, between points in the U.S., under continuing contract(s) with Alma Plastics Company, of Greenville, OH.

MC 160785 (Sub-3) filed November 12, 1982. Applicant: CASTAR TRUCKING, 7840 "F" St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporating *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 163174, filed November 11, 1982. Applicant: DOUBLE R ENTERPRISES, division of ROSTAN CORPORATION, 221 Grove Street, P.O. Box 320, New Castle, PA 16103. Representative: Dwight L. Koerber, Jr., 110 North Second Street, P.O. Box 1320, Clearfield, PA 16830, (814) 765–9611. Transporating (1) *food and related products, and vitamins,* between points in the U.S., under continuing contract(s) with GNC Corporation, of Pittsburgh, PA, (2) *food and related products,* between points in the U.S., under continuing contract(s) with Doxee Food Corporation, of Baltimore, MD, and (3) *general commodities* (except commodities in bulk, household goods, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Borden, Inc., of Columbis, OH.

MC 164644, filed November 8, 1982. Applicant: DONALD C. BUTLER, JR. AND GEORGE W. RAHMSDORF, JR., d.b.a. NEW ENGLAND AUTO TRANSFER, Ford Lane, Danbury, CT 06810. Representative: Francis G. Pennarola, 2 Stony Hill Rd., Bethel, CT 06801, (203) 743–6363. Transporating *motor vehicles,* between points in CT, on the one hand, and, on the other, points in FL.

MC 164734, filed November 15, 1982. Applicant: GRIZZLY TRANSPORT, 2401 W. Broadway, Missoula, MT 59801. Representative: Thomas M. Briggs, 2944 W. Central, Missoula, MT 59801, (406) 721–4034. Transporating (1) *building materials,* (2) *lumber and wood products,* (3) *furniture and fixtures,* and (4) *pulp, paper and related products,* between points in ID, WA, MT, ND, SD, MN, WI, IL, IN, MI, WY, IA, NE, and OR.

MC 164735, filed November 12, 1982. Applicant: BROWN BUS COMPANY, INC., 608 Oak Grove Lane, Virginia Beach, VA 23452. Representative: Paulvin C. Brown (same address as applicant), (804) 486–5702. Transporating *passengers and their baggage* in special and charter operations, beginning and ending at points in VA and extending to points in the U.S. (except HI).

MC 164794, filed November 12, 1982. Applicant: JOSEPH E. WAROQUIER, d.b.a., WAROQUIER COAL COMPANY, 133 West Fifth Street, Clearfield, PA 16830. Representative: Dwight L. Koerber, Jr., 110 North Second Street, P.O. Box 1320, Clearfield, PA 16830, (814) 765–9611. Transporting *coal and coal products,* between points in Clearfield County, PA, on the one hand, and, on the other, points in NY and MD.

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP5–267

Decided: November 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41608 (Sub-4), filed November 17, 1982. Applicant: CORRIGAN MOVING & STORAGE CO., 2000 Westwood Ave., Dearborn, MI 48124. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. under continuing contract(s) with Ford Motor Company of Dearborn, MI.

MC 41608 (Sub-5), filed November 17, 1982. Applicant: CORRIGAN MOVING & STORAGE CO., 2000 Westwood Ave., Dearborn, MI 48124. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. under continuing contract(s) with Burroughs Corporation of Detroit, MI.

MC 79658 (Sub-37), filed November 15, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812–424–2222. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. under continuing contract(s) with Sears, Roebuck and Co. of Chicago, IL.

MC 121288 (Sub-3), filed November 17, 1982. Applicant: STATE FREIGHT, INC., 666 Summer St., Boston, MA 02205. Representative: Lawrence T. Sheils, 316 Summer St., 5th Floor, Boston, MA 02210, 617–482–3835. Transporting *malt beverages* between points in the U.S. (except AK and HI), under continuing contract(s) with Van Munching & Co., Inc. of New York, NY.

MC 121298 (Sub-5), filed November 12, 1982. Applicant: SEAWAY TRANSPORT COMPANY, 1149 East 5th St., P.O. Box 101, Ashtabula, OH 44004. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141758 (Sub-14), filed November 9, 1982. Applicant: LYDALL EXPRESS, INC., 615 Parker St., Manchester, CT 06040. Representative: Robert J. Dunbar (same address as applicant), (203) 646–1233. Transporting *metal articles* between points in the U.S. (except AK and HI), under continuing contract(s) with Plume and Atwood Brass Mill Division, Diversified Industries, Inc., of Thomaston, CT.

MC 141758 (Sub-15), filed November 12, 1982. Applicant: LYDALL EXPRESS, INC., 615 Parker St., Manchester, CT 06040. Representative: Robert J. Dunbar, (same address as applicant), (203) 646–1233. Transporting *metal articles,* between points in the U.S. (except AK and HI), under a continuing contract(s) with Mattatuck Industrial Scrap Metal, Inc., of Wolcott, CT.

MC 151878 (Sub-4), filed November 15, 1982. Applicant: THREE WAY CORPORATION, 1120 Karlstad Dr., Sunnyvale, CA 94086. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, DC 20036, 202–785–3420. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with System Industries Inc., of Milpitas, CA.

MC 156488 (Sub-5), filed November 15, 1982. Applicant: CONTRANS, INC., 6716 Berger, Kansas City, KS 66111. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line, Suite 232, Kansas City, MO 64114, 816–444–7474. Transporting *food and related products, paper products, and glass products,* between points in MO and IL, under continuing contract(s) with Mid-Continent Bottlers, of North Kansas City, MO.

MC 160399 (Sub-1), filed November 12, 1982. Applicant: FIFE, INC., Hilton Road, P.O. Box 329, Keokuk, IA 52632. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, (515) 244–2329. Transporting *iron and steel articles and nonferrous metals,* between points in the U.S., under continuing contract(s) with Azcon Corporation, of Alton, IL.

MC 160598 (Sub-2), filed November 15, 1982. Applicant: C. R. SMITH TRUCKING, P.O. Box 516, Taylor, AZ 85939. Representative: Donald E. Fernaays, 2619 N. 50th Pl., Phoenix, AZ 85008, 602–952–1560. Transporting *pulp, paper and related products,* between points in AZ, AR, CA, CO, ID, NM, NV, OK, OR, TX, UT and WA.

MC 164738, filed November 12, 1982. Applicant: AFFTON TRUCKING COMPANY, INC., 2101 Howard St., St. Louis, MO 63106. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102, 314–421–0845. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, IL, KS, MO, NE, OK, TN, and TX.

MC 164748, filed November 12, 1982. Applicant: F. W. CLUKEY TRUCKING, INC., 72 Wells Rd., Granby, CT 06035. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, 203–728–0700. Transporting *food and related products*, between Philadelphia, PA, Albany and New York, NY; Providence, RI; Portland, ME; Hartford, CT; Boston, MA; Wilmington, DE; Baltimore, MD; and Newark, NJ, on the one hand, and, on the other, points in ME, NH, VT, CT, MA, RI, NY, NJ, PA, MD, DE, and VA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-33131 Filed 12-3-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 312]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: November 29, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86746.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 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 46990 (Sub-14)X, filed October 20, 1982. Applicant: TRANS COUNTRY VAN LINES, INC., 3300 Veterans Hwy., Bohemia, NY 11716. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Lead and Subs 9, 11, 12–G, and 13F: (1) broaden household goods (lead and Subs 9, 12–G, and 13F) and used household goods (sub 11) to "household goods and furniture and fixtures"; and (2) remove the restriction limited to the "transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized" and performance of pickup and containerization or unpacking, uncrating, and decontainerization", Sub 11.

MC 121630 (Sub-7)X, filed November 8, 1982. Applicant: LEMORE TRANSPORTATION, INC., d.b.a. ROYAL TRUCKING CO., 1420 Royal Industrial Way, Concord, CA 94520. Representative: Daniel W. Baker, 100 Pine St., #2550, San Francisco, CA 94111. Subs 2, 3, and 5 certificates: (A) broaden to (1) "commodities in bulk" from (a) dry commodities, in bulk, in dump or hopper-type vehicles (except earth, sand, loam, gravel, stone, cement, asphalt, and cement or asphalt mixes), Sub 3; and (b) pig iron, scrap metals, ores, ferro alloys, coke, raw sugar, fertilizer, nickel slag, silico maganese, and crude refractory clay, in bulk, in dump vehicles, Sub 5; (2) "general commodities (except classes A and B explosives, household goods and commodities in bulk)" from general commodities (with exceptions), Sub 3; (B) remove the (1) "prior or subsequent movement by water" restriction, Sub 3; and (2) specified commodities, in bulk, and in dump and hopper-type vehicles restrictions, sub 2; and (C) broaden to county-wide authority: Solano, Contra Costa and Alameda Counties, CA (Pittsburg, Benicia, Selby, Richmond, Oakland and Alameda); and San Mateo, Santa Clara and Solano Counties, CA (respective portions of such counties), Sub 3.

MC 152057 (Sub-2)X, filed November 4, 1982. Applicant: LANDSMAN CAR CARRIER SERVICE, INC., 5601 Reisterstown Rd., Baltimore, MD 21215. Representative: Barbara Morgret Campbell, 21 Dupont Circle, N.W., Washington, DC 20036. Sub 1 certificate: remove restriction "against movements of new motor vehicles having an immediate prior movement by water."

[FR Doc. 82-33129 Filed 12-3-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as othewise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-219

The following applications where filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1–47TA), filed November 16, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda,

MD 20814. *Contract carrier:* irregular routes: *Maple syrup, syrup products and supplies,* from Newport and Brattleboro VT to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, under continuing contract(s) with American Maple Products Corp., Newport, VT. Supporting shipper: American Maple Products Corp., P.O. Box 685, Newport, VT 05855.

MC 134806 (Sub-1–48TA), filed November 17, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Rubber sheeting and elastic webbing,* between Brattleboro, VT, on the one hand, and, on the other, points in CA, under continuing contract with Fulflex of Vermont, Inc., Brattleboro, VT. Supporting shipper: Fulflex of Vermont, Inc., Putney Road, Brattleboro, VT 05301.

MC 134806 (Sub-1–49TA), filed November 18, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Maple syrup, syrup products and supplies,* from St. Johnsbury and Brattleboro, VT to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, under continuing contract with Maple Grove, Inc., St. Johnsbury, VT. Supporting shipper: Maple Grove, Inc., 167 Portland Street, St. Johnsbury, VT 05819.

MC 164726 (Sub-1–1TA), filed November 18, 1982. Applicant: C&D VAN HORN INC., Valley Street, P.O. Box 93, Delaware, NJ 07833. Representative: Raymond Talipski, 121 S. Main Street, Taylor, PA 18517. *Sugar,* between Yonkers, NY, on the one hand, and, on the other, VT, MA, CT, RI, NJ, PA, NY, DE and MD. Supporting shipper: Refined Sugars Incorporated, 1 Federal Street, Yonkers, NY 10702.

MC 36918 (Sub-1–1TA), filed November 19, 1982. Applicant: FASTWAY TRANSPORTATION, INC., 151 D Morristown Road, P.O. Box 383, Matawan, NJ 07747. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contact carrier:* irregular routes: *Malt beverages and equipment, materials and supplies used in the manufacture and distribution thereof,* between Detroit, MI, Fogelsville, PA, Longview, TX, Memphis, TN, and Tampa, FL, on the one hand, and, on the other, points in and east of TX, AR, MO, IL, and WI, under continuing contract(s) with the Stroh Brewery Compamy of Detroit, MI. Supporting shipper: The Stroh Brewery Company, 1 Stroh Drive, Detroit, MI 48226.

MC 148141 (Sub-1–6TA), filed November 22, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (same as applicant). *Contact carrier:* irregular routes: *Drugs NOI; sweetening compounds other than sugar; any commodity used by or dealt with in the manufacture of such commodities,* from Phoenix, AZ, Elk Grove Village, IL, Pennsauken, NJ, Washington, DC, on the one hand, and on the other, all points in the U.S. (except AK and HI), under continuing contract(s) with Searle Consumer Products, Phoenix, AZ. Supporting shipper: Searle Consumer Products, Box 6175, Phoenix, AZ 85005.

MC 154993 (Sub-1–7TA), filed November 17, 1982. Applicant: H&W ENTERPRISES, INC., South Witham Road, P.O. Box 325, Auburn ME 04210. Representative: Ignatius B. Trombetta, One Public Square, Suite 1001, Cleveland, OH 44113. *Contract carrier:* irregular routes: *General commodities, (except Classes A and B explosives and household goods)* from points in IL and OH to points in OH, PA, MD, DC, NJ, NY, CT, MA and ME, under continuing contract(s) with Triangle Distributing, Inc. of Columbus, OH. Supporting shipper: Triangle Distributing, Inc., 2020 New World Drive, Columbus, OH 43207.

MC 164695 (Sub-1–1TA), filed November 16, 1982. Applicant: HAMPTON JITNEY, INC., "The Omni", County Road 39–A, Southampton, NY 11968. Representative: Robert J. Brooks, Vorys, Sater, Seymour and Pease, 1828 L Street, N.W., Suite 1111, Washington, DC 20036. *Common carrier:* regular routes: *Passengers and their baggage, newspaper, mail and express packages,* between Montauk, NY, Sag Harbor, NY and Southampton, NY and New York, NY: (a) Between Montauk, NY, and New York, NY, from Montauk, on Montauk Hwy (NY Hwy 27) to its intersection with County Road 39, then on County Road 39 to its intersection with Sunrise Hwy (NY Hwy 27), then on Sunrise Hwy to its intersection with County Road 111, then on County Road 111 to its intersection with Long Island Expressway (NY Hwy 495 and I–495), then on Long Island Expressway and its service road, through the Midtown Tunnel to 34th Street, on 34th Street to junction of 34th Street and 10th Avenue, on 10th Avenue to junction of 40th Street and 10th Avenue, east on 40th Street to Port Authority Bus Terminal; and return over same route, except as follows: exit from Port Authority Bus Terminal at 40th Street, on 40th Street to junction of 40th Street and 10th Avenue, north on 10th Avenue to junction of 42nd Street and 10th Avenue, east on 42nd Street to junction of Lexington Avenue and 42nd Street, south on Lexington Avenue to junction of Lexington Avenue and 36th Street, east on 36th Street to Midtown Tunnel; (b) Between Sag Harbor, NY, and Bridgehampton, NY, from junction Main Street and Route 114, near Sag Harbor, on Main Street (Sag Harbor Turnpike), to junction of Montauk Hwy at Bridgehampton, and return over same route; (c) Between junction Montauk Hwy (NY Hwy 27) and North Sea Road near Southampton, and junction of North Sea Road and County Road 39, from Montauk Hwy over North Sea Road to its intersection with County Road 39, and return over same route; and (d) Between Southampton, NY, and Westhampton, NY, from junction County Road 39 and Montauk Hwy (NY Hwy 27A) on Montauk Highway to junction County Road 31 and Montauk Hwy near Westhampton, then on County Road 31 to its junction with Sunrise Hwy (NY Hwy 27), and return over same route. Applicant seeks to interline with other carrier at New York City and New Jersey Port Terminals. Supporting Shipper(s): There are six statements in support of this application which may be examined at the RegionaL Office of the I.C.C. in Boston, MA.

MC 164713 (Sub-1–1TA), filed November 17, 1982. Applicant: LEASEWAY DELIVERIES, INC., 85 Stanton Street, Rochester, NY 14611. Representative: Thomas B. Hill, 1101 31st Street, Downers Grove, IL 60515. *Contract carrier:* irregular routes: *Fabricated metal products,* from Indianapolis, IN, to points in IL, MI, OH, and KY, under continuing contract(s) with Fretters Applicance Corp, Indianapolis, IN. Supporting shipper: Fretter Applicance Corp., 6091 82nd Stret, Indianapolis, IN 46260.

MC 151193 (Sub-1–40TA), filed November 16, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (Same as applicant). *Contract carrier:* irregular routes: *Audio, video tape carrying cases, cabinets, photographic carrying cases, and supplies used in the manufacture of such commodities* from NY to points in AZ, CA, CO, GA, IN, KS, MN, MI, NV, OR, OH, PA, TX and WA, under continuing contract(s) with Service Manufacturing Company, Inc., Hastings on Hudson, NY. Supporting shipper:

Service Manufacturing Company, Inc., River Street, Hastings on Hudson, NY 10706.

MC 153181 (Sub-1–2TA), filed November 16, 1982. Applicant: REILLY BROTHERS, INC., 159 Centre Street, Nutley, NJ 07110. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *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 LeeWards Creative Crafts, Inc. (Subsidiary of General Mills, Inc.), Minneapolis, MN. Supporting shipper: LeeWards Creative Crafts, Inc. (Subsidiary of General Mills, Inc.), P.O. Box 1113, Minneapolis, MN 55440.

MC 156859 (Sub-1–2TA), filed November 16, 1982. Applicant: RICE TRANSPORT, INC., 17 Brookwood Road, Stanhope, NJ 07874. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with American Instants, Inc., Stanhope, NJ. Supporting shipper: American Instants, Inc., 185 U.S. Highway No. 206, Stanhope, NJ 07874.

MC 164768 (Sub-1–1TA), filed November 19, 1982. Applicant: S&F ENTERPRISES, INC., 107–45 93rd Street, Ozone Park, NY 11375. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Malt beverages,* from Utica, NY, to Brooklyn and Staten Island, NY, under continuing contract(s) with Staten Island Beverage, Staten Island, NY; Beehive Beer Distr. Corp., Bray Phoenix Beverage, Inc., and Forbee Bros. Corp., of Brooklyn, NY. Supporting shipper(s): Staten Island Beverage, 101 Ellis St., Staten Island, NY; Beehive Beer Distr. Corp., 160–170 Stewart Ave., Brooklyn, NY 11237; Bray Phoenix Beverage, Inc., 161 Gardner Ave., Brooklyn, NY 11237; and Forbee Bros. Corp., 313 Irving Ave., Brooklyn, NY.

MC 133480 (Sub-1–2TA), filed November 16, 1982. Applicant: A. VIZZI, INC., 13 Heyward Hills Drive, Holmdel, NJ 07733. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Paper and paper products, and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between the facilities used or utilized by The Beekman Paper Company, Inc., its divisions, subsidiaries, affiliates and vendors, at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: The Beekman Paper Company, Inc., 137 Varick Street, New York, NY 10013.

MC 164729 (Sub-1–1TA), filed November 18, 1982. Applicant: RALPH WOOD d.b.a. WOOD TRUCKING, 15 Yubas Avenue, Burlington, NJ 08016. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Contract carrier:* irregular routes: *Food and related products, materials, equipment and supplies used in the manufacture and distribution of food and related products* between Boston, MA, and New York, NY, on the one hand, and, on the other, points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA, WV and DC under continuing contract(s) with Revere Sugar Corporation, Lyndhurst, NJ. Supporting shipper: Revere Sugar Corporation, 210 Clay Avenue, Lyndhurst, NJ 07071.

MC 150526 (Sub-1–6TA), filed November 22, 1982. Applicant: YARMOUTH LUMBER, INC., North Street, Box 46, Yarmouth, ME 04096. Representative: William H. Phipps (same as applicant). *Lumber and building products* between all points in the U.S. east of the Mississippi River. Supporting shipper(s): Jim Gillies Lumber Co., Inc., Yarmouth Road, Gray, ME 04039; Lumber & Supplies, Inc., 71 Main Street, Yarmouth, ME 04096.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 141344 (Sub-II–1TA) filed November 18, 1982. Applicant: ALLEN TRANSPOT CORPORATION, Route 4, Box 1550, P.O. Box 9702, Richmond, VA 23060. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235. Contract, irregular: (1) *Engine sets, engines, generators, power systems units, and material, supplies and equipment used in the manufacture, sale and distribution of the above,* Between Ashland, Mechanicsville and Richmond, VA, and points in Hanover and Henrico Counties, VA, on the one hand, and, on the other points in MI, NJ, NY and OH, under continuing contract(s) with Cogenic Energy Systems, Ashland, VA; (2) *Aerators, accessory items, and materials, supplies and equipment used in the manufacture, sale and distribution of Aerators,* between Mechanicsville and Richmond, VA, and points in Hanover and Henrico Counties, VA, on the one hand, and, on the other, points in MI, NJ, NY, and OH, under continuing contract(s) with EPI, Inc., Mechanicsville, VA; (3) *Tublar products, steam & gas generator parts, boiler products, machinery, structural steel, steel plates, steel tubing, refractories, insulation material, and materials, supplies and equipment used in the manufacture, sale and distribution of the above,* Between Ashland and Richmond, VA, and points in Hanover and Henrico Counties, VA, on the one hand, and, on the other, points in NJ, NY and OH, under continuing contract(s) with International Tublar Products, Ashland, VA; (4) *Steel, tubing, plates, flats, or sheets: structural steel, refractories, insulation, welding rods, chemicals, paint, and materials, supplies used in the manufacture, sale and distribution boilers and generators,* Between Wilmington, New Castle, Edgemore and Newark, DE, on the one hand, and, on the other, points in NJ, NY, and OH, under continuing contract(s) with Potts Welding & Boiler Repair Co., New Castle, DE; (5) *Boilers, boiler parts, tubular products, fans, burners, airheaters, economizers, deareators, refractories, and material, supplies and equipment used in the manufacture, sale, repair and distribution of boilers,* between Ashland, and Richmond, VA, and points in Chesterfield, Hanover and Henrico Counties, VA, on the one hand, and, on the other, points in MI, NJ, NY and OH, under continuing contract(s) with Sam English, Inc., Richmond, VA; and (6) *Power Units, diesel engines, generator sets, marine propulsion and auxiliary units, paint, gears, nuts, bolts, and material, supplies and accessories related to the above named commodities,* Between Ashland, Chesapeake, Fisherville, Haymarket, Mechanicsville, and Richmond, VA, and points in Hanover and Henrico Counties, VA, on the one hand, and, on the other, points in MI, NJ, NY and OH, under continuing contract(s) with Virginia Tractor Co, Richmond, VA. An underlying ETA seeks 120 days authority.

MC 150511 (Sub-2–12TA), filed November 18, 1982. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Drive, Cleveland, OH 44122. Representative: Thomas B. Hill, 1101 31st Street, Downer Grove, IL 60515. *Contract Irregular: Mattresses, and equipment, materials and supplies used in the manufacture and distribution of mattresses,* from Tacoma, WA to points in OR, ID, and MT under continuing contract(s) with Carman Manufacturing Co. d.b.a. Spring Air Northwest. An underlying ETA seeks 120 days authority. Supporting shipper: Carman Manufacturing Co. d.b.a. Spring Air Northwest, 725 E. 25th Street, Tacoma, WA 98421.

MC 163376 (Sub-II–2TA), filed November 16, 1982. Applicant: WAYNE

BRADLEY TRUCKING, INC., Harford Road, New Milford, PA 18834. Representative: Peter Wolff, 722 Pittston Avenue, Scranton, PA 18505. *Salt and salt products* between Watkins Glen and South Lansing, NY on the one hand, and on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI and VT for 270 days. Supporting shipper(s): Cargill Inc., 518 E. Fourth St., Watkins Glen, NY 14891.

MC 147454 (Sub-II–3TA), filed November 15, 1982. Applicant: JAMES CONDOSTA, 807 Exeter Ave., W. Pittston, PA 18643. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. *Coal and coal products,* between Northumberland, Lackawanna and Sullivan Counties, PA, on the one hand, and, on the other, CT, MA, RI, ME, NH, NY, and NJ. An underlying ETA seeks 120 days authority. Supporting shipper: Willimantic Coal, Ltd., P.O. Box 91, Willimantic, CT 06226.

MC 163806 (Sub-II–1TA), filed November 18, 1982. Applicant: GREAT COASTAL CARRIERS, INC., P.O. Box 699, Laurel, DE 19956. Representative: Wilmer B. Hill, Suite 366; 1030 Fifteenth St., N.W., Washington, DC 20005. (1) *Food and related products,* from Houston, DE, Trappe and Salisbury, MD, Camden and Newark, NJ, Waterbury, MA, Mappsville and Saxis, VA, Columbus and Martel, OH, Kennett Square and Philadelphia, PA, and points in TX, CA, OR and WA to points in the U.S. (except AK and HI); (2) *Animal Foods and related products,* from Hanceville, AL, and Berlin, MD to points in the U.S. (except AK and HI); (3) *Chemicals, plastics, resins, and related products,* from Edneyville, charlotte and Wilmington, NC, Waynesboro and Richmond, VA, New London, WI, Hillside, Newark, South Brunswick, Marlboro, Dunnelen, Port Newark, Pennsauken, Paramus, Edgewater, and Woodbury, NJ, Delaware City, Dover and Wilmington, DE, Arlington Heights, Chicago, Springfield, Illiopolis, Elk Grove Village and Thornton, IL, Decatur and Mobile, AL, Macon and Atlanta, GA, Evansville, Terre Haute and Hammond, IN, Baton Rouge, Gonzales, New Orleans, Lake Charles and Shreveport, LA, Brooklyn, Farmingdale and Islip, NY, Dayton, Lima, New Vienna, Norwood, Toledo, Marietta, Cleveland, Columbus, Belpre and Barberton, OH; Allentown, Hazelton, Scranton and Pittsburgh, PA, Franklin and Nashville, TN, Big Springs, Houston and Port Arthur, TX, Parkersburg, Wellsburg and Huntington, WV, Worcester, Leominster and Fitchburg, MA, Detroit and Warren, MI, St. Louis, MO, Clinton and Comanche, IA, Pensacola, FL, Baltimore, MD, and Lexington, KY, to points in the U.S. (except AK and HI); (4) *Paper, paper products, and related products,* from Bessemer, AL, Waterbury, CT, Miami, FL, Atlanta, GA, Chicago, IL, Marengo, IA, Brewer, ME, Baltimore and Salisbury, MD, Boston and Newton, MA, Pascagoula, MS, Linden and New Brunswick, NJ, Albany and Rochester, NY, Charlotte, NC, Cleveland and Columbus, OH, Philadelphia and Bensalem, PA, Nashville, TN, Norfolk and Richmond, VA, and Washington, DC to points in the U.S. (except AK and HI); (5) *Cleaning, polishing and sanitation products,* from Port Jervis, NY to points in the U.S. (except AK and Hi); (6) *Charcoal briquets, lighter fluid, cast iron stoves, chimney aid products, and kerosene heaters,* from Warren, PA, Bethpage, NY, and Kenbridge, VA, to points in the U.S. (except AK and HI); (7) *Building materials, plumbing materials, and swimming pools,* from Canon, CT, Plainfield, NJ, Los Angeles, CA, Chicago, IL, Ft. Wayne, IN, and Houston, TX, to points in the U.S. (except AK and HI). Supporting shippers: There are nineteen (19) supporting shippers. Their statements may be examined at the ICC Regional Office listed.

MC 128290 (Sub-II–9TA), filed November 4, 1982. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101 Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. *Food and related products,* from Northumberland and Westmoreland Counties, VA to points in AL, FL,GA, LA, MS, NC, SC, TN, MD, DE, NJ, NY, CT, MA, RI, WV, PA, and DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Albert W. Sisk & Son, Inc., Preston, MD 21655.

MC 160698 (Sub-II–1TA), filed November 1, 1982. Applicant: JBM ENTERPRISES, INC., 405 Hansen Ave., Butler, PA 16001. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219. *Such commodities as are dealt in or used by home products manufacturers,* from Dayton, NJ to Westfield, MA and from Westfield, MA to points in CT. An underlying ETA seeks 120 days authority. Supporting shipper(s): Amway Corp., P.O. Box 900, Dayton, NJ 08810.

MC 1346161 (Sub-II–2TA), filed November 10, 1982. Applicant: KEARNEY'S TRUCKING SERVICE, INC., P.O. Box 264, Portland, PA 18351. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. *Foodstuffs and related products,* between Houston County, GA, Forsyth, NC and Allen County, IN, on the one hand, and, on the other, Monroe County, PA. Supporting shipper: E. Stroudsburg, Beverage, 61 N. Courtland St., E. Stroudsburg, PA 18301.

MC 30089 (Sub-II–3TA), filed November 15, 1982. Applicant: FRANK W. LILLY, INC., P.O. Box 111, Turtle Creek, PA 15145. Representative: James F. Lilly (same address as applicant). Contract, irregular: *Food products and materials, equipment and supplies used in the manufacture, sale and distribution of food products,* between points in the U.S., under continuing contract(s) with Heinz USA, Div. of H.J. Heinz Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): Heinz USA Div., Pittsburgh, PA 15230.

MC 143406 (Sub-II–5TA), filed November 18, 1982. Applicant: MICHEL PROPERTIES, INC., Stenerson Lane, Cockeysville, MD 21030. Representative: Walter T. Evans, 4304 East-West Highway, Bethesda, MD 20814. *Contract Irregular: Empty glass bottles* from Dayville, CT, to Cockeysville, MD, under continuing contract with Noxell Corporation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Noxell Corp., P.O. Box 1799, Baltimore, MD 21203.

MC 164637 (Sub-II–1TA), filed November 10, 1982. Applicant: T. J. MONROE AND SONS ENTERPRISES, INC., d.b.a. MONROE'S MOVING AND HAULING, 1333 Gallatin St., N.W., Washington, DC 20011. Representative: William H. Shawn, 1730 M St., N.W., Suite 501, Washington, DC 20036. *General commodities (except Classes A&B explosives and commmodities in bulk),* between points in Washington, DC; Howard, Montgomery and Prince George's Counties, MD; and Arlington, Fairfax and Loudoun Counties and Alexandria, VA, on the one hand, and, on the other, points in CT, DE, FL, MD, NC, NJ, NY, PA and VA. Supporting shipper(s): Cultered Bath, 4403 Wheeler Ave., Alexandria, VA. Barrel America, P.O.B. 2141, Rockville, MD. Control Data Corp., 1800 N. Beauregard St., Alexandria, VA. Julia C. Duran, 13718 Marianna Dr., Rockville, MD, Wilma J. Gormley, 619½ S. Pitt St., Alexandria, VA.

MC 155143 (Sub-II–3TA), filed November 18, 1982. Applicant: NEW DIXIE TRANSPORTATION CORP., P.O. Box 112, Providence Forge, VA 23140. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229; (804) 282–3809. *Ammonium sulfate,* in bulk and in bags, from Hopewell, VA to points in the U.S. in and east of ND, SD, NE, KS, OK and TX (except points in

NC). An underlying ETA seeks 120 days authority. Supporting shipper: Allied Fibers and Plastics Co., P.O. Box 2332 R, Morristown, NJ 07960.

MC 107012 (Sub-II–248TA), filed November 18, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop, (same as applicant). *Contract irregular: General commodities,* between points in the US, under continuing contract(s) with Westinghouse Electric Corp., Pittsburgh, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Westinghouse Electric Corp.; Westinghouse Bldg, Gateway Center, Pittsburgh, PA 15222.

MC 107012 (Sub-II–249TA), filed November 18, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler, (same as applicant). Contract, irregular: *General commodities* (except household classes A&B explosives and commodities in bulk) between points in the US under continuing contract(s) with Finnigan Corp., for 270 days. Supporting shipper: Finnigan Corp., 355 River Oaks Pkwy., San Jose, CA 95134.

MC 164340 (Sub-II–1TA), filed November 18, 1982. Applicant: PATTERSON TRUCKING, INC., Box 56, Line Lexington, PA 18932. Representative: Jack Schiller, 111–56 76th Dr., Forest Hills, NY 11375. Contract irregular: *Scrap metal* from the facilities of Roth Steel Corp., located at or near Syracuse, NY, to points in NJ and PA, under continuing contract(s) with Roth Steel Corp. of Syracuse, NY for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Roth Steel Corp. 800 Hiawatha Blvd. W. Syracuse, NY 13036.

MC 164610 (Sub-II–1TA), filed November 18, 1982. Applicant: R and J TRANSPORT, INC., 804 Uniontown Rd., Westminster, MD 21157. Representative: Wesley D. Blakeslee, 127 East Main St., PO Box 525, Westminster, MD 21157. *Contract Irregular: Pre-built homes, building materials, lumber, metal products, wood products and building supplies* between points in DE, MD and VA on the one hand and on the other, points in DC, DE, MD, NJ, PA, VA and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Ryland Group, Inc., 1000 Tibbetts Lane, New Windsor, MD 21776.

MC 164694 (Sub-II–1TA), filed November 15, 1982. Applicant: RAM EXPRESS, INC., 3574 Windover Rd., West, Murrysville, PA 15668. Representative: Raymond A. LaFace (same address as applicant). *General commodities (except commodities in bulk, in tank vehicles, Household goods as defined by the Commission, and Classes A and B explosives),* between points in DC, MD, NJ, NY, OH, PA and WV. An underlying ETA seeks 120 days authority. Supporting shipper(s): Polycoat Systems, Inc., 79 N. Industrial Park, Sewickley, PA. Sewell Plastics, Hanover, PA. J. Edward Connelly Assoc., Inc., 1020 Saw Mill Run Blvd., Pittsburgh, PA. Action Industries, Allegheny Industrial Park, Cheswick, PA. North Coast Distributing, 79 Industrial Park North, Sewickley, PA.

MC 110683 (Sub-II–13TA), filed November 8, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A & B explosives)* between points in the U.S. (except AK & HI) under continuing contract(s) with E. I. DuPont de Nemours & Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): E.I. DuPont de Nemours & Co., Wilmington, DE.

MC 21958 (Sub-II–1TA), filed November 9, 1982. Applicant: STARCK VAN LINES, INC., R.D. #1, Burgettstown, PA 15021. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. *Household Goods, as defined by the Commission and General Commodities (except Classes A & B explosives and commodities in bulk) restricted to transportation for the U.S. Government,* between points in the U.S. (except AK & HI). An underlying ETA seeks 120 days authority. Supporting shipper(s): There are twenty supporting shippers' statements attached to this application which may be examined at the Phila. Regional office.

MC 147577 (Sub-II–2TA), filed November 16, 1982. Applicant: THRIFT TRANSFER, INC., 4650 Eisenhower Ave., Alexandria, VA 22304. Representative: Richard A. Ward, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. *Pulp, paper and related products,* between Hanover County, Va, on the one hand, and, on the other, points in CT, GA, KY, OH and TN, for 270 days. Supporting shipper(s): Bear Island Paper Co., 80 Field Point Rd., Greenwich, CT.

MC 158923 (Sub-II–3TA), filed November 15, 1982. Applicant: JOHN R. VALENTINO TRUCKING, R.D. #2, Box 9B, Cochranville, PA 19330. Representative: John R. Valentino (same address as applicant). *General commodities (except household goods as defined by the Commission, Classes A & B explosives, secret and sensitive weapons and munitions),* between points in NJ, NY, DE, PA, MD, DC and VA. Restricted to the facilities of V.A. Hospitals, Medical Centers and Federal Prisons. An underlying ETA seeks 120 days authority. Supporting shipper(s): Veterals Administration Supply Depot, NASP, Rt. 206, Somerville, NJ 08876.

MC 9914, filed November 18,1982. Applicant: WARREN TRUCKING CO., INC., P.O. Box 5224, Martinsville, VA 24112. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Cans, pails, clay, and resins* between the facilities of Van Horn, Metz & Co., Inc. at Richmond, VA, Baltimore, MD, Conshohocken and Carnegie, PA, on the one hand, and, on the other, points in GA, NC, SC, TN, and VA. An underlying ETA seeks 120 days authority. Supporting shipper: Van Horn, Metz & Co., Inc., 320 Hillen Road, Baltimore, MD 21204.

MC 164611 (Sub-2–1TA), filed November 8, 1982. Applicant: TIMMY D. WEBB, d.b.a. WEBB TRUCKING, R.D. 2, Box 53A, Lincoln, DE 19960. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Paper and paper products,* between Sussex County, DE, on the one hand, and, on the other, points in MA, CT, RI, NY, NJ, MD, VA, NC, SC, and GA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Coastal Stock Tab Company, 2–4 Cedar Creek Ave., Georgetown, DE 19947.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N. E., Atlanta, GA 30309.

MC 164803 (Sub-3–1TA), filed November 23, 1982. Applicant: M. H. COGBURN GAILLARD, JR., Route 1, P.O. Box 116, Monetta, SC 29105. Representative: M. H. Cogburn Gaillard, Jr. (same address as applicant). *Contract* Irregular: *Animal Feed and Feed Supplements,* from Aiken, SC to Carson, CA, under continuing contract(s) with *Horse Health Products, Inc.* of Aiken, SC. Supporting shipper: Horse Health Products, Inc., P.O. Box 311, Aiken, SC 29801.

MC 164701 (Sub-3–1TA), filed November 23, 1982. Applicant: BILL BROWN CONSTRUCTION CO., INC., d.b.a. BILL BROWN TRUCKING, P.O. Box 317, Lee Highway, Ooltewah, TN 37363. Representative: Robert L. Baker, Sixth Floor, U.S. Bank Building,

Nashville, TN 37219. *Lumber and wood products, rubber and plastic products, clay, glass, concrete or stone products, self-propelled vehicles, iron and steel articles and commodities which because of their size or weight require special handling or equipment* between points in AL, FL, GA, NC, SC and TN on the one hand, and, on the other points in the U.S. in and east of IA, MO, OK, TX and WI. Supporting shippers: There are 16 shippers. Their statements may be examined at the Regional Office listed.

MC 104881 (Sub-3–1TA), filed November 23, 1982. Applicant: GAY TRUCK LINE, INC., P.O. Box 134, Highway 15 S., Falkner, MS 38629. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *General commodities, except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk,* between Ripley, Walnut, Shannon, Tupelo and Booneville, MS, and Memphis and Middleton, TN and points in their respective commercial zones, on the one hand, and, on the other, points in AL, AR, FL, GA, IA, IL, IN, KY, LA, MI, MN, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WI and WV. Applicant intends to tack the authority acquired with all authority held in MC–104881 and Subs thereunder and to interline at Tupelo and Jackson, MS; Memphis, Nashville, Knoxville and Chattanooga, TN; New Orleans, LA; Little Rock, AR; St. Louis, MO; Birmingham, Montgomery and Mobile, AL; and Atlanta, GA. Supporting shipper: There are nine appendicies of support which may be examined in the Commission's office in Atlanta.

MC 164406 (Sub-3–1TA), filed November 24, 1982. Applicant: MERIT MOTOR FREIGHT, INC., 3467 Holeman Place, Memphis, TN 38118. Representative: Thomas R. Buckner, 12th Floor, 67 Madison Avenue, Memphis, TN 38103. *Contract Carrier* irregular routes: Automotive and Commercial Batteries between Memphis, TN on the one hand, and, on the other, all points in the States of LA and MS, under a continuing contract(s) with Southern Battery, Inc., New Orleans, LA. Supporting shipper: Southern Battery, Inc., 4035 Washington Avenue, New Orleans, LA 70125.

MC 164053 (Sub-3–1TA), filed November 24, 1982. Applicant: OWENS TRUCKING CO., INC., Highway 280 West, Rochelle, GA 31075. Representative: John W. Greer, III, 925 Healey Building, Atlanta, GA 30303. *Dry mixed fertilizer* from Americus, GA, to Foley and Hartford, AL. Supporting shipper: International Minerals and Chemical Corporation, Post Office Box 607, Americus, GA 31709.

The following applications were filed in Region 4: Send protests To: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15546 (Sub-4–6TA), filed November 19, 1982. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1700 West Carrol Ave., Chicago, IL. 60612. Representative: Ronald C. Kirchwehm (same address as applicant). Transporting: *General commodities,* (except Classes A and B explosives, household goods and commodities in bulk), between the Chicago, IL. commercial zone, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, and WI under continuing contracts with: (1) Certified Grocers of Illinois, Chicago, IL; (2) Chicago Manufacturing Company, Cicero, IL; (3) Dart Warehouse Corporation, Bellwood, IL.

MC 15735 (Sub-4–39TA), filed November 18, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* Between points in the U.S (except AK and HI) under a continuing contract with Gulf & Western Industries and its subsidiaries. Supporting Shipper: Gulf & Western Industries of Southfield, MI.

MC 15735 (Sub-4–40TA), filed November 19, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *General commodities,* except classes A and B explosives and commodities in bulk between points in the U.S. (except AK and HI) under a continuing contract with General Electric Company and its subsidiaries. Supporting Shipper: General Electric Company of Fairfield, CT and its subsidiaries.

MC 82492 (Sub-4–14TA), filed November 18, 1982. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2917, Kalamazoo, MI 49003. Representative: Neil E. Hannan (same address as applicant). (1) *Sodium bicarbonate; baking soda; cleaning, scouring or washing compounds* (2), *Materials, equipment and supplies* used in the production of such commodities, between CT, MA and RI, on the one hand, and, on the other, DeWitt and Syracuse, NY and Fremont and Old Fort, OH. Supporting Shipper: Church & Dwight Co., Inc., P.O. Box 369, Piscataway, NJ 08854.

MC 20824 (Sub-4–7TA), filed November 18, 1982. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, P.O. Box 41719, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *General commodities* (except household goods, commodities in bulk, and Classes A and B explosives), between points in IN, IL, MO, OH, MI, KY, and TN, on the one hand, and on the other, points in the U.S. (except AK and HI). No Supporting Shipper.

MC 151482 (Sub-4–11TA), filed November 19, 1982. Applicant: ROCK VALLEY CONTRACT CARRIERS, INC., 3571 Merchandise Drive, Rockford, IL 61109. Representative: Thomas F. Mohr (same as applicant). *Contract* irregular: *Raw materials and finished goods for gas, electrical and charcoal cooking grills and water coolers and materials and supplies used in the manufacturing thereof,* between Freeport, IL. and the 48 Continental States. Supporting Shipper: King Seeley Thermos Co., Inc., Hwy 75 East, Freeport, IL 61032.

MC 154460 (Sub-4–6TA), filed November 19, 1982. Applicant: "Q" CARRIERS, INC., 14086 Rutgers St. N.E., Prior Lake, MN 55372. Representative: Randall D. Quiring (same as applicant). *Contract* irregular: *Electronic instruments and machines, and related products, such as that sold in retail and wholesale electronics stores* between points in the U.S. Restricted to traffic moving under continuing contract(s) with Schaak Electronics. Supporting Shipper: Schaak Electronics, 1415 Mendota Heights Road, St. Paul, MN 55120.

MC 161107 (Sub-4–2TA), filed November 18, 1982. Applicant: MILBANK FREIGHTWAYS, INC., 1860 E. 28th Street, P.O. Box 9485, Minneapolis, MN 55440. Representative: Richard L. Gill, 1805 American National Bank Building, St. Paul, MN 55101. Contract, by motor vehicle, transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods) between points in the U.S. under a continuing contract with WINKO Warehouse and Distribution Center, Inc., 1860 E. 28th Street, P.O. Box 9485, Minneapolis, MN 55440. Supporting shipper: WINKO Warehouse and Distribution Center, 1860 E. 28th Street, P.O. Box 9485, Minneapolis, MN 55440.

MC 162610 (Sub-4–6TA), filed November 19, 1982. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 West 47th Street, Lyons, IL 60534. Representative: Daniel C. Sullivan,

Sullivan & Associates, Ltd., 180 North Michigan Avenue, Suite 1700, Chicago, IL 60601. *Such commodities* as are dealt in by manufacturers of toilet preparations and soap products, from the facilities of Lever Brothers Company in St. Louis, MO, to points in IL, IN, MI, WI, MN, IA, ND, SD, NE, KS, OK, TX, AR, LA, MO, TN, and KY. Supporting shipper: Lever Brothers Company, 390 Park Ave., New York, NY 10022.

MC 164726 (Sub-4–1TA), filed November 18, 1982. Applicant: SYNDICATE SALES, INC., West Morgan Street, P.O. Box 756, Kokomo, IN 46901. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Contract* irregular: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chehalis, WA, Cincinnati, OH, and points in IN on the one hand, and, on the other, points in the U.S. (except AK and HI). Restricted to continuing contracts with Collins Moving Systems, Inc., 904 West Morgan Street, Kokomo, IN 46901. An underlying ETA seeks 120 days authority. Supporting Shipper: Collins Moving Systems, Inc., 904 West Morgan Street, Kokomo, IN 46901.

MC 164764 (Sub-4–1TA), filed November 19, 1982. Applicant: WHITEFORD NATIONALEASE, INC., d.b.a. DEDICATED TRUCK SERVICE, 2020 West Sample Street, P.O. Box 76, South Bend, IN 46624. Representative: Alki E. Scopelitis, Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract* irregular: *Metal products,* between points in the United States (except AK and HI). Restricted to continuing contract(s) with Howmet Turbine Components Corporation and Howmet Aluminum Corporation, Greenwich, CT. An underlying ETA seeks 120 days authority. Supporting Shipper: Howmet Turbine Components Corporation and Howmet Aluminum Corporation, Greenwich, CT.

MC 164768 (Sub-4–1TA), filed November 19, 1982. Applicant: MAURICE TRANSPORTATION, INC., Route 3, Box 16, Winchester, IN 47394. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036–5391. *Contract* irregular: *automobile parts, materials, equipment, and supplies used in the manufacture, assembly, and repair of automobiles and trucks,* between: Graybill, IN; Indianapolis, IN; New Castle, IN; Dayton, OH; Kettering, OH; Belvidere, IL; Chicago, IL; Detroit, MI, Trenton, MI; and Warren, MI, under continuing contract(s) with Chrysler Corporation of Detroit, MI. Supporting shipper: Chrysler Corporation, P.O. Box 1976, Detroit, MI 48288. An underlying ETA seeks 120 days authority.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5–36TA), filed November 22, 1982. Applicant: UNITED VAN LINES, INC., ONE UNITED DRIVE, FENTON, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract irregular *General Commodities* (except Classes A and B explosives and commodities in bulk) between points and places in the U.S. (including AK and HI), under continuing contract(s) with General Electric Company of Bridgeport, Connecticut and Subsidiaries. Supporting Shipper: General Electric Company of Bridgeport, Connecticut and Subsidiaries, Bridgeport, CT.

MC 112713 (Sub-5–39TA), filed November 22, 1982. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, 66207. Representative: William F. Martin, Jr. (same as above). Contract; Irregular. *General commodities (except Classes A and B explosives, household goods, commodities in bulk and hazardous wastes),* between points in the U.S., under continuing contract with Phillips Petroluem Company and its subsidiaries. Supporting shipper: Phillips Petroleum Company, Bartlesville, OK.

MC 121631 (Sub-5–3TA), filed November 22, 2982. Applicant: MARSHFIELD DRAYAGE COMPANY, P.O. Box 50, Marshfield, MO 65706. Representative: Elvin S. Douglas, Jr., P.O. Box 280, Harrisonville, MO 64701. *General commodities (except explosives, commodities of unusual value, household goods, commodities in bulk, and commodities requiring special equipment).* Supporting Shippers: 52.

MC 141108 (Sub-5–6TA), filed November 23, 1982. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Rubber and Plastic Articles,* between Summitt County, OH, on the one hand, and, on the other, points in CO, IL, IN, IA, KS, MI, MN, MO, NE, PA, TX and WI. Supporting shipper: R.C.A. Rubber Co., Inc. of Akron, OH, Akron, OH.

MC 149244 (Sub-5–7TA), filed November 22, 1982. Applicant: PEAKE, INC., 2022 Avenue "A", Kearney, NE 68847. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304. *Food and related products* from Dawson County, NE to points in the U.S. (except AK and HI). Supporting shipper: Cornland Beef Industries, Lexington, NE.

MC 159074 (Sub-5–2TA), filed November 22, 1982. Applicant: ABC TRANSPORT, INC., 400 Carrie Avenue, St. Louis, MO 63147. Representative: Samuel R. Green, 2414 Rustic Ridge, St. Louis, MO. 63114. Contract, Irregular; *pulp board, corrugated boxes, waste paper, paper tubes, paper board furniture frames, corrugated cans, laminated products, paper cores, reels, concrete forming tubes, retail food containers,* between points in the U.S. (except AK and HI). Supporting shipper: Alton Packaging Corp., Alton, IL.

MC 160798 (Sub-5–5TA), filed November 22, 1982. Applicant: CRYOGENIC TRANSPORTATION, INC., 825 East South Omaha Bridge Road, Council Bluffs, IA 51502. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Frozen foods and canned goods* from Lincoln, Grand Island, and Omaha, NE and Council Bluffs, IA to points in the U.S. Supporting shippers: Delicious Food Company, Grand Island, NE and Blue Star Foods, Inc., Council Bluffs, IA.

MC 164635 (Sub-5–1TA), filed November 22, 1982. Applicant: TOTER LEASING, INC., R. R. #12, Papillion, NE 68046. Representative: Richard W. Reineke (same address as applicant). *Mobile Homes, Modular Homes, Portable Buildings, To Include Detachable Porches and Room Additions.* between points in NE, IA, MN, SD, WY, CO, KS, and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Harvest Homes, Omaha, NE, World Homes, Gretna, NE.

MC 164790 (Sub-5–1TA), filed November 22, 1982. Applicant: ROLAND WEAVER d.b.a. WEAVER TRUCKING COMPANY, P.O. Box 327, Vernon, TX 76384. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Road construction materials, in bulk and in dump trailer equipment,* between points in OK on and west of Interstate Highway 35 and on and south of Interstate Highway 40 on the one hand, and, on the other, points in TX on and west of Interstate Highway 35 and on and north of U.S. Highway 380. Suppporting shippers: M & M Redi-Mix, Inc., Vernon, TX, Steve Williams Sand and Gravel, Vernon, TX, Dircon Corp., Wichita Falls, TX.

MC 164818 (Sub-5–1TA), filed November 23, 1982. Applicant: DANNIE GILDER, INC., Route 1, Whitewater, Missouri 63785. Representative: Georgia

Helderman, Route 1, Box 152, Whitewater, Missouri 63785. *Such commodities as are dealt in by manufacturers of pipe, conduit, wire, cable, cord sets, plastic materials and materials, equipment and supplies used in the conduct of such business (except commodities in bulk, in tank vehicles),* between the facilities of Triangle PWC, Inc., a subsidiary of Triangle Industries, Inc., on the one hand, and, on the other points in the U.S. (except AK and HI). Supporting shipper: Triangle PWC, Inc., New Brunswick, NJ.

MC 79658 (Sub-5–7TA), filed November 26, 1982. Applicant: ATLAS VAN LINES, INC., P.O. Box 509, Evansville, Indiana 47711. Representatives: Robert C. Mills, Michael L. Harvey (same as above). Contract, irregular *general commodities (except classes A and B explosives and commodities in bulk)* between points in the U.S. under continuing contracts with Sears, Roebuck and Company, Chicago, Illinois.

MC 11428 (Sub-5–12TA), filed November 26, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603. Contract irregular: *Printing paper,* from Corinth and Ticonderoga, NY, to points in IL, IN, IA, OH and WI, under continuing contract(s) with International Paper Company of New York, NY. Supporting shipper: International Paper Company, International Paper Plaza, New York, NY.

MC 148496 (Sub-5–2TA), filed November 26, 1982. Applicant: O. W. SMITH TRANSPORT, INC., Route 3, Highway 71 North, DeQueen, AR 71832. Representative: Wm. Dean Overstreet, 1550 Tower Building, Little Rock, AR 72201. *Sheetrock, roofing materials, including asphalt shingles, blackboard insulation and other building materials,* between points in TX, on the one hand, and, on the other, points in OK. Supporting shipper: Mays Lumber Co., Broken Bow, OK.

MC 152959 (Sub-5–16TA), filed November 24, 1982. Applicant: MOBILE EXPRESS, INC., 6000 Gum Springs Road, Longview, TX 75607. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *general commodities (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk)* between points in the U.S. (except AK and HI). Restricted to shipments for the account of Mobile Transportation, Inc. Supporting shipper: Mobile Transportation, Inc., Longview, TX.

MC 153723 (Sub-5–14TA), filed November 24, 1982. Applicant: A&M ENTERPRISES, INC., P.O. Box 1549, Springdale, AR 72764. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72702. *Such commodities as are dealt in or used by wholesale or retail business houses (except commodities in bulk, in tank vehicles)* between points in the U.S. (except AK and HI). Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712.

MC 154621 (Sub-5–3TA), filed November 26, 1982. Applicant: MONROE WAREHOUSE COMPANY, INC., P.O. Box 2525, Monroe, LA 71207. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Contract irregular: *Paper and paper products and materials, equipment and supplies used in the manufacture, sale and distribution of paper and paper products* between points in the U.S. under continuing contract(s) with Manville Forest Products Corporation of West Monroe, LA. Supporting shipper: Manville Forest Products Corporation, West Monroe, LA.

MC 160401 (Sub-5–3TA), filed November 26, 1982. Applicant: GLIDEWELL TRUCKING, INC., Rt. 1, Box 171, Ozark, MO 65721. Representative: Don Glidewell (same address as applicant). *Alcoholic beverages (except in bulk)* from Cincinnati, OH, Detroit, MI, Frankfort and Owensboro, KY, Jacksonville, FL, Lawrenceburg, IN, and Plainfield, IL, to points in Greene County, MO. Supporting shipper: Ozark Wholesale Beverage, Springfield, MO.

MC 164086 (Sub-5–2TA), filed November 15, 1982. Applicant: VERN'S TRUCKING, INC., 6721 So. 85th Street, Omaha, NE 68127. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Meats and packinghouse products,* restricted to the account of Export Traders, Inc., of Kansas City, MO, between points in the U.S. (except AK and HI.) Supporting shipper: Export Traders, Inc., Kansas City, MO.

MC 164218 (Sub-5–2TA), filed November 26, 1982. Applicant: CONTAINER MAINTENANCE SERVICE, INC., P.O. Box 24781, Houston, TX 77029. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Activated Charcoal or Diatomaceous Earth, moving in ocean containers,* restricted to shipments having a prior or subsequent movement via water, between Galveston, TX and Marshall, TX. Supporting shipper: Standard Fruit and Steamship Company, Galveston, TX.

MC 164243 (Sub-5–1TA), filed November 26, 1982. Applicant: A&B HOT SHOT SERVICE, 438 Bagdad Road, Westlake, LA 70669. Representative: Annette F. Cain (Same as above). *Various Petroleum analysis samples and liquid petroleum analysis cylinders,* between LA and TX. Supporting shipper: Charles Martin Inspection and Controls, Inc., Westlake, LA.

MC 164836 (Sub-5–1TA), filed November 24, 1982. Applicant: PAUL WAGNER, d.b.a., Riversida Farms, Box 868, Olla, LA 71465. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Mercer Commodities,* between points in the commercial zones of Winnfield, Cameron, Morgan City, New Orleans, Venice, Lake Charles, and Lafayette, LA, on the one hand, and on the other, points in the Counties of Jefferson, Brazoria, Harris, Nueces, Cameron, Orange, Calhoun, San Patricio, Aransas and Matagorda in TX; Mobile and Baldwin in AL; Oklahoma and Craig in OK.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC42487 (Sub-6–74TA), filed November 22, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. B. 3062, Portland, OR 97208. *Contract Carrier,* irregular routes: *Bentonite clay,* from Greybull, Lovell and Lucerne, WY to Olney, IL, for 270 days. Supporting shipper: WYO–BEN, Inc., 1242 N. 28th St., Billings, MT 59103.

MC 150054 (Sub-6–5TA), filed November 22, 1982. Applicant: J. W. CROWLEY & SONS, INC., P.O. Box 533, Dove Creek, CO 81324. Representative: John T. Wirth, 717, 17th St., Suite 2600, Denver, CO 80202–3357. *Wheat middlings* (in bulk), from Ogden, UT to the facilities of Ralston Purina Company at Flagstaff, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, Mo 63188.

MC 150927 (Sub-6–2TA), filed November 22, 1982. Applicant: HORIZON TRANSPORT, INC., P.O. Box 20848, Portland, OR 97220. Representative: Michael D. Crew, 1618

SW. 1st Ave., Suite 205, Portland, OR 97201. *Lumber, lumber mill products, wood products and wallboard* from points in WY to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, MN, OH, OK, PA, SD, TN, TX, and WI, for 270 days. Supporting shipper: Cambria Forest Industries, Inc., P.O. Box 490, Newcastle, WY 82701.

MC 164185 (Sub-6–1TA), filed November 24, 1982. Applicant: JERALD & ELISABETH PAYNE & SONS, INC., 12975 So. 300 East, Draper, UT 84020. Representative: Jerald Payne (same as applicant). *Mining materials, and supplies*, Between points in UT and NV for 270 days. Supporting shipper: Freeport Gold, Mt. City Star Route, Elko, NV 89801.

MC 123265 (Sub-6–8TA), filed November 23, 1982. Applicant: SANTRY TRUCKING COMPANY, 10505 NE Second Ave., Portland, OR 97211. Representative: John G. McLaughlin, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204. *Contract carrier*, irregular routes, *malt beverages and/or materials, equipment and supplies* used in the manufacture, distribution and sale of malt beverages, between points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Blitz-Wienhart Brewing Co., 1133 W. Burnside St., Portland, OR 97209.

MC 164591 (Sub-6–1TA), filed November 23, 1982. Applicant: SIGMA ENTERPRISES, INC., 101 SW Main St., Ste 1600, Portland, OR 97204. Representative: John G. McLaughlin, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204. *Contract carrier*, irregular routes, *malt beverages and supplies, materials and equipment* used or useful in the manufacturing of or distribution of malt beverages sold by the Olympia Brewing Company, between Olympia WA and points in the U.S. (except AK and HI) for 270 days. Supporting shipper: Olympia Brewing Co., P.O. Box 947, Olympia WA 98507.

MC 110325 (Sub-6–60TA), filed November 22, 1982. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same as applicant). *Contract carrier*, irregular routes, *general commodities* (except Classes A & B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI) under continuing contract(s) with Arco Chemical Company and subsidiaries for 270 days. Supporting shipper: Arco Chemical Company, 1500 Market Street, Philadelphia PA 19101.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 33135 Filed 12–3–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30032]

Wisconsin & Western Railroad Co.; Exemption; Between Prairie du Chien and Madison, WI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts (1) operation by Wisconsin and Western Railroad Company (WIWR) over rail lines between Prairie du Chien and Middleton WI, Mazomanie and Prairie du Sac, WI, and Lone Rock and Richland Center WI, from 49 U.S.C. 10901; (2) operations by WIWR between Middleton and Madison, WI, under a trackage rights agreement from 49 U.S.C. 11343, subject to employee protection conditions; (3) the issuance of $400,000 principal amount of common stock and $600,000 principal amount subordinated debenture bonds from 49 U.S.C. 11301; and (4) the acquisition of control of WIWR by John A. Zerbel and David C. Williams from 49 U.S.C. 11343 subject to employee protective conditions.

DATES: These exemptions are effective on January 5, 1983. Petitions for reconsideration must be filed by December 27, 1982; and petitions for stay must be filed by December 16, 1982.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5359, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Francis G. McKenna, Suite 707, 1000 Connecticut Avenue NW., Washington, DC 20036.

Pleadings should refer to Finance Docket No. 30032

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Avenue NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: November 29, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–33132 Filed 12–3–82; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL SCIENCE FOUNDATION

National Science Board; Commission on Precollege Education in Mathematics, Science and Technology; Open Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: National Science Board Commission on Precollege Education in Mathematics, Science and Technology

Date and time: December 15, 1982; 9:00 a.m.–4:30 p.m., December 16, 1982; 9:00 a.m.–4:00 p.m., December 17, 1982; 9:00 a.m.–12 noon

Place: Fernbank Science Center, 156 Heaton Park Drive, N.E., Atlanta, Georgia 30307

Type of meeting: Open

Contract person: Dr. Richard S. Nicholson, Executive Director, Commission on Precollege Education in Mathematics, Science and Technology, Room 527, National Science Foundation, Washington, D.C. 20550

Summary minutes: Contact Dr. Richard S. Nicholson at the above address

Purpose of Commission Meeting and Agenda:

December 15: The topic of access will be considered in the broadest sense. Testimony will be offered dealing with the effectiveness of and problems facing programs designed to increase the participation of *all* students in science and mathematics education.

December 16: Task Group reports will be discussed by the full Commission; planning for the January 1983 report to the National Science Board will begin.

December 17: Individual Task Group meetings.

Audience participation: Persons desiring to offer oral presentations (limited to a maximum of five (5) minutes) should call Alan Leshner of the Commission staff—202/357–7700 by December 10. Written, documented comments are encouraged to supplement oral presentations or to be presented to the Commission in lieu of oral presentations.

Reason for late notice: Plans for the use of the Fernbank Science Center facilities were only very recently finalized. However, the meeting has been widely publicized by a mailing to all persons on the Commission mail list and through phone calls to appropriate societies and organizations.

December 1, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–33173 Filed 12–3–82; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22740; (70-6807)]

General Public Utilities Corp. et al.; Supplemental Notice of Proposal To Issue and Sell Notes

November 26, 1982.

In the matter of General Public Utilities Corp., 100 Interpace Parkway, Parsipanny, New Jersey 07054; Jersey Central Power & Light Co., Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960; Metropolitan Edison Co., 2800 Pottsville Pike, Muhlenberg Township, Berks, County, Pennsylvania 19605, Pennsylvania Electric Co., 1001 Broad Street, Johnstown, Pennsylvania 15907.

General Public Utilities Corporation ("GPU"), a registered holding company, and its electric utility subsidiaries, Jersey Central Power & Light Company ("JCP&L"), Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") have filed an application-declaration and an amendment thereto with this Commission pursuant to Sections, 6, 7, 9(a), 10, and 12 of the Public Utility Holding company Act of 1935 ("Act") and Rules 44 and 50 thereunder.

GPU has filed an amendment to its application-declaration proposing that it also be authorized to borrow up to $50 million, during the same period, on the terms described in the previous notice or more advantageous terms, by notes which will mature in nine months, and will be prepayable at any time without premium or penalty. Such additional borrowings may be applied to pay or prepay borrowings under the two agreements described in the previous notice, or to increase the total authorized borrowings to not more than $50 million at any one time outstanding.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 10, 1982, to the Secretary, Securities and Exchange Commission, Washingtom, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegate authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-33122 Filed 12-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22743; (70-6817)]

Kingsport Power Co.; Proposed Refinancing of Promissory Notes

November 26, 1982.

Kingsport Power Company ("Kingsport"), 40 Franklin Road, Roanoke, Virginia 24011, an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a declaration pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(b)(2) and 50(b)(2) promulgated thereunder.

Kingsport intends to retire up to $17,000,000 aggregate principal amount of unsecured promissory notes, issued to Manufacturers Hanover Trust Company ("Manufacturers") and First American Bank-Eastern, N.A. ("First American") pursuant to a term loan agreement. Each such note matures December 31, 1987, and bears interest to maturity at a fluctuating rate per annum equal at all times to the rate of interest publicly announced by Manufacturers as its prime rate. The notes are prepayable prior to maturity without payment of a premium or penalty.

Kingsport requests the authority to refinance these notes at any time until December 31, 1983, by issuing up to $17,000,000 aggregate principal amount of unsecured promissory notes in connection with borrowings from one or more commercial banks, pursuant to a proposed Term Loan Agreement ("Agreement"), for terms of not less than two nor more than ten years. Each such note will bear interest not greater than 200 basis points over the then applicable prime rate payable by Kingsport to Manufacturers and First American under the existing loan agreement as of the date upon which a definitive Agreement is executed, but in no event greater than 14% per annum. No compensating balances or commitment fees will be required. The proposed Agreement also provides that jn the event a note is paid prior to maturity, Kingsport will be required to pay a fee to the lending bank calculated to reimburse the bank for interest lost, if any, as a result of the prepayment. All proceeds from these borrowings will be applied to retire the outstanding notes issued to Manufacturers and First American.

Kingsport states that it believes that funds at a fixed rate at or near the applicable prime rate are currently available on loans having maturities of up to but not exceeding two years. Rates quoted to Kingsport on loans having longer maturities have generally been in the range of up to 200 basis points higher than the prime rate. Kingsport believes that it will be of long-term benefit to the company and its customers to refund its outstanding variable rate notes, in whole or in part, with the proceeds of notes having longer maturities, even though such long-term notes may bear a fixed rate of interest higher than current short-term rates at the time of such borrowings.

Kingsport also asserts that long-term debt financing of the kind herein proposed is the most practicable and cost-effective in light of Kingsport's size, capital needs, financial strength and the relative difficulty of more conventional alternatives such as mortgage bond financing. Kingsport presently has no effective mortgage indenture nor is it encumbered with any other type of long-term debt.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 21, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-33128 Filed 12-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12854; (812-5382)]

Nationwide Life Insurance Co.; Nationwide Variable Account and Heritage Securities, Inc.; Application for an Order Pursuant to Section 11 of the Act Approving the Terms of Certain Offers of Exchange

November 26, 1982.

Notice is hereby given that Nationwide Life Insurance Company ("Nationwide Life"), a stock life insurance company organized under the laws of the State of Ohio, Nationwide Variable Account (the "Account"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and Heritage Securities, Inc. One Nationwide Plaza, Columbus, Ohio 43216, (together, "Applicants"), filed an application on November 22, 1982, pursuant to Section 11 of the Act, for an order approving the terms of certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

The Account was established for the purpose of funding certain variable annuity contracts presently issued by Nationwide Life, which is the depositor for the Account. Applicants recently filed a post-effective amendment to the Account's registration statement for the purpose of offering certain new contracts that would permit purchasers of such contracts to allocate purchase payments to one or more of six sub-accounts. The six sub-accounts are comprised of four mutual funds and two series offered by Nationwide Investing Foundation.

In Investment Company Act Release No. 12848 (November 24, 1982), Applicants obtained approval pursuant to Section 11 in order to permit purchasers of the new contracts, upon written request, to transfer part or all of their Account contract value among the six sub-accounts described in the post-effective amendment, pursuant to such terms and conditions as may be imposed by those sub-accounts. Applicants now are replacing one of the funds comprising one of the sub-accounts, Pioneer II, Inc., with a different fund, Fidelity Equity-Income Fund, and herein request an order pursuant to Sections 11 (a) and 11(c) granting this substituted sub-account relief identical to that previously granted to the other sub-accounts.

Notice is further given that any interested person may, not later than December 17, 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, 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. An order disposing of the application will be issued, as of course, following December 17, 1982, 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 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-33126 Filed 12-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22741; (70-6513)]

New England Energy Inc.; Proposed Investment by Fuel Subsidiary in Oil and Gas Exploration

November 26, 1982.

New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01581, a fuel subsidiary of New England Electric System ("NEES"), a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration pursuant to Section 6(a), 7, 9(a), 10, 12 and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45(c), 90 and 91 thereunder.

NEEI is engaged in various activities relating to fuel supply for the NEES system. By order dated December 30, 1980 (HCAR No. 21862) NEEI was authorized to enter into an oil and gas exploration and development partnership ("Partnership") with Dorchester Exploration, Inc. ("Dorchester"). On December 29, 1981, NEEI terminated the Partnership with Dorchester. NEEI and Dorchester are presently engaged in winding up the affairs of the Partnership. As a result of its participation in the Partnership, NEEI has interests with Dorchester in leases in 11 states, primarily in Louisiana, Texas, New Mexico and Wyoming.

For 1983, NEEI proposes to participate in drilling wells on selected properties. To a limited extent, NEEI may also acquire interests in additional leases adjacent or near to presently owned interests in order to improve its acreage position. Most activity in 1983 is expected to be in East Texas, Southern Louisiana, the Eastern Overthrust in Tennessee, and the Powder River Basin in Wyoming. NEEI estimates that its expenditures for these activities during 1983 will be approximately $12 million, of which about $1 million may be for additional leases. NEEI requests that the Commission authorize the investment in the exploration and development of selected properties of up to $12 million.

The financing for the proposed investment will consist of (1) additional funds from NEEI's Bank Loan authorized by order dated August 24, 1981 (HCAR No. 22175), borrowings thereunder being $211.5 million at August 31, 1982 with total borrowings of $256 million anticipated by December 31, 1982, leaving $144 million available through 1984; (2) continued investment by NEES in NEEI through the acquisition of subordinated notes or common stock, with NEES' outstanding investment at $40 million as of August 31, 1982, and with investments of $41 million anticipated at December 31, 1982; (3) additional funds from the receipt of the cash equivalent of reduction in consolidated tax liabilities as a result of the inclusion of NEEI's losses in the consolidated tax returns of the NEES system, it being estimated that NEEI will receive approximately $33 million from other NEES system companies in 1983; and (4) funds from the sale of NEEI production under the terms of the order of July 19, 1978 (HCAR No. 20632), NEEI presently expecting to recover approximately $62 million of its investment in this manner in 1983.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 20, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be

filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation. Pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-33125 Filed 12-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22739; (70-6824)]

Northeast Utilities Service Co.; Proposed Acquisiton of Preferred Stock and Promissory Note From Nonaffiliate

November 26, 1982.

Northeast Utilities Service Company ("NUSCO"), Selden Street, Berlin, Connecticut 06037 a subsidiary service company of Northeast Utilities, a registered holding company, has filed a declaration with this Commission pursuant to Section 9(a) (1) and 10 of the Public Utility Holding Company Act 1935.

NUSCO proposes to acquire (i) up to 6,250 shares of Preferred Stock, one cent ($.01) par value, of Technology Finance Group, Inc., ("TEG") and (ii) a joint and several non-interest bearing promissory note in principal amount of $175,000 of TFG and its wholly owned subsidiaries, Technology Finance Leasing Corporation ("TFLC") and Technology Equipment Corportion ("TFLC"). The note would be payable in equal installments over a period of thirty six (36) months. TFLC and TEC are indebted to NUSCO in the aggregate amount of $2,500,000 resulting from (a) the failure of TFLC and TEC to make rental payments pursuant to two subleases of computer equipment entered into between NUSCO as sublessor and TFLC and TEC as sublessees in 1978 and (b) the possible loss of investment tax credit by NUSCO's Lessor by reason of the sub-subleasing of computer equipment by TEC to a non-qualified user, thus triggering tax indemnification liability on NUSCO pursuant to the lease terms. NUSCO has brought an action against TFG, TFLC and TEC (collectively referred to as "Technology"), for the monies owed, and, pending a hearing on the case, the parties have been negotiating a possible settlement. Technology is and has been in financial difficulties and unable to meet its obligations. However, it is undertaking steps to refinance its operations and arrrange settlements with its unsecured creditors.

In an effort to realize the maximum recovery on the indebtedness, NUSCO has entered into an agreement with Technology ("the Agreement") subject to an appropriate order of the Commisison and the approval of the Board of Directors of NUSCO. Under the terms of the Agreement the parties have stipulated entry of judgment in the Superior Court of Connecticut in favor of NUSCO in the amount of $2,500,000. Such judgment is not be enforced by NUSCO prior to December 29, 1982. Under the Agreement TFG shall pay $200,000 to NUSCO on December 29, 1982, by certified check in New York Clearing House Funds. As stated above, NUSCO shall receive a $175,000 non-interest bearing note of Technology. NUSCO will also receive up to 6,250 shares of non-voting Preferred Stock, one cent ($.01) par value, having a liquidating value of One Hundred Dollars ($100) per share and having a dividend of Ten Dollars ($10) per share. The shares shall have an annual sinking fund of 20% of annual net cash flow, as defined in the Agreement, commencing at the expiration of the fourth full fiscal year after date of issue. In any event the sinking fund will be an annual amount equal to not less than ten percent (10%) of the liquidating value of the Preferred Stock commencing at the expiration of the fourth full fiscal year from the date of issue.

In the event TFG shall pay NUSCO pursuant to an existing stipulation in the pending law suit, the judgement shall be reduced by the amount paid. The proposed agreement will be adjusted by reducing the cash payment to $186,860, the principal amount of the note will be reduced to $164,220 and the number of shares of Preferred Stock will be reduced to 5,865.

Technology has assigned to NUSCO all of the claims, demands and causes of action that Technology may have or acquire by virtue of any claim it may have against sub-sublessees of the equipment relating to indemnification for any defaults by such sub-sublessees resulting in the loss of investment tax credit. So long as TFG is not in default under the Agreement, NUSCO will refrain from enforcing the Judgement. However, in event of defualt, NUSCO shall enforce the Judgment including interest interest thereon from the date of entry.

The declaration and any amendments thereto are available for 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 December 17, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarent at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or 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 declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Divison of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-33127 Filed 12-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22742; 170-65057]

West Penn Power Co.; Supplemental Notice of Proposed Pollution Control Financing

November 26, 1982.

West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, an electric utility subsidiary of Allegheny Power System, Inc., a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to Sections 6(a), 7, 9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

By order dated December 8, 1980 (HCAR No. 21830) in this matter West Penn was authorized to enter the first phase of a plan to finance the installation of pollution control equipment and facilities ("Facilities") at West Penn's Mitchell Power Station in Washington County, Pennsylvania. These Facilities are now substantially complete. That initial phase involved the issuance of $60,000,000 principal amount of three-year pollution control revenue bonds ("Series A Bonds") by the Washington County Industrial Development Authority ("Authority").

By order dated May 11, 1981 (HCAR No. 22045) West Penn was authorized to enter into a second phase of financing of the Facilities. The second phase

contemplated a refunding of the three-year bonds prior to maturity with long-term bonds (by the Authority) and notes (by West Penn) having maturities not to exceed forty years. Jurisdiction was reserved in the May 11, 1981 order over the terms and conditions of the long-term bonds to be issued by the Authority insofar as such terms and conditions affect the payments to be made by West Penn under the proposed long-term promissory note and with respect to the fees, commissions and expenses to be incurred in connection with the long-term financing.

The Series A bonds bear interest at the rate of 9% per annum, mature on December 1, 1983, and are subject to optional redemption on or after December 1, 1983, and are subject to optional redemption on or after December 1, 1982 at 100% of the principal amount thereof plus accrued interest to the redemption date. Simultaneously with the consummation of the Authority's financing, West Penn transferred title to such portion of the Facilities then in place. Title to those portions of the Facilities thereafter constructed vest in the Authority. West Penn will repurchase the Facilities from the Authority under the terms of $60,000,000 pollution control note having the same maturity and bearing interest at the same rate as the bonds issued by the Authority.

As of October 31, 1982, West Penn has spent approximately $63 million in connection with the Facilities. The total cost of the Facilities is now expected to approximate $65,000,000. To the extent that funds derived through the sale of pollution control bonds as proposed herein, or from any additional pollution controls bonds which may be sold in the future, subject to appropriate regulatory approvals, are insufficient to pay the total cost of the Facilities, West Penn will be required to pay for the completion of the Facilities at it own expense.

It is expected that one or more additional series of bonds will be issued prior to the maturity of the Series A Bonds by the Authority for the purpose of redeeming or paying at maturity all or a portion of such Series A Bonds and financing the cost of the Facilities in excess of the $60 million initially financed by the issuance of the Series A Bonds. The bonds will be issued under a trust indenture with a corporate trustee, approved by West Penn, and shall be sold in one or more series, at such times, in such principal amounts, at such interest rates, and for such prices as shall be approved by West Penn. The timing of any such financing will depend on a determination by West Penn of market conditions which are expected to prevail through the maturity of the Series A Bonds.

West Penn will deliver with the issuance of each series of bonds its nonnegotiable Pollution Control Notes ("Notes") corresponding to such series of bonds in respect of principal amount, interest rates and redemption provisions and having installments of principal corresponding to any mandatory sinking fund payments and stated maturities. Payments of the Notes will be made to the Trustee under a supplemental indenture which will provide that substantially all the proceeds of the sale of the bonds by the Authority must be applied to the cost of the Facilities, including the cost of refunding the Series A Bonds. Payments on the Notes will be applied by the Trustee to pay the maturing principal and redemption prices of and interest and other costs on the bonds as the same become due. West Penn also proposes to pay any trustees' fees or other expenses incurred by the Authority. The Notes will be secured by a second lien on the Facilities and certain other properties, pursuant to the Mortgage and Security Agreement delivered by West Penn to the Trustee creating a mortgage and security interest in the Facilities and certain other property (subject to the lien securing West Penn's First Mortgage Bonds). The Notes will not constitute unsecured debt within the meaning of the provisions of West Penn's charter.

It is intended to the extent feasible to accomplish by the proposed transactions a permanent long-term financing of the Facilities. Market conditions prevailing at the time of the offering may warrant the issuance of the bonds with floating interest rates during all or a portion of the stated life of the bonds based on a specified index as well as provisions permitting the bondholders to require the redemption or repurchase of the bonds at stated intervals. West Penn will file an appropriate amendment setting forth such provisions if it is determined to included such special terms.

It is expected that the Authority will engage Goldman, Sachs & Co. and any co-managers that may be desirable to provide financial advice and, together with such other underwriters as may be designated, underwrite the sale of the bonds. Fees, commissions and expenses of the underwriters and legal counsel will be included in the total cost of the Facilities. West Penn has been informed that the Authority has legal authority to issue tax exempt revenue bonds. West Penn has been advised that the annual interest rate on tax exempt bonds has been approximately 1% to 3% lower than the interest rate on taxable obligations of comparable quality, depending upon the type to be sold by the Authority.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by December 20, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-33123 Filed 12-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19276; (SR-PSE-82-18)]

Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

November 26, 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 November 26, 1982, the Pacific Stock Exchange, Inc. ("PSE") 618 Spring Street, Los Angeles, CA 90014 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 PSE proposes to extend for ninety days, until February 23, 1983, its pilot program relating to the appointment and evaluation of PSE specialists and the creation of new PSE specialist posts. The Commission approved on May 27, 1981 this PSE program on a one-year, pilot basis,[1] Since May 28, 1982, the date

[1] Securities Exchange Act Release No. 17818, May 27, 1981; 46 FR 30016, June 4, 1981.

upon which the initial pilot program expired, the Commission has approved two ninety day extensions of the program in order to give the Commission staff and the Exchange additional time within which to discuss and formulate amendments to the program that the Exchange is considering adopting as part of a one-year extension of the program.[2] The Exchange is proposing this third ninety day extension in order to provide additional time to complete the process of formulating these amendments for the purpose of filing them with the Commission under Rule 19b–4. The PSE has stated that the statutory basis of the proposed rule change is Section 6(b) of the Act, in general, and Sections 6(b)(5) and 6(b)(7) in particular.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change 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 5th Street, N.W., Wshington, D.C. 20549. Reference should be made to File No. SE–PSE–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, 450 5th 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.

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 regulations thereunder.

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 PSE pilot program terminated on November 25, 1982, and an extension is necessary to allow the PSE an opportunity to file amendments to the pilot program under Rule 19b–4. The Commission believes it is appropriate to extend the pilot program pending submission by the PSE of such amendments

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–33124 Filed 12–3–82; 8:45 am]

BILLING CODE 8010–01–M

[2] Securities Exchange Act Release No. 18776, May 28, 1982; 47 FR 24901, June 8, 1982; and Securities Exchange Act Release No. 19023, August 27, 1982; 47 FR 39654, September 3, 1982.

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 834]

Extension of Restrictions on Use of United States Passports for Travel to, in, or Through Libya

On December 11, 1981, pursuant to the authority of Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.72(a)(3), the use of the United States passport for travel to, in, or through Libya was restricted. This action was required by the unsettled relations between the United States and the Government of Libya and the threats of hostile acts against Americans in Libya.

Travel to or residence in Libya by American citizens continues to be hazardous as the Government of Libya still maintains a stance which is pronouncedly anti-American and has consistently demonstrated a willingness to direct hostile acts against United States nationals. The American Embassy in Tripoli remains closed and the United States Government can provide no more than minimal diplomatic protection or consular assistance to Americans who may travel to Libya. For these reasons, I have determined that Libya continues to be an area "* * * where there is imminent danger to the public health or physical safety of United States travelers."

Accordingly, United States passports shall remain invalid for use in travel to, in, or through Libya unless specifically validated for such travel under the authority of the Secretary of State.

This Public Notice shall be effective upon publication in the **Federal Register** and shall expire at the end of one year unless extended sooner or revoked by Public Notice.

Dated: November 29, 1982.

George Shultz,

Secretary of State.

[FR Doc. 82–33157 Filed 12–3–82; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–82–25]

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: December 27, 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: 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 November 29, 1982.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
23390	Ms. Gail Hall	14 CFR § 103.1(e)	To permit occupancy of an ultralight vehicle by two persons, one of whom is legally blind.
18718	Flight Safety Int'l	14 CFR §§ 61.58(c), and 61.67(d)(2)	To extend Exemption No. 2738B to permit the use of petitioner's motion base visual simulators to administer the 24-month pilot-in-command check and a Category II pilot authorization check.
20846	Braniff Airways, Inc.	14 CFR Part 121, portion of Appendix H	To extend current Exemption No. 3147 to permit petitioner to conduct training and checking as permitted under the Phase II simulator requirements without meeting the continuous minimum visual field-of-view requirement.
23398	West Coast Air Charter, Inc	14 CFR §§ 91.32(b)(1)(ii), and 135.89(b)(3)	To permit petitioner to operate its Gates Learjet 25 and 35A aircraft up to and including flight level (FL) 450 (45,000 feet), without either pilot being required to wear and use an oxygen mask, secured and sealed, so long as each crewmember on flight deck duty has a quick-donning type of oxygen mask.
20862	Puerto Rico Int'l. Airlines, Inc. (Prinair)	14 CFR §§ 91.50(a)/135.158	An amendment to and an extension of Exemption No. 3175 to permit petitioner to operate its DeHavilland Heron aircraft without an operating pilot heat indicating system. The amendment is necessary in order to provide relief from § 135.158 in lieu of § 91.50 since § 91.50 has been revoked.
23391	Mitchell, Aero, Inc.	14 CFR § 135.89(b)(3)	To permit petitioner to operate its turbo-jet 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.
23159	Department of Defense	14 CFR § 91.71 (c) and (d)	To permit acrobatic flight within Federal airways and control zones below 500 feet above the surface.
15691	Air Logistics	14 CFR § 43.3(h)	To amend Exemption No. 2313 to also permit petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on Allison 250C turbine engines, transmissions, and tail rotor gearboxes installed on Aerospatiale Model 355 series, and magnetic chip detector plugs in 42° and 90° tail rotor gear boes installed on Ball Model 412 series helicopters.
23429	Amos J. Peaslee, Jr	14 CFR § 91.90(b)(1)(ii)	To permit aircraft operating to and from Peaslee Airport to enter and exist the Philadelphia Terminal Control Area from the south without maintaining contact with ATC.
23268	Aero Union Corp	14 CFR §§ 91.17(a)(1), and 91.29(a)	To reconsider Denial of Exemption 3647 to permit petitioner's pilots to ferry its McDonnel Douglas DC-4 and DC-6 aircraft to a maintenance base with one engine inoperative without obtaining a special flight permit.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought dispositon
23147	Boeing Commercial Airplane Company	14 CFR § 91.195(a)(1)	To permit petitioner to perform noise measurement and Ground Proximity Warning System research and development and FAA certification flights at altitudes lower than 1,000 feet. *Granted 11/12/82.*
22562	Steve's Aircraft	14 CFR § 45.29	Reconsideration of a Denial of Exemption to permit petitioner to display small nationality and registration marks on two Piper L-21B, U.S Government surplus PA-18 military aircraft in place of the 12-inch N-numbers now required. *Denied 11/23/82.*
23435	Purdue University	14 CFR Part 141, Appendix D; §§ 61.109(b)(2), and 61.129(b)(3)(ii).	To permit aviation students of Purdue University and any other persons similarly situated to use certain private or commercial cross-country experience gained prior to 11/15/82 to meet the current requirements. *Granted 11/23/82.*
22528	Eugen Armbruster	14 CFR § 61.187(a)	To permit petitioner to apply for a flight instructor certificate without meeting certain flight instruction requirements. *Denied 11/19/82.*
23269	Air National, Inc.	14 CFR § 91.307	To amend Exemption No. 3607 to add 1 DC-9 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of one specified two-engine airplane, identified by registration and serial number, that has not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 1, DC-9. *Granted 11/17/82.*
23419	Continental Airlines	14 CFR § 91.307	To allow operation in the United States, under a service to small communities exemption, of 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: 5 DC-9-14 and 14 DC-9-32. *Granted 11/17/82.*
23418	All Star Airlines, Inc.	14 CFR § 91.307	To allow operation in the United States, under a service to small communities exemption, of 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 DC-9-15F. *Granted 11/17/82.*
23410	Abco Aviation, Inc.	14 CFR § 91.37	To allow operation in the United States, under a service to small communities exemption, of 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. *Granted 11/17/82.*

[FR Doc. 82-32978 Filed 12-3-82; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

Approval of Applicant as Trustee

Notice is hereby given that Maine National Bank, with offices at 400 Congress Street, Portland, Maine, has been approved as Trustee pursuant to Pub. L. 89–346 and 46 CFR 221.21 through 221.30.

Dated: December 1, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82–33155 Filed 12–3–82; 8:45 am]

BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

[Docket No. IP82–16; Notice 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequentiality

This notice grants the petition by General Motors Corp. of Warren, Michigan ("GM" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.110, *Tire Selection and Rims for Passenger Cars.* The basis of the grant is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on August 19, 1982, and an opportunity afforded for comment (47 FR 36356).

Approximately 208 1982 model Chevrolet Impala passenger cars equipped with bucket seats carry tire inflation placards (required by Standard No. 110) with an incorrect seating capacity and vehicle capacity weight. The placards indicate that the front seating capacity is three persons when the correct capacity is two, that the occupant capacity is six when actually it is five, and that the total vehicle capacity weight is 1100 pounds when it is 950 pounds.

GM argued that the incorrect seating capacity noncompliance is inconsequentail because it is obivious to anyone comparing the tire placard to the actual front seating accommodations that the placard must be in error. Further, even if the vehicle were loaded with an additional 150 pounds, its tire load limits would not be exceeded, because "they are identical to Impala series vehicles equipped with bench seats and six-passenger capacity."

No comments were received on the petition.

The agency concurs with the arguments of the petitioner that the addition of an extra passenger will not cause the vehicle capacity weight or tire loading capacity to be exceeded. Nor is it likely that anyone would be misled by the placards and attempt to place a passenger astride the console. Therefore, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are P.L Moore and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delelgations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: November 29, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–33050 Filed 12–3–82; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

[Docket No. 82–2W; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Grant of Waiver

The Transcontinental Gas Pipe Line Corporation (Transco) petitioned the Materials Transportation Bureau (MTB) by letter dated February 16, 1982, for a waiver from compliance with 49 CFR 192.245 with respect to the repair of three girth welds which had cracks in the root bead of the welds prior to repair. Section 192.245 requires that a weld in an onshore pipeline must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead.

The petitioner stated that the welds were between fittings that are segments of a slug catcher in a natural gas separation and dehydration facility. The facility is the terminus of the Transco Central Texas Offshore System, and is located in a Class 1 area near Markham, Texas, approximately 65 miles southwest of Houston. Because removal of the welds as cylindrical sections could not be done without damage to the fittings, and because replacement fittings would have taken as long as 6 months to deliver, the petitioner stated that interference with service would have resulted and therefore repairs were made to the welds.

Transco advised MTB that the three welds were repaired using procedures developed and documented in accordance with Section 7.0 of API Standard 1104, including the welding procedure which was qualified in accordance with Section 2.0 of API 1104 on pipe of the same grade as the fittings welded. The repaired welds were nondestructively tested in accordance with § 192.243 and met the standards of acceptability of § 192.241(c). The facilities were hydrostatically tested after repair as required by § 192.505 at a test pressure of over 125 percent of the maximum allowable operating pressure without failure or leakage of the repaired welds. The petitioner asserted that the results of these procedures and tests demonstrated that the conditions under which the welds were repaired provided welds having mechanical properties and soundness that meet the requirements of Part 192.

Three comments were received in response to the MTB invitation to comment in Notice 1 (47 FR 39780, September 9, 1982). Comments from the Texas Eastern Gas Pipeline Company and the Interstate Natural Gas Association of America both were supportive of the granting of the waiver and did not state further reservations or conditions. The third commenter, UNC Naval Products, a Division of the United Nuclear Corporation, questioned "since the welds were between *fittings* rather than pipe sections, was a specific weld./welder qualification performed by Transco for *this special joint?*" The commenter added that "The lack of special recognition for welding these special types of joints could be the base cause of the weld defects," and "Based on the above, the proposed relaxation should be allowed only on special joints for which a specific qualification was successfully performed."

MTB had previously recognized the possibility that weldability of the header segments in question could vary from that of the pipe as a result of chemistry differences or differences in manufacturing process, size, or geometry, and had made inquiries of Transco to assure that this possibility was not a factor that would require a special welding/welder qualification. The MTB found that the header segments were manufactured to the same X–60 material specifications as the pipe in the system, and that other variables were within the limits of the essential variables of Section 2.0 of API Standard 1104 such that a specific welding procedure for the pipe-type fittings was not necessary. Therefore, UNC Naval Products' comment to the effect that lack of recognition of special types of joints may be the cause of the defects is not relevant, since the joints repaired were similar to other pipe

joints welded within the requirements of Section 2.4.c of API Standard 1104. That section requires requalification of the welding procedure only if there is a major change in joint design. A copy of the telephone report covering this point is in the docket.

On the basis of the foregoing and the reasons cited in Notice 1, the MTB believes that the repaired welds in the Transco facility have the same level of safety as welds made under literal compliance with 49 CFR Part 192 and have been demonstrated by radiographic examination and hydrostatic testing to have the necessary soundness, strength, and ductility consistent with design and operating requirements of the facility. The MTB further believes that to require the removal of the repaired welds would burden Transco with unnecessary operating delays and needless additional costs to the operator and consumers without enhancing the safety of the facility. Therefore, the MTB grants to Transco the requested waiver from compliance with the weld removal requirements of 49 CFR 192.245 for the repaired welds as described in Petition No. 82–2W, effective immediately.

(49 U.S.C. 1672; 49 CFR 1.53(a), Appendix A of Part 1, and Appendix A of Part 106)

Issued in Washington, D.C., on December 1, 1982.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 82–33178 Filed 12–3–82; 8:45 am]

BILLING CODE 4910–60–M

[Notice 82–10]

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In accordance with Office of Personnel Management guidelines requiring that each Agency publish a Notice in the **Federal Register** of the Agency's schedule for awarding Senior Executive Service (SES) Bonuses at least 14 days prior to the date on which awards will be paid, DOT announces that it intends to award SES Bonuses for the rating cycle of October 30, 1981 through September 30, 1982, with payouts scheduled by December 21, 1982.

Issued in Washington, D.C., on December 2, 1982.

Robert L. Fairman,

Assistant Secretary for Administration.

[FR Doc. 82–33272 Filed 12–3–82; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirments; Submittals to OMB, October 11–November 13, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between Oct. 11 and Nov. 13, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT:

John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, S.W., Washington, D.C 20590, (202) 426–1887, or

Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will incude the following informaton for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office invovled.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between Oct. 11 and Nov. 13, 1982:

- DOT No. 2081
- OMB No. 2115–0013
- By: U.S. Coast Guard
- Title: Application and Permit to Handle Hazardous Materials
- Forms: CG–4260
- Frequency: On occasion
- Respondents: Companies or individuals handling or transporting explosives or other specified hazardous materials.
- Need/Use: Use of this form ensures the safe handling and transporting of explosives and other hazardous materials in port areas and on board vessels.
- DOT No. 2082
- OMB No. 2120–0084
- By: Federal Aviation Administration
- Title: Application for Airport Solicitation Permit
- Forms: Form MA 1600–38

- Frequency: On occasion
- Respondents: Individuals soliciting for charitable, religious, and political organizations.
- Need/Use: Aviation Safety and Noise Abatement Act of 1979, section 501, authorized issuance of regulations controlling solicitation of funds at FAA airports. 14 CFR Part 159 provides for issuance of permits for solicitation. Information collected will be used to determine applicant eligibility.
- DOT No. 2083
- OMB No. 2120–0060
- By: Federal Aviation Administration
- Title: General Aviation Activity and Avionics Survey
- Forms: FAA Form 1800–54
- Frequency: Annually
- Respondents: General aviation aircraft owners
- Need/Use: Federal Aviation Act of 1958, section 311 (49 U.S.C. 1352) authorizes the collection of information relative to civil aeronautics. Information collected helps FAA make long-range plans for development of the navigable airspace.
- DOT No. 2084
- OMB No. 2130–0001
- By: Federal Railroad Administration
- Title: Hours of service of railroad employees
- Forms: None
- Frequency: On occasion
- Respondents: Railroads
- Need/Use: The Hours of Service Act of 1907 specifies the maximum working hours of employees engaged in one or more critical categories of work. Through 49 CFR Part 228, the Federal Railroad Administration enforces the requirements of the Hours of Service Act.
- DOT No. 2085
- OMB No. 2130–0018
- By: Federal Railroad Administration
- Title: Remotely controlled railroad switch operation log
- Forms: None
- Frequency: On occasion
- Respondents: Railroads
- Need/Use: 49 CFR 218.30 requires the operator of "remotely controlled switches" to perform specific procedures when providing "Blue Signal Protection" for workmen. The recording requirements are designed to complement the requirements for handling of remotely controlled switches by enhancing attention to safety requirements.
- DOT No. 2086
- OMB No. 2132–0008
- By: Urban Mass Transportation Administration
- Title: Section 15 Reporting Systems
- Forms: None
- Frequency: Annually
- Respondents: Transit Operators
- Need/Use: Section 15 of the UMTA Act mandates a uniform system of accounts and records.

- DOT No. 2087

OMB No. 2127–0003
By: National Highway Traffic Safety Administration
Title: Agreement and Cost Summary Forms for the Highway Safety Plan
Forms: HS–62, HS–62A, HS–217
Frequency: Annually
Respondents: States and Territories
Need/Use: The Highwy Safety Plan is the State's annual program and planning document, which contains the Governor's combined legislative, organizational and operating plan to reduce traffic deaths, injuries, and property damage.

- DOT No. 2088

OMB No. 2132–0502
By: Urban Mass Transportation Administration
Title: Section 3 Urban Discretionary Financial Reporting
Forms: None
Frequency: Quarterly
Respondents: Grantees/transit operators
Need/Use: Required by OMB Circular A–102 and A–110 to ensure grantees are within budget, and on schedule; identify problem areas.

- DOT No. 2089

OMB No. 2132–0503
By: Urban Mass Transportation Administration
Title: Section 5 Urban Formula Financial Reporting
Forms: None
Frequency: Quarterly
Respondents: Grantees/transit operators
Need/Use: Required by OMB Circular A–102 and A–110 to ensure grantees are operating within approved budget, are on schedule and to identify problem areas if there are any.

- DOT No. 2090

OMB No. 2120–0085
By: Federal Aviation Administration
Title: Certification and Operations—FAR 125
Forms: Forms
Frequency: On occasion
Respondents: Aircraft Operators
Need/Use: This information collection from aircraft operators shows compliance with FAR 125 and an applicant's ability to meet safety standards.

- DOT No. 2091

OMB No. 2120–0502
By: Federal Aviation Administration
Title: Slot Allocation and Trading
Forms: FAA 7000–10
Frequency: On occasion
Respondents: Air Carriers
Need/Use: Because of limited facilities to land and take-off at busy airports during peak hours of travel, allocation of "time slots" has become necessary to avoid congestion and unsafe overload of the air control system.

Issued in Washington D.C., on November 29, 1982.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 82-33040 Filed 12-03-82; 8:45 am]

BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 234
Monday, December 6, 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

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, December 8, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

STATUS: Open to the Public:

1. *Strollers and Carriages: Status Report.* The staff will brief the Commission on issues related to a draft voluntary standard for Strollers and Carriages.

Closed to the Public:

2. *Enforcement Matter OS #3204.* The Commission will consider issues related to Enforcement Matter OS #3204.

3. *Enforcement Matter OS #5697.* The staff will brief the Commission on issues related to Enforcement Matter OS #5697.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207; 301-492-6800.

[S-1762-82 Filed 12-2-82; 8:45 am]

BILLING CODE 6355-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:30 p.m. on Wednesday, December 1, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the application of First-Citizens Bank and Trust Company of South Carolina, Columbia, South Carolina, for consent to purchase certain assets of and to assume the liability to pay certain deposits made in the Kershaw Branch of First National Bank of South Carolina, Columbia, South Carolina, and for consent to establish that branch as a branch of First-Citizens Bank and Trust Company of South Carolina.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by 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 subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii).

Dated: December 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1758-82 Filed 12-2-82; 1:06 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 12:20 p.m., Wednesday, December 8, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

MATTERS TO BE CONSIDERED: Request for Commitment to Insure Accounts—(Proposed) Great Southern Savings Association, West Palm Beach, Florida.

December 2, 1982.

[S-1759-82 Filed 12-2-82; 3:30 pm]

BILLING CODE 6720-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

December 1, 1982.

TIME AND DATE: 10 a.m., Wednesday, December 8, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Council of the Southern Mountains, Inc. v. Martin County Coal Corp., Docket No. KENT 80-222-D. (Issues include whether there is a right for miner's representatives to monitor training classes under the 1977 Mine Act.)

2. United States Steel Corporation, Docket No. KENT 81-136. (Issues include whether the judge erred in vacating a citation issued for an alleged violation of 30 CFR 77.1605(k) (dealing with berms) on the grounds that the standard was vague.)

It was determined by a majority vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-1760-82 Filed 12-2-82; 3:33 pm]

BILLING CODE 6735-01-M

5

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 11:30 a.m., December 10, 1982.

PLACE: Board for International Broadcasting Office, Suite 1100, 1201 Connecticut Avenue, NW., Washington, D.C. 20036.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, Feb. 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, Suite 1100, 1201 Connecticut Avenue, NW., Washington, D.C. 20036; 202-254-8040.

[S-1761-82 Filed 12-2-82; 3:54 p.m.]

BILLING CODE 6155-02-M

6

NATIONAL SCIENCE FOUNDATION

(Executive Committee)

DATE AND TIME: December 10, 1982, 10 a.m.

PLACE: National Science Foundation, Room 520, 1800 G Street, N.W., Washington, D.C. 20550.

STATUS: This meeting will be closed to the public.

MATTER TO BE CONSIDERED: Recommendations to the President of nominees for the position of Assistant Director for Mathematical and Physical Sciences.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357–9582.

[S–1754–82 Filed 12–2–82; 10:20 pm]

BILLING CODE 7555–0–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of December 6, 1982.

PLACE: Commissioner's Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Monday, December 6:*

9:30 a.m.:
Discussion of Order in Waste Confidence Proceeding (Closed—Exemption 10) (Tenative)
2:00 p.m.:
Discussion of Immediate Effectiveness Issues in TMI–1 Restart Proceeding (Closed—Exemption 10)

Tuesday, December 7:

10:00 a.m.:
Discussion/Possible Vote on Policy and Planning Guidance for Fiscal Year 1983 (Public Meeting)
2:00 p.m.:
Discussion of Human Factors Program Plan (Public Meeting)

Wednesday, December 8:

10:00 a.m.:
Briefing by Regulatory Reform Task Force (Legislative Proposals) (Public Meeting)
2:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)

Thursday, December 9:

10:00 a.m.:
Discussion of Pressurized Thermal Shock Actions (Open/Portions may be Closed)
3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting):
a. Waste Confidence Order (Tentative)
b. ALAB–687 (Duke Power)

Friday, December 10:

9:00 a.m.:
Discussion/Possible Vote on Immediate Effectiveness Issues in TMI–1 Restart Proceeding (Closed—Exemption 10/ Portion Open)

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.

Dated: November 29, 1982.

Walter Magee,

Office of the Secretary.

S–1755–82 Filed 12–2–10:38 a.m.]

BILLING CODE 7590–01–M

8

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors.

TIME AND DATE: 9 a.m. (closed portion), 10 a.m. (open portion), Tuesday, December 14, 1982.

PLACE: Offices of the Corporation, seventh floor Board Room, 1129 20th Street N.W., Washington D.C.

STATUS: The first part of the meeting from 9 a.m. to 10 a.m. will be closed to the public. The open portion of the meeting will start at 10 a.m.

MATTERS TO BE CONSIDERED: (Closed to the public 9 a.m. to 10 a.m.):

1. Insurance Project in East Asia Country.
2. Insurance Project in African Country.
3. Insurance Project in African Country.
4. Finance Reports: FY 1982.
5. Claims Report.
6. Information Reports.
7. China Projects Report.

FURTHER MATTERS TO BE CONSIDERED: (Open to the public 10 a.m.):

1. Approval of the Minutes of the Previous Meetings.
2. Confirmation of Scheduled Board Meetings.
3. Personnel Actions.
4. Increase of DIF for FY 1982.
5. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 653–2925.

December 2, 1982.

Elizabeth A. Burton,

Corporate Secretary.

[S–1756–82 Filed 12–2–82; 10:38 am]

BILLING CODE 3210–01–M

9

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., December 7–9, 1982.

PLACE: Conference Room, Room 500, 2000 L Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Third-class mail rates (Docket R80–1). (Closed pursuant to 5 U.S.C. 552b(c)(10)).

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, Secretary, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, telephone (202) 254–3880.

[S–1757–82 Filed 12–2–82; 1:05 p.m.]

BILLING CODE 7715–01–M

federal register

Monday
December 6, 1982

Part II

Environmental Protection Agency

National Ambient Air Quality Measurement Methodology; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[A-FRL 2207-5]

National Ambient Air Quality Measurement Methodology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending 40 CFR Part 50 by revising Appendixes A, B, and C to 40 CFR Part 50. Appendixes A and B set forth the respective reference methods for measuring sulfur dioxide and total suspended particulates in the atmosphere. Appendix C describes the measurement principle and calibration procedure applicable to reference methods for measuring carbon monoxide in the atmosphere. The revisions are needed to clarify certain provisions of these appendixes, to correct certain identified shortcomings, and to incorporate technical improvements developed subsequent to their 1971 promulgation.

These amendments were proposed in the **Federal Register** on January 15, 1982 (47 FR 2341), and after changes based on consideration of public comments, the final revisions are being promulgated today. Although the texts of the revised appendixes are substantially rewritten and reorganized in some cases, the revisions are considered minor from a technical aspect. In particular, technical changes to Appendixes A and B have been specifically limited to those that EPA believes will cause no loss of continuity or comparability, except as noted below, between ambient measurements made with the existing methods and those made in accordance with the revised methods.

DATE: This action becomes effective February 4, 1983.

ADDRESS: Docket No. A-81-34 containing the public comments received by EPA and other information pertinent to this action is located at the U.S. Environmental Protection Agency, Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. This docket may be inspected at this address between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Larry J. Purdue, Chief, Methods Standardization Branch (MD-77), Quality Assurance Division, Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, 919-541-2665.

SUPPLEMENTARY INFORMATION: On January 15, 1982, EPA proposed revisions to three appendixes of 40 CFR Part 50 to incorporate clarifications and relatively minor technical improvements in the ambient air monitoring methodology for certain pollutants (47 FR 2341). The appendixes and methodology for which revisons were proposed are: Appendix A, "Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)"; Appendix B, "Reference Method for the Determination of Suspended Particulates in the Atmosphere (High Volume Method)"; and Appendix C, "Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Spectrometry)".

The specific nature, rationale, and technological effects of the proposed revisions for each appendix were discussed in the preamble to the proposed amendments (47 FR 2341) and will not be repeated here. The texts of these appendixes have been substantially rewritten and, in the case of Appendix B, somewhat reorganized. But the changes are considered minor from a technical aspect. The technical changes were limited to those that will not jeopardize the continuity or comparability of ambient measurements made according to the revised method with those made previously according to the existing method except in the case of the SO_2 method where samples previously collected or stored at excessively high temperatures are likely to be biased low. Also, the economic impact on monitoring agencies was considered, and every effort was made to keep the cost of implementing the changes to a minimum. For Appendix C, the measurement principle and calibration procedure were simply clarified, and no technical changes were proposed.

Comments

Public comments on the proposed revisions of Appendixes A, B, and C were invited. EPA received comments from 37 commenters representing state and local air pollution control agencies (18), industry and consultants (16), and EPA regional offices (3). All comments received, including some that arrived after the specified comment period, have been carefully considered. Also considered were some comments received from state and local agencies and EPA regional offices during informal review prior to the January 15 publication.

In response to these comments, many changes to the proposed revisions have been made. The most significant or frequent comments and any resulting changes are discussed below. Many other editorial or minor changes have been incorporated but are not discussed individually because of their number and their minor nature. A complete list of all commenters, a summary of their major comments, and the EPA response to them have been placed in Docket No. A-81-34. Copies are available from the address given for further information.

Appendix A—Reference Method for Sulfur Dioxide

Several commenters suggested that the current reference method for SO_2 be totally replaced, either with a better wet chemical method that does not have thermal decay and other problems, or with an instrumental method that could be calibrated with a standard traceable to a National Bureau of Standards Standard Reference Material (NBSSRM). One possible candidate suggested was an improved wet chemical method published by Dasgupta, et. al. (*Anal. Chem. 52*:1912, 1980). No potential instrumental candidate technique was suggested.

EPA rejected these suggestions, primarily because there is currently insufficient test data or other evidence on either the Dasgupta method or any instrumental method to establish it as "substantially superior" to the reference method, as required under § 53.16 (Supersession of reference methods). In addition, replacement of the reference method would likely result in considerable impact on agencies currently using the reference method routinely. With the improvements and new specifications being incorporated today, the reference method should produce accurate and reliable SO_2 measurements. Also, provisions in 40 CFR Parts 53 and 58 allow for designation and use of alternate methods, such as the Dasgupta method, as equivalent methods.

EPA recognizes the advantages of an instrumental technique to replace the SO_2 reference method. Although a variety of measurement principles have been used successfully in ambient monitors (equivalent methods), each of the techniques appears to have one of more shortcomings that tend to reduce its efficacy as a measurement principle suitable for reference methods. EPA will continue to monitor the state-of-the-art of SO_2 detection and will consider

supersession of the SO_2 reference method whenever evidence becomes available to support the clear superiority of another method or instrumental technique.

Other commenters suggested that the temperature control devices and coolers required were too costly for existing monitoring networks and should be required only for new installations or existing installations where significant SO_2 concentrations are evident. EPA rejected these suggestions because the temperature control and other requirements are necessary to the accuracy of the method. Since the new requirements have been recommended for several years, most of the relatively few agencies still using the method on a routine basis should have already incorporated the improvements. Thus, the impact is expected to be small.

Several commenters opposed the new requirement for silica gel in the moisture trap, claiming that the previously required glass wool was adequate. In response to these comments, Section 7.1.4 of the method was modified to allow glass wool, provided that flow changes are not routinely encountered. Also, this section was changed to specify indicating-type silica gel in response to questions about the frequency with which the silica gel must be replaced.

Various other comments resulted in other minor changes or clarifications in the method, including specific incorporation of SI units of measure and correction of several typographical errors.

Appendix B—Reference Method for Total Suspended Particulate Matter

As expected, the majority of the comments received concerned Appendix B, the high-volume sampler method for total suspended particulate matter (TSP). This method is currently used very widely, and any changes in the method affect a great many users, including, in some cases, substantial networks containing large numbers of samplers. Six commenters specifically indicated general support for the revised method as proposed, and many others had only minor comments.

It was recognized in the January 15 proposal that the high-volume sampler is of simple design with an unsophisticated inlet that leads to performance shortcomings (wind speed and directional sensitivity, particle size characteristics that vary from sampler to sampler, and sensitivity to wind-blown particles) which can be properly corrected only by substantial redesign. Moreover, EPA is currently reviewing the National Ambient Air Quality Standard for particulate matter and considering a new, more sophisticated reference method for measuring ambient particulate matter of a specific size range. In view of this situation, 9 commenters suggested that any changes to the TSP method should be deferred until the review of this possible new particulate matter standard is completed to see if the TSP method will still be needed. Also, some comments suggested that the proposed changes were not suitably justified by test data.

EPA believes that it is appropriate to revise the TSP method at this time. It is likely to be some time before any size-specific particulate matter standard would be promulgated, and until then the TSP method would continue to be widely used. Even after that time, the TSP method would continue to be used for lead measurements, for trend studies, and as a possible screening mechanism for siting the new particulate matter samplers. Also, after modifications based on the comments received, the changes from the original method and their effects are very minor. No hardware changes are required for existing samplers, and the revisions now consist almost entirely of clarifications of the specifications for manufacturers of new samplers, refinement of the calibration procedure, and discussion of sources of error.

The proposed method recommended, but did not require, either flow controllers or flow recorders for TSP samplers. Two commenters suggested that flow recorders should be required; however, five commenters indicated that equipping all samplers in their networks with either flow controllers or flow recorders would be quite expensive. Their agencies could not afford to purchase such additional equipment unless funds were provided by EPA. The final method still recommends, but does not require, either flow controllers or recorders. This recommendation should not be interpreted as a requirement, as EPA believes that adequate measurements can be obtained without these devices. Also, as discussed later, the final method being promulgated today requires no additional equipment or physical changes for existing samplers. Thus, no additional funds for new equipment should be necessary to implement the revised method. Nevertheless, flow controllers and flow recorders can provide better accuracy for the samplers, and therefore their use is encouraged where better performance is needed, or desired, at the discretion of the operating agency.

Another matter of concern to five commenters was whether the proposed requirement that the sampler air inlet be "approximately uniform on all sides of the sampler" would require physical modifications or replacement of existing samplers, most of which have an air inlet that is not uniform on all sides. In response to these comments, this requirement was changed to be applicable only to new samplers. Accordingly, no changes are required for existing samplers. Although a uniform inlet is desirable, the area is somewhat difficult to measure and is not easily modified. Also, there is no definitive test data to indicate the degree of measurement error that a non-uniform inlet might cause.

Seven commenters noted that the proposed method contained no requirement that TSP samples be collected from midnight-to-midnight—as previously required—and indicated opposition, citing a variety of reasons for retaining that specification. This requirement was omitted on the reasoning that such a specification was more a matter of policy than a technical issue to be addressed in the method description. However, evaluation of the comments received pertinent to this issue revealed an apparent strong need for retaining the requirement. Accordingly, the midnight-to-midnight sampling requirement has been restored to the method procedure, in Section 8.10.

An error in the calibration procedure was pointed out by 6 commenters. The proposed procedure required the installation of a clean filter on the sampler during calibration. This filter would limit the sampler flow and preclude obtaining a calibration flow point above the normal operating flow, as is desirable. Section 9.3.2 has therefore been changed to delete that requirement for the filter during calibration (except for flow-controlled samplers, as discussed later).

A number of other comments concerning the calibration procedure were received. Several commenters pointed out that three alternative techniques for accommodating temperature and pressure corrections are specified in an EPA publication, "Investigation of Flow Rate Calibration Procedures Associated with the High-Volume Method for Determination of Suspended Particulates" (EPA–600/4–78–047). These alternative techniques are used by some agencies because of certain features that they find advantageous. Since the techniques are equivalent to the proposed techniques, they should, indeed, be allowed. The procedures would require too much space to include them in the text of the method, but Section 9 of the method has

been changed to allow their use as alternative calibration procedures.

A few comments suggested that temperature and pressure corrections were too difficult and not necessary. EPA disagrees. The specified temperature and pressure correction procedure is not overly difficult if the suggested forms (Figures 4 and 5) are used. Moreover, if average barometric pressure and seasonal average temperature as described in Section 9.3.9 are used, corrections are needed only during calibration and audit of the sampler and not for each sample collected. Temperatures can vary widely in most areas of the country, and many sites require some pressure correction because of elevated altitude. For these reasons, temperature and pressure corrections are required.

In response to other comments, the calibration procedure has been modified slightly to clarify the use of average barometric pressure and seasonal average temperature and also to indicate that the regression equations ($y=mx+b$) determined during calibration of the transfer standard and the sampler must be transposed ($x=[y-b]/m$) during subsequent use of those devices. Example calculations and audit instructions will be included in a revised edition of the Quality Assurance Handbook, Volume II.† Also, one commenter maintained that flow-controlled samplers were sufficiently stable to be calibrated solely at their single controlled flow without the need to calibrate the flow indicator at multiple flows. This saves a great deal of time and expense during calibration of flow-controlled samplers, and the uncalibrated flow indicator still serves to monitor any change in the controlled flow. Accordingly, a new Section 9.4 has been added to prescribe an alternative calibration procedure for single-point calibration of flow-controlled samplers.

As noted above, the revised method now requires no physical changes for existing samplers. This is responsive to many of the comments received and eliminates any economic impact that might have arisen from required modifications to existing samplers. The flow range, which was proposed to be reduced to 1.0 to 1.5 m^3/min, has been restored to the approximate original range (1.13 to 1.70m^3/om) and is now 1.1 to 1.7 m^3/min (39–60 ft^3/min). Although a few comments supported the proposed lower range, more comments favored the original flow range. Also, the original range is more consistent with the current filter pressure drop specifications, avoids any need to modify the flow of existing samplers, and precludes any possible risk to the comparability of TSP measurements obtained with the revised method.

The flow range specifications are now stated in actual volume units, as opposed to the standardized volume units used in the calibration procedure. Specifying the flow in actual volume units is consistent with the capture velocity concept and provides additional flow control latitude for flow-controlled samplers operated at elevated altitudes. Also, cautions concerning the possible reduced effectiveness of automatic flow-controllers operated at elevated altitudes have been added to Sections 6.2, 9.3.11 and 9.4.3.

The proposed capture air velocity specification has been retained, in lieu of specifying the inlet area, but, again, this specification is applicable only to new samplers and not to existing samplers.

A few comments supported the proposed phase-out of the small rotameters (e.g., visi-float) as flow indicators. But other commenters pointed out that replacing rotameters with flow recorders or even with manometers entails considerable expense to a large network. Also, rotameters can provide reasonably accurate flow indications when properly and carefully maintained. And finally, rotameters appear to be adequate for flow-controlled samplers where an uncalibrated rotameter is used only to monitor for possible changes in the controlled flow. Accordingly, the revised procedure will continue to allow rotameters as flow indicators. Tables 1 and 2 have been changed to include rotameters as calibratable flow indicators. Users are urged to give rotameters special attention in their quality control programs and to use a more accurate flow indicator where feasible.

In other changes, a new Section 6.9 has been added to discuss potential errors from recirculation of sampler exhaust, and the accuracy specification of the timer used to start and stop the sampler has been changed to ± 30 minutes to insure that the 1-week mechanical timers commonly used will continue to be acceptable. And the statement of the upper limit of the size range of particles collected by the sampler has been lowered somewhat to 25–50 μ in Sections 2.1 and 3.1 to reflect recent sampler characterization studies.*

Several comments suggested that samplers or sampler inlets having a circular or annular shape should be allowed. However, as noted in the January 15 preamble, such a substantial change in the shape of the sampler might lead to apparent, if not actual, differences in TSP measurements and could not be considered as a minor change. Therefore, the original rectangular shape with gabled roof is retained.

Several typographical errors in the method have been corrected, and units consistent with the International System of Units (SI) have been incorporated where not already used.

Appendix C—Measurement Principle and Calibration Procedure for Carbon Monoxide

Several commenters said they supported the proposed revision of Appendix C. Two commenters had questions about the meaning of the requirement for "non-reactive material" in connection with the output manifold of a CO calibration system. In response, this requirement was simply deleted, as almost any material likely to be used for a gas manifold would be sufficiently non-reactive for CO.

One commenter asked why it was necessary to prepare CO standards in air rather than nitrogen and why nitrogen cannot be used for a zero standard. EPA recognizes that nitrogen may be acceptable for some CO analyzers; however, other CO analyzers may respond differently to air and nitrogen. Therefore, good practice requires the use of air rather than nitrogen. Also, many CO analyzers have a slight response to CO_2, and use of air helps insure that background levels of CO_2 are present.

Other changes to Appendix C include correction of typographical errors and inclusion of SI units for standard barometric pressure.

Regulatory and Economic Impact

Under Executive Order 12291, EPA must judge whether a regulation is a "major" regulation for which a Regulatory Impact Analysis is required. This rule is not a major regulation, because it principally revises the

† Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods. EPA–600/4–77–027a. U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, 1977.

*Wedding, J. B., A. R. McFarland, and J. E. Cernak. Large Particle Collection Characteristics of Ambient Aerosol Samplers. *Environ. Sci. Technol.* *11*:387–390, 1977; and McFarland, A. R., and C. E. Rodes. Characteristics of Aerosol Samplers Used in Ambient Air Monitoring. Presented at 86th National Meeting, American Institute of Chemical Engineers, Houston, Texas, April 2, 1979.

existing reference methods for SO_2, TSP, and CO to correct identified shortcomings and ambiguities and incorporate certain technical improvements. All of the changes are designed to improve the quality and comparability of ambient measurements.

This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The rule will impose no new regulatory requirements; principally, it corrects certain identified shortcomings, clarifies ambiguities, and incorporates minor but important technical improvements in the existing reference methods for SO_2, TSP and CO. The economic impact on monitoring agencies resulting from these method revisions is not considered significant because of the minimal cost of upgrading existing equipment and procedures.

List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Hydro carbons, Ozone, Sulfur oxides, Particulate matter, Nitrogen dioxide, Lead.

Dated: November 22, 1982.

Anne M. Gorsuch,

Administrator.

Appendixes A, B, and C of Chapter I, Title 40, Part 50 of the Code of Federal Regulations are revised to read as follows:

Appendix A—Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)

1.0 *Applicability.*

1.1 This method provides a measurement of the concentration of sulfur dioxide (SO_2) in ambient air for determining compliance with the primary and secondary national ambient air quality standards for sulfur oxides (sulfur dioxide) as specified in § 50.4 and § 50.5 of this chapter. The method is applicable to the measurement of ambient SO_2 concentrations using sampling periods ranging from 30 minutes to 24 hours. Additional quality assurance procedures and guidance are provided in Part 58, Appendixes A and B, of this chapter and in references 1 and 2.

2.0 *Principle.*

2.1 A measured volume of air is bubbled through a solution of 0.04 M potassium tetrachloromercurate (TCM). The SO_2 present in the air stream reacts with the TCM solution to form a stable monochlorosulfonatomercurate(*3*) complex. Once formed, this complex resists air oxidation(*4, 5*) and is stable in the presence of strong oxidants such as ozone and oxides of nitrogen. During subsequent analysis, the complex is reacted with acid-bleached pararosaniline dye and formaldehyde to form an intensely colored pararosaniline methyl sulfonic acid.(*6*) The optical density of this species is determined spectrophotometrically at 548 nm and is directly related to the amount of SO_2 collected. The total volume of air sampled, corrected to EPA reference conditions [25° C, 760 mm Hg [101 kPa]), is determined from the measured flow rate and the sampling time. The concentration of SO_2 in the ambient air is computed and expressed in micrograms per standard cubic meter (μg/std m^3).

3.0 *Range.*

3.1 The lower limit of detection of SO_2 in 10 mL of TCM is 0.75 μg (based on collaborative test results).(*7*) This represents a concentration of 25 μg SO_2/m^3 (0.01 ppm) in an air sample of 30 standard liters (short-term sampling) and a concentration of 13 μg SO_2/m^3 (0.005 ppm) in an air sample of 288 standard liters (long-term sampling). Concentrations less than 25 μg $SO_2 m^3$ can be measured by sampling larger volumes of ambient air; however, the collection efficiency falls off rapidly at low concentrations.(*8, 9*) Beer's law is adhered to up to 34 μg of SO_2 in 25 mL of final solution. This upper limit of the analysis range represents a concentration of 1,130 μg SO_2/m^3 (0.43 ppm) in an air sample of 30 standard liters and a concentration of 590 μg SO_2/m^3 (0.23 ppm) in an air sample of 288 standard liters. Higher concentrations can be measured by collecting a smaller volume of air, by increasing the volume of absorbing solution, or by diluting a suitable portion of the collected sample with absorbing solution prior to analysis.

4.0 *Interferences.*

4.1 The effects of the principal potential interferences have been minimized or eliminated in the following manner: Nitrogen oxides by the addition of sulfamic acid,(*10, 11*) heavy metals by the addition of ethylenediamine tetracetic acid disodium salt (EDTA) and phosphoric acid,(*10, 12*) and ozone by time delay.(*10*) Up to 60 μg Fe (III), 22 μg V (V), 10 μg Cu (II), 10 μg Mn (II), and 10 μg Cr (III) in 10 mL absorbing reagent can be tolerated in the procedure.(*10*) No significant interference has been encountered with 2.3 μg NH_3.(*13*)

5.0 Precision and Accuracy.

5.1 The precision of the analysis is 4.6 percent (at the 95 percent confidence level) based on the analysis of standard sulfite samples.(*10*)

5.2 Collaborative test results (*14*) based on the analysis of synthetic test atmospheres (SO_2 in scrubbed air) using the 24-hour sampling procedure and the sulfite-TCM calibration procedure show that:

- The replication error varies linearly with concentration from ±2.5 $\mu g/m^3$ at concentrations of 100 $\mu g/m^3$ to ±7 $\mu g/m^3$ at concentrations of 400 $\mu g/m^3$.
- The day-to-day variability within an individual laboratory (repeatability) varies linearly with concentration from ±18.1 $\mu g/m^3$ at levels of 100 $\mu g/m^3$ to ±50.9 $\mu g/m^3$ at levels of 400 $\mu g/m^3$.
- The day-to-day variability between two or more laboratories (reproducibility) varies linearly with concentration from ±36.9 $\mu g/m^3$ at levels of 100 $\mu g/m^3$ to ±103.5 $\mu g/m^3$ at levels of 400 $\mu g/m^3$.
- The method has a concentration-dependent bias, which becomes significant at the 95 percent confidence level at the high concentration level. Observed values tend to be lower than the expected SO_2 concentration level.

6.0 Stability.

6.1 By sampling in a controlled temperature environment of 15°±10° C, greater than 98.9 percent of the SO_2-TCM complex is retained at the completion of sampling. (*15*) If kept at 5° C following the completion of sampling, the collected sample has been found to be stable for up to 30 days.(*10*) The presence of EDTA enhances the stability of SO_2 in the TCM solution and the rate of decay is independent of the concentration of SO_2.(*16*)

7.0 *Apparatus.*

7.1 *Sampling.*

7.1.1 *Sample probe:* A sample probe meeting the requirements of Section 7 of 40 CFR Part 58, Appendix E (Teflon® or glass with residence time less than 20 sec.) is used to transport ambient air to the sampling train location. The end of the probe should be designed or oriented to preclude the sampling of precipitation, large particles, etc. A suitable probe can be constructed from Teflon® tubing connected to an inverted funnel.

7.1.2 *Absorber—short-term sampling:* An all glass midget impinger having a solution capacity of 30 mL and a stem clearance of 4±1 mm from the bottom of the vessel is used for samplying periods of 30 minutes and 1 hour (or any period considerably less than 24 hours). Such an impinger is shown in Figure 1. These impingers are commercially available from distributors such as Ace Glass, Incorporated.

7.1.3 *Absorber—24-how sampling:* A polypropylene tube 32 mm in diameter and 164 mm long (available from Bel Art Products, Pequammock, NJ) is used as the absorber. The cap of the absorber must be a polypropylene cap with two ports (rubber stoppers are unacceptable because the absorbing reagent can react with the stopper to yield erroneously high SO_2 concentrations). A glass impinger stem, 6 mm in diameter and 158 mm long, is inserted into one port of the absorber cap. The tip of the stem is tapered to a small diameter orifice (0.4±0.1 mm) such that a No. 79 jeweler's drill bit will pass through the opening but a No. 78 drill bit will not. Clearance from the bottom of the absorber to the tip of the stem must be 6±2 mm. Glass stems can be fabricated by any reputable glass blower or can be obtained from a scientific supply firm. Upon receipt, the orifice test should be performed to verify the orifice size. The 50 mL volume level should be permanently marked on the absorber. The assembled absorber is shown in Figure 2.

7.1.4 *Moisture trap:* A moisture trap constructed of a glass trap as shown in Figure 1 or a polypropylene tube as shown in Figure 2 is placed between the absorber tube and flow control device to prevent entrained liquid from reaching the flow control device. The tube is packed with indicating silica gel as shown in Figure 2. Glass wool may be substituted for silica gel when collecting

short-term samples (1 hour or less) as shown in Figure 1, or for long term (24 hour) samples if flow changes are not routinely encountered.

7.1.5 *Cap seals:* The absorber and moisture trap caps must seal securely to prevent leaks during use. Heat-shrink material as shown in Figure 2 can be used to retain the cap seals if there is any chance of the caps coming loose during sampling, shipment, or storage.

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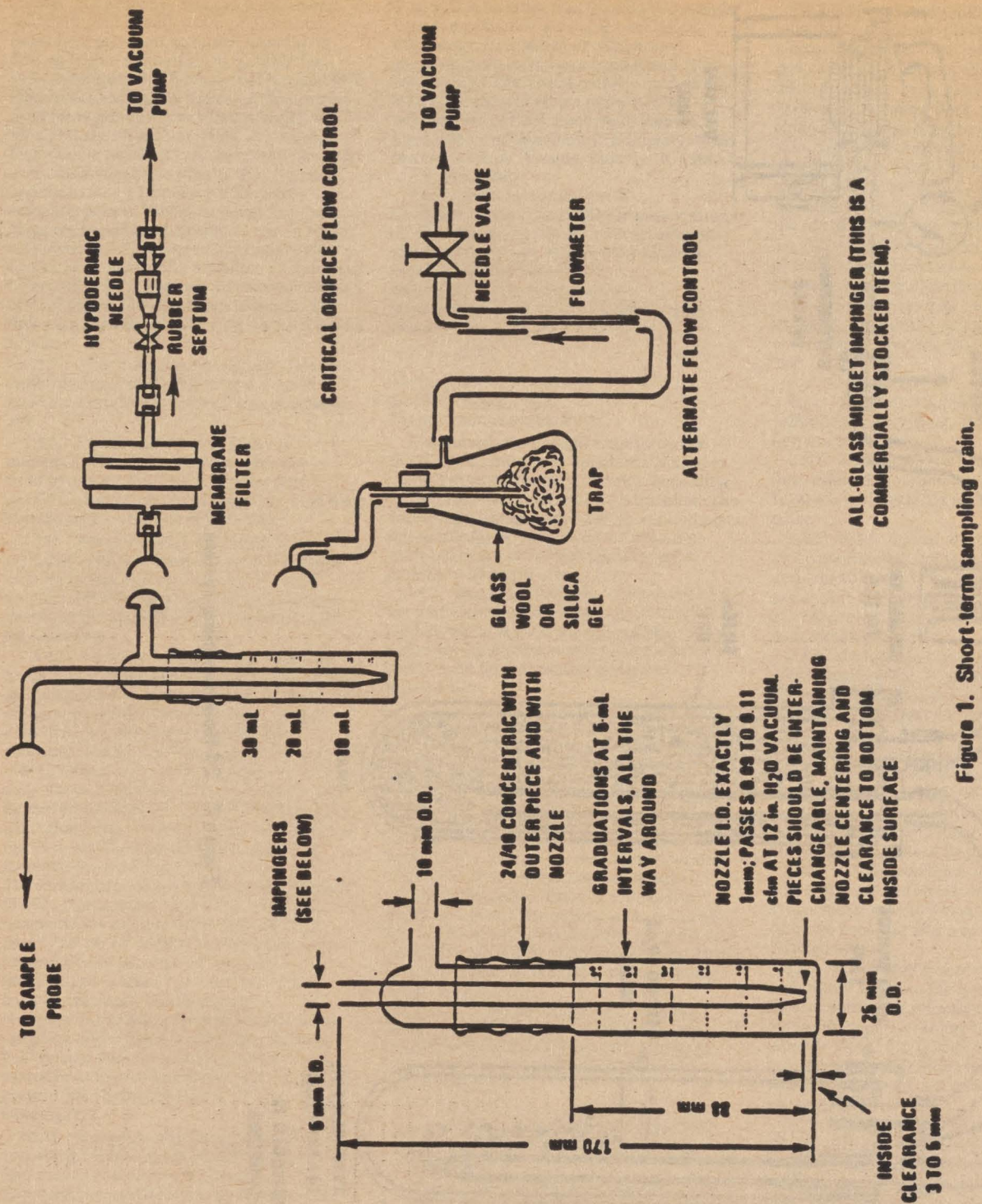


Figure 1. Short-term sampling train.

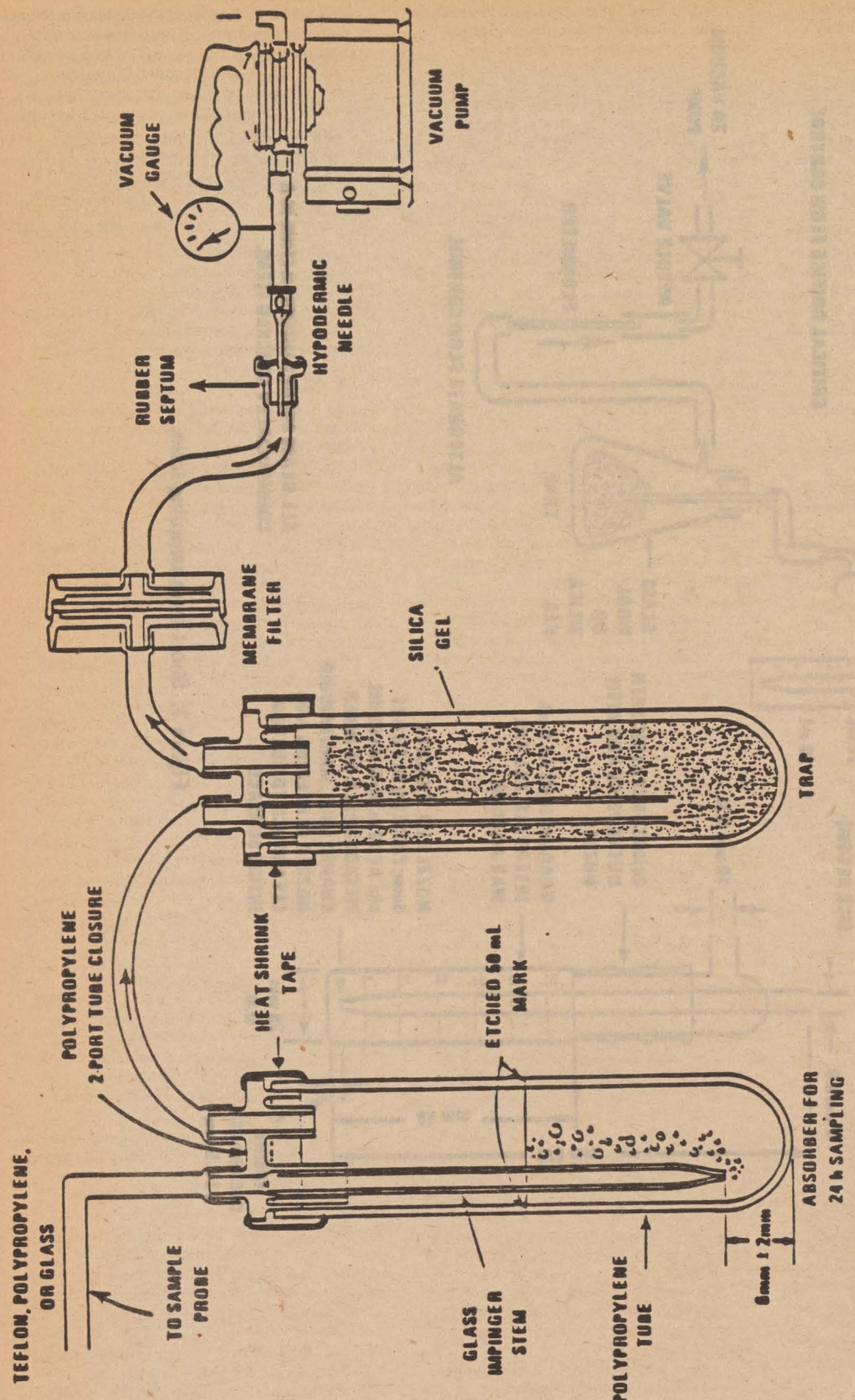


Figure 2. 24-Hour sampling system.

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7.1.6 *Flow control device:* A calibrated rotameter and needle valve combination capable of maintaining and measuring air flow to within ±2 percent is suitable for short-term sampling but may not be used for long-term sampling. A critical orifice can be used for regulating flow rate for both long-term and short-term sampling. A 22-gauge hypodermic needle 25 mm long may be used as a critical orifice to yield a flow rate of approximately 1 L/min for a 30-minute sampling period. When sampling for 1 hour, a 23-gauge hypodermic needle 16 mm in length will provide a flow rate of approximately 0.5 L/min. Flow control for a 24-hour sample may be provided by a 27-gauge hypodermic needle critical orifice that is 9.5 mm in length. The flow rate should be in the range of 0.18 to 0.22 L/min.

7.1.7 *Flow measurement device:* Device calibrated as specified in 9.4.1 and used to measure sample flow rate at the monitoring site.

7.1.8 *Membrane particle filter:* A membrane filter of 0.8 to 2 μm porosity is used to protect the flow controller from particles during long-term sampling. This item is optional for short-term sampling.

7.1.9 *Vacuum pump:* A vacuum pump equipped with a vacuum gauge and capable of maintaining at least 70 kPa (0.7 atm) vacuum differential across the flow control device at the specified flow rate is required for sampling.

7.1.10 *Temperature control device:* The temperature of the absorbing solution during sampling must be maintained at 15° ±10° C. As soon possible following sampling and until analysis, the temperature of the collected sample must be maintained at 5° ±5° C. Where an extended period of time may elapse before the collected sample can be moved to the lower storage temperature, a collection temperature near the lower limit of the 15 ± 10° C range should be used to minimize losses during this period. Thermoelectric coolers specifically designed for this temperature control are available commercially and normally operate in the range of 5° to 15° C. Small refrigerators can be modified to provide the required temperature control; however, inlet lines must be insulated from the lower temperatures to prevent condensation when sampling under humid conditions. A small heating pad may be necessary when sampling at low temperatures (<7° C) to prevent the absorbing solution from freezing.*(17)*

7.1.11 *Sampling train container:* The absorbing solution must be shielded from light during and after sampling. Most commercially available sampler trains are enclosed in a light-proof box.

7.1.12 *Timer:* A timer is recommended to initiate and to stop sampling for the 24-hour period. The timer is not a required piece of equipment; however, without the timer a technician would be required to start and stop the sampling manually. An elapsed time meter is also recommended to determine the duration of the sampling period.

7.2 *Shipping.*

7.2.1 *Shipping container:* A shipping container that can maintain a temperature of 5° ±5° C is used for transporting the sample from the collection site to the analytical laboratory. Ice coolers or refrigerated shipping containers have been found to be satisfactory. The use of eutectic cold packs instead of ice will give a more stable temperature control. Such equipment is available from Cole-Parmer Company, 7425 North Oak Park Avenue, Chicago, IL 60648.

7.3 *Analysis.*

7.3.1 *Spectrophotometer:* A spectrophotometer suitable for measurement of absorbances at 548 nm with an effective spectral bandwidth of less than 15 nm is required for analysis. If the spectrophotometer reads out in transmittance, convert to absorbance as follows:

$$A = \log_{10}(1/T) \quad (1)$$

where:
A = Absorbance, and
T = transmittance (0<T<1).

A standard wavelength filter traceable to the National Bureau of Standards is used to verify the wavelength calibration according to the procedure enclosed with the filter. The wavelength calibration must be verified upon initial receipt of the instrument and after each 160 hours of normal use or every 6 months, whichever occurs first.

7.3.2 *Spectrophotometer cells:* A set of 1-cm path length cells suitable for use in the visible region is used during analysis. If the cells are unmatched, a matching correction factor must be determined according to Section 10.1.

7.3.3 *Temperature control device:* The color development step during analysis must be conducted in an environment that is in the range of 20° to 30° C and controlled to ±1° C. Both calibration and sample analysis must be performed under identical conditions (within 1° C). Adequate temperature control may be obtained by means of constant temperature baths, water baths with manual temperature control, or temperature controlled rooms.

7.3.4 *Glassware:* Class A volumetric glassware of various capacities is required for preparing and standardizing reagents and standards and for dispensing solutions during analysis. These included pipets, volumetric flasks, and burets.

7.3.5 *TCM waste receptacle:* A glass waste receptacle is required for the storage of spent TCM solution. This vessel should be stoppered and stored in a hood at all times.

8.0 *Reagents.*

8.1 *Sampling.*

8.1.1 *Distilled water:* Purity of distilled water must be verified by the following procedure:*(18)*

- Place 0.20 mL of potassium permanganate solution (0.316 g/L), 500 mL of distilled water, and 1mL of concentrated sulfuric acid in a chemically resistant glass bottle, stopper the bottle, and allow to stand.
- If the permanganate color (pink) does not disappear completely after a period of 1 hour at room temperature, the water is suitable for use.
- If the permanganate color does disappear, the water can be purified by redistilling with one crystal each of barium hydroxide and potassium permanganate in an all glass still.

8.1.2 *Absorbing reagent* (0.04 M potassium tetrachloromercurate [TCM]): Dissolve 10.86 g mercuric chloride, 0.066 g EDTA, and 6.0 g potassium chloride in distilled water and dilute to volume with distilled water in a 1,000-mL volumetric flask. (*Caution:* Mercuric chloride is highly poisonous. If spilled on skin, flush with water immediately.) The pH of this reagent should be between 3.0 and 5.0 (*10*) Check the pH of the absorbing solution by using pH indicating paper or a pH meter. If the pH of the solution is not between 3.0 and 5.0, dispose of the solution according to one of the disposal techniques described in Section 13.0. The absorbing reagent is normally stable for 6 months. If a precipitate forms, dispose of the reagent according to one of the procedures described in Section 13.0.

8.2 *Analysis.*

8.2.1 *Sulfamic acid* (0.6%): Dissolve 0.6 g sulfamic acid in 100 mL distilled water. Perpare fresh daily.

8.2.2 *Formaldehyde* (0.2%): Dilute 5 mL formaldehyde solution (36 to 38 percent) to 1,000 mL with distilled water. Prepare fresh daily.

8.2.3 *Stock iodine solution* (0.1 N): Place 12.7 g resublimed iodine in a 250-mL beaker and add 40 g potassium iodide and 25 mL water. Stir until dissolved, transfer to a 1,000 mL volumetric flask and dilute to volume with distilled water.

8.2.4 *Iodine solution* (0.01 N): Prepare approximately 0.01 N iodine solution by diluting 50 mL of stock iodine solution (Section 8.2.3) to 500 mL with distilled water.

8.2.5 *Starch indicator solution:* Triturate 0.4 g soluble starch and 0.002 g mercuric iodide (preservative) with enough distilled water to form a paste. Add the paste slowly to 200 mL of boiling distilled water and continue boiling until clear. Cool and transfer the solution to a glass stopperd bottle.

8.2.6 *1 N hydrochloric acid:* Slowly and while stirring, add 86 mL of concentrated hydrochloric acid to 500 mL of distilled water. Allow to cool and dilute to 1,000 mL with distilled water.

8.2.7 *Potassium iodate solution:* Accurately weigh to the nearest 0.1 mg, 1.5 g (record weight) of primary standard grade potassium iodate that has been previously dried at 180° C for at least 3 hours and cooled in a dessicator. Dissolve, then dilute to volume in a 500-mL volumetric flask with distilled water.

8.2.8 *Stock sodium thiosulfate solution* (0.1 N): Prepare a stock solution by dissolving 25 g sodium thiosulfate ($Na_2S_2O_3 \cdot 5H_2O$) in 1,000 mL freshly boiled, cooled, distilled water and adding 0.1 g sodium carbonate to the solution. Allow the solution to stand at least 1 day before standardizing. To standardize, accurately pipet 50 mL of potassium iodate solution (Section 8.2.7) into a 500-mL iodine flask and add 2.0 g of potassium iodide and 10 mL of 1 N NCl. Stopper the flask and allow to stand for 5 minutes. Titrate the solution with stock sodium thiosulfate solution (Section 8.2.8) to a pale yellow color. Add 5 mL of starch solution (Section 8.2.5) and titrate until the blue color just disappears. Calculate the

normality (N_s) of the stock sodium thiosulfate solution as follows:

$$N_S = \frac{W}{M} \times 2.80 \qquad (2)$$

where:

M = volume of thiosulfate required in mL, and
W = weight of potassium iodate in g (recorded weight in Section 8.2.7).

$$2.80 = \frac{10^3 \text{ (conversion of g to mg)} \times 0.1 \text{ (fraction iodate used)}}{35.67 \text{ (equivalent weight of potassium iodate)}}$$

8.2.9 *Working sodium thiosulfate titrant* (0.01 N): Accurately pipet 100 mL of stock sodium thiosulfate solution (Section 8.2.8) into a 1,000-mL volumetric flask and dilute to volume with freshly boiled, cooled, distilled water. Calculate the normality of the working sodium thiosulfate titrant (N_T) as follows:

$$N_T = N_S \times 0.100 \qquad (3)$$

8.2.10 *Standardized sulfite solution for the preparation of working sulfite-TCM solution:* Dissolve 0.30 g sodium metabisulfite ($Na_2S_2O_5$) or 0.40 g sodium sulfite (Na_2SO_3) in 500 mL of recently boiled, cooled, distilled water. (Sulfite solution is unstable; it is therefore important to use water of the highest purity to minimize this instability.) This solution contains the equivalent of 320 to 400 μg SO_2/mL. The actual concentration of the solution is determined by adding excess iodine and back-titrating with standard sodium thiosulfate solution. To back-titrate, pipet 50 mL of the 0.01 N iodine solution (Section 8.2.4) into each of two 500-mL iodine flasks (A and B). To flask A (blank) add 25 mL distilled water, and to flask B (sample) pipet 25 mL sulfite solution. Stopper the flasks and allow to stand for 5 minutes. Prepare the working sulfite-TCM solution (Section 8.2.11) immediately prior to adding the iodine solution to the flasks. Using a buret containing standardized 0.01 N thiosulfate titrant (Section 8.2.9), titrate the solution in each flask to a pale yellow color. Then add 5 mL starch solution (Section 8.2.5) and continue the titration until the blue color just disappears.

8.2.11 *Working sulfite-TCM solution:* Accurately pipet 5 mL of the standard sulfite solution (Section 8.2.10) into a 250-mL volumetric flask and dilute to volume with 0.04 M TCM. Calculate the concentration of sulfur dioxide in the working solution as follows:

$$C_{TCM/SO_2}(\mu g\ SO_2/mL) = \frac{(A-B)(N_T)(32{,}000)}{25} \times 0.02 \qquad (4)$$

where:

A = volume of thiosulfate titrant required for the blank, mL;
B = volume of thiosulfate titrant required for the sample, mL;
N_T = normality of the thiosulfate titrant, from equation (3);
32,000 = milliequivalent weight of SO_2, μg;
25 = volume of standard sulfite solution, mL; and
0.02 = dilution factor.

This solution is stable for 30 days if kept at 5° C.[16] If not kept at 5° C, prepare fresh daily.

8.2.12 *Purified pararosaniline (PRA) stock solution* (0.2% nominal):

8.2.12.1 *Dye specifications—*

- The dye must have a maximum absorbance at a wavelength of 540 nm when assayed in a buffered solution of 0.1 M sodium acetate-acetic acid;
- The absorbance of the reagent blank, which is temperature sensitive (0.015 absorbance unit/° C), must not exceed 0.170 at 22° C with a 1-cm optical path length when the blank is prepared according to the specified procedure;
- The calibration curve (Section 10.0) must have a slope equal to 0.030±0.002 absorbance unit/μg SO_2 with a 1-cm optical path length when the dye is pure and the sulfite solution is properly standardized.

8.2.12.2 *Preparation of stock PRA solution*—A specially purified (99 to 100 percent pure) solution of pararosaniline, which meets the above specifications, is commercially available in the required 0.20 percent concentration (Harleco Co.). Alternatively, the dye may be purified, a stock solution prepared, and then assayed according to the procedure as described below.*(10)*

8.2.12.3 *Purification procedure for PRA—*

1. Place 100 mL each of 1-butanol and 1 N HCl in a large separatory funnel (250-mL) and allow to equilibrate. Note: Certain batches of 1-butanol contain oxidants that create an SO_2 demand. Before using, check by placing 20 mL of 1-butanol and 5 mL of 20 percent potassium iodide (KI) solution in a 50-mL separatory funnel and shake thoroughly. If a yellow color appears in the alcohol phase, redistill the 1-butanol from silver oxide and collect the middle fraction or purchase a new supply of 1-butanol.

2. Weigh 100 mg of pararosaniline hydrochloride dye (PRA) in a small beaker. Add 50 mL of the equilibrated acid (drain in acid from the bottom of the separatory funnel in 1.) to the beaker and let stand for several minutes. Discard the remaining acid phase in the separatory funnel.

3. To a 125-mL separatory funnel, add 50 mL of the equilibrated 1-butanol (draw the 1-butanol from the top of the separatory funnel in 1.). Transfer the acid solution (from 2.) containing the dye to the funnel and shake carefully to extract. The violet impurity will transfer to the organic phase.

4. Transfer the lower aqueous phase into another separatory funnel, add 20 mL of equilibrated 1-butanol, and extract again.

5. Repeat the extraction procedure with three more 10-mL portions of equilibrated 1-butanol.

6. After the final extraction, filter the acid phase through a cotton plug into a 50-mL volumetric flask and bring to volume with 1 N HCl. This stock reagent will be a yellowish red.

7. To check the purity of the PRA, perform the assay and adjustment of concentration (Section 8.2.12.4) and prepare a reagent blank (Section 11.2); the absorbance of this reagent blank at 540 nm should be less than 0.170 at 22° C. If the absorbance is greater than 0.170 under these conditions, further extractions should be performed.

8.2.12.4 *PRA assay procedure*—The concentration of pararosaniline hydrochloride (PRA) need be assayed only once after purification. It is also recommended that commercial solutions of pararosaniline be assayed when first purchased. The assay procedure is as follows:*(10)*

1. Prepare 1 M acetate-acetic acid buffer stock solution with a pH of 4.79 by dissolving 13.61 g of sodium acetate trihydrate in distilled water in a 100-mL volumetric flask. Add 5.70 mL of glacial acetic acid and dilute to volume with distilled water.

2. Pipet 1 mL of the stock PRA solution obtained from the purification process or from a commercial source into a 100-mL volumetric flask and dilute to volume with distilled water.

3. Transfer a 5–mL aliquot of the diluted PRA solution from 2. into a 50–mL volumetric flask. Add 5mL of 1 M acetate-acetic acid buffer solution from 1. and dilute the mixture to volume with distilled water. Let the mixture stand for 1 hour.

4. Measure the absorbance of the above solution at 540 nm with a spectrophotometer against a distilled water reference. Compute the percentage of nominal concentration of PRA by

$$\%\ PRA = \frac{A \times K}{W}$$

where:

A = measured absorbance of the final mixture (absorbance units);
W = weight in grams of the PRA dye used in the assay to prepare 50 mL of stock solution (for example, 0.100 g of dye was used to prepare 50 mL of solution in the purification procedure; when obtained from commercial sources, use the stated concentration to compute W; for 98% PRA, W = .098 g.); and
K = 21.3 for spectrophotometers having a spectral bandwidth of less than 15 nm and a path length of 1 cm.

8.2.13 *Pararosaniline reagent:* To a 250–mL volumetric flask, add 20 mL of stock PRA solution. Add an additional 0.2 mL of stock solution for each percentage that the stock assays below 100 percent. Then add 25 mL of 3 M phosphoric acid and dilute to volume with distilled water. The reagent is stable for at least 9 months. Store away from heat and light.

9.0 *Sampling Procedure.*

9.1 *General Considerations.* Procedures are described for short-term sampling (30-minute and 1-hour) and for long-term sampling (24-hour). Different combinations of

absorbing reagent volume, sampling rate, and sampling time can be selected to meet special needs. For combinations other than those specifically described, the conditions must be adjusted so that linearity is maintained between absorbance and concentration over the dynamic range. Absorbing reagent volumes less than 10 mL are not recommended. The collection efficiency is above 98 percent for the conditions described; however, the efficiency may be substantially lower when sampling concentrations below 25$\mu g SO_2/m^3$.(8 9)

9.2 *30-Minute and 1-Hour Sampling.* Place 10 mL of TCM absorbing reagent in a midget impinger and seal the impinger with a thin film of silicon stopcock grease (around the ground glass joint). Insert the sealed impinger into the sampling train as shown in Figure 1, making sure that all connections between the various components are leak tight. Greaseless ball joint fittings, heat shrinkable Teflon* tubing, or Teflon* tube fittings may be used to attain leakfree conditions for portions of the sampling train that come into contact with air containing SO_2. Shield the absorbing reagent from direct sunlight by covering the impinger with aluminum foil or by enclosing the sampling train in a light-proof box. Determine the flow rate according to Section 9.4.2. Collect the sample at 1±0.10 L/min for 30-minute sampling or 0.500±0.05 L/min for 1-hour sampling. Record the exact sampling time in minutes, as the sample volume will later be determined using the sampling flow rate and the sampling time. Record the atmospheric pressure and temperature.

9.3 *24-Hour Sampling.* Place 50 mL of TCM absorbing solution in a large absorber, close the cap, and, if needed, apply the heat shrink material as shown in Figure 3. Verify that the reagent level is at the 50 mL mark on the absorber. Insert the sealed absorber into the sampling train as shown in Figure 2. At this time verify that the absorber temperature is controlled to 15±110° C. During sampling, the absorber temperature must be controlled to prevent decomposition of the collected complex. From the onset of sampling until analysis, the absorbing solution must be protected from direct sunlight. Determine the flow rate according to Section 9.4.2. Collect the sample for 24 hours from midnight to midnight at a flow rate of 0.200±0.020 L/min. A start/stop timer is helpful for initiating and stopping sampling and an elapsed time meter will be useful for determining the sampling time.

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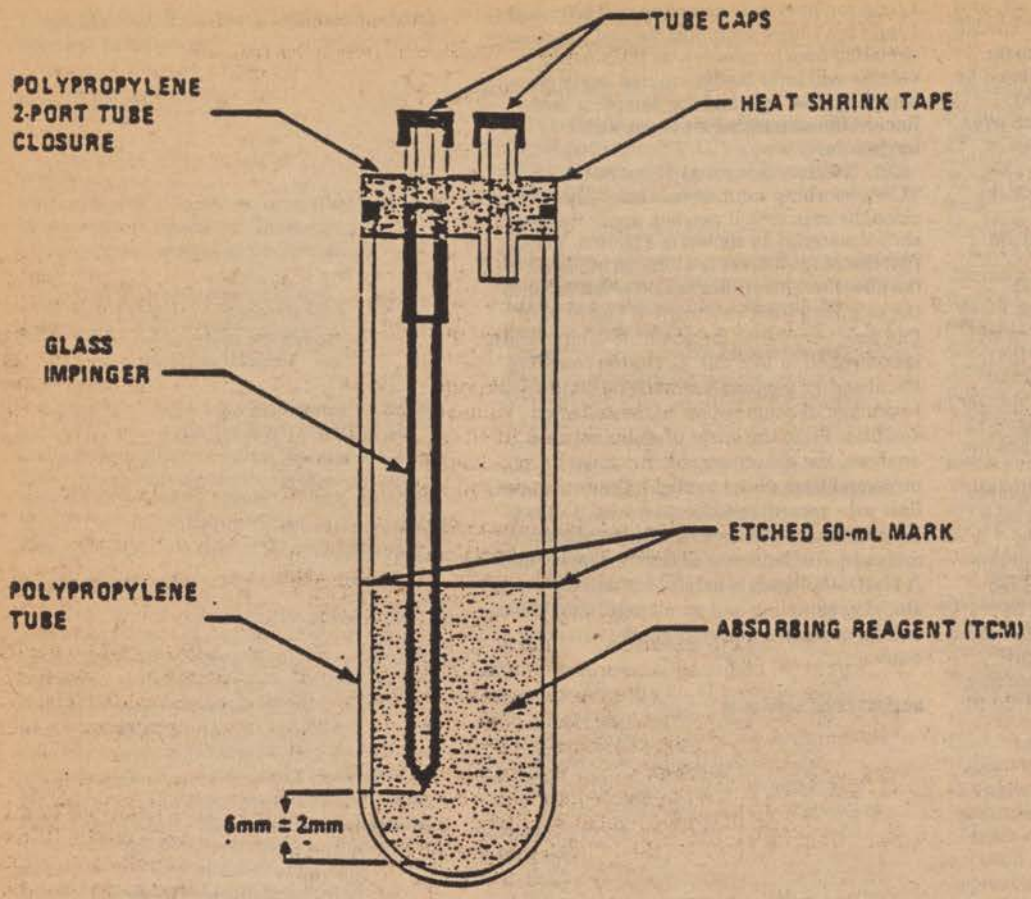


Figure 3. An absorber (24-hour sample) filled and assembled for shipment.

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9.4 Flow Measurement.

9.4.1 *Calibration:* Flow measuring devices used for the on-site flow measurements required in 9.4.2 must be calibrated against a reliable flow or volume standard such as an NBS traceable bubble flowmeter or calibrated wet test meter. Rotameters or critical orifices used in the sampling train may be calibrated, if desired, as a quality control check, but such calibration shall not replace the on-site flow measurements required by 9.4.2. In-line rotameters, if they are to be calibrated, should be calibrated in situ, with the appropriate volume of solution in the absorber.

9.4.2 *Determination of flow rate at sampling site:* For short-term samples, the standard flow rate is determined at the sampling site at the initiation and completion of sample collection with a calibrated flow measuring device connected to the inlet of the absorber. For 24-hour samples, the standard flow rate is determined at the time the absorber is placed in the sampling train and again when the absorber is removed from the train for shipment to the analytical laboratory with a calibrated flow measuring device connected to the inlet of the sampling train. The flow rate determination must be made with all components of the sampling system in operation (e.g., the absorber temperature controller and any sample box heaters must also be operating). Equation 6 may be used to determine the standard flow rate when a calibrated positive displacement meter is used as the flow measuring device. Other types of calibrated flow measuring devices may also be used to determine the flow rate at the sampling site provided that the user applies any appropriate corrections to devices for which output is dependent on temperature or pressure.

$$Q_{std}=Q_{act}\times\frac{P_b-(1-RH)P_{H_2O}}{P_{std}}\times\frac{298.16}{(T_{meter}+273.16)} \qquad (6)$$

where:

Q_{std} = flow rate at standard conditions, std L/min (25° C and 760 mm Hg);

Q_{act} = flow rate at monitoring site conditions, L/min;

P_b = barometric pressure at monitoring site conditions, mm Hg or kPa;

RH = fractional relative humidity of the air being measured;

$P_{H2}0$ = vapor pressure of water at the temperature of the air in the flow or volume standard, in the same units as P_b, (for wet volume standards only, i.e., bubble flowmeter or wet test meter; for dry standards, i.e., dry test meter, $P_{H2O}=0$);

P_{std} = standard barometric pressure, in the same units as P_b (760 mm Hg or 101 kPa); and

T_{meter} = temperature of the air in the flow or volume standard, °C (e.g., bubble flowmeter).

If a barometer is not available, the following equation may be used to determine the barometric pressure:

$$P_b=760-.076(H)\text{ mm Hg or}$$
$$P_b=101-.01(H)\text{kPa} \qquad (7)$$

where:

H = sampling site elevation above sea level in meters.

If the initial flow rate (Q_i) differs from the flow rate of the critical orifice or the flow rate indicated by the flowmeter in the sampling train (Q_c) by more than 5 percent as determined by equation (8), check for leaks and redetermine Q_i.

$$\%\text{ Diff}=\frac{Q_i-Q_c}{Q_c}\times 100 \qquad (8)$$

Invalidate the sample if the difference between the initial (Q_i) and final (Q_f) flow rates is more than 5 percent as determined by equation (9)

$$\%\text{ Diff}=\frac{Q_i-Q_f}{Q_f}\times 100 \qquad (9)$$

9.5 *Sample Storage and Shipment.* Remove the impinger or absorber from the sampling train and stopper immediately. Verify that the temperature of the absorber is not above 25° C. Mark the level of the solution with a temporary (e.g., grease pencil) mark. If the sample will not be analyzed within 12 hours of sampling, it must be stored at 5° ±5° C until analysis. Analysis must occur within 30 days. If the sample is transported or shipped for a period exceeding 12 hours, it is recommended that thermal coolers using eutectic ice packs, refrigerated shipping containers, etc., be used for periods up to 48 hours. (*17*) Measure the temperature of the absorber solution when the shipment is received. Invalidate the sample if the temperature is above 10° C. Store the sample at 5° ±5° C until it is analyzed.

10.0 *Analytical Calibration.*

10.1 *Spectrophotometer Cell Matching.* If unmatched spectrophotometer cells are used, an absorbance correction factor must be determined as follows:

1. Fill all cells with distilled water and designate the one that has the lowest absorbance at 548 nm as the reference. (This reference cell should be marked as such and continually used for this purpose throughout all future analyses.)

2. Zero the spectrophotometer with the reference cell.

3. Determine the absorbance of the remaining cells (A_c) in relation to the reference cell and record these values for future use. Mark all cells in a manner that adequately identifies the correction.

The corrected absorbance future analyses using each cell is determining as follows:

$$A=A_{obs}-A_c \qquad (10)$$

where:

A = corrected absorbance,
= A_{obs} = uncorrected absorbance, and
= A_c = cell correction.

10.2 *Static Calibration Procedure* (Option 1). Prepare a dilute working sulfite-TCM solution by diluting 10 mL of the working sulfite-TCM solution (Section 8.2.11) to 100 mL with TCM absorbing reagent. Following the table below, accurately pipet the indicated volumes of the sulfite-TCM solutions into a series of 25-mL volumetric flasks. Add TCM absorbing reagent as indicated to bring the volume in each flask to 10 mL.

Sulfite solution	Volume of sulfite-TCM solution	Volume of TCM, mL	Total μg SO_2 (approximately
Working	4.0	6.0	28.8
Working	3.0	7.0	21.6
Working	2.0	8.0	14.4
Dilute working	10.0	0.0	7.2
Dilute working	5.0	5.0	3.6
Dilute working	0.0	10.0	0.0

[1] Based on working sulfite-TCM solution concentration of 7.2 μg SO_2/mL; the actual total μg SO_2 must be calculated using equation 11 below.

To each volumetric flask, add 1 mL 0.6% sulfamic acid (Section 8.2.1), accurately pipet 2 mL 0.2% formaldehyde solution (Section 8.2.2), then add 5 mL pararosaniline solution (Section 8.2.13). Start a laboratory timer that has been set for 30 minutes. Bring all flasks to volume with recently boiled and cooled distilled water and mix thoroughly. The color must be developed (during the 30-minute period) in a temperature environment in the range of 20° to 30° C, which is controlled to ±° C. For increased precision, a constant temperature bath is recommended during the color development step. After 30 minutes, determine the corrected absorbance of each standard at 548 nm against a distilled water reference (Section 10.1). Denote this absorbance as (A). Distilled water is used in the reference cell rather than the reagent blank because of the temperature sensitivity of the reagent blank. Calculate the total micrograms SO_2 in each solution:

$$\mu g\ SO_2=V_{TCM/SO2}\times C_{TCM/SO2}\times D \qquad (11)$$

where:

$V_{TCM/SO2}$ = volume of sulfine-TCM solution used, mL;

$V_{TCM/SO2}$ = concentration of sulfur dioxide in the working sulfite-TCM, μg SO_2/mL (from equation 4); and

D = dilution factor (D=1 for the working sulfite-TCM solution; D=0.1 for the diluted working sulfite-TCM solution).

A calibration equation is determined using the method of linear least squares (Section 12.1). The total micrograms SO_2 contained in each solution is the x variable, and the corrected absorbance (eq. 10) associated with each solution is the y variable. For the calibration to be valid, the slope must be in the range of 0.030 ±0.002 absorbance unit/μg SO_2, the intercept as determined by the least squares method must be equal to or less than 0.170 absorbance unit when the color is developed at 22° C (add 0.015 to this 0.170 specification for each °C above 22° C) and the correlation coefficient must be greater than 0.998. If these criteria are not met, it may be the result of an impure dye and/or an improperly standardized sulfite-TCM solution. A calibration factor (B_s) is

determined by calculating the reciprocal of the slope and is subsequently used for calculating the sample concentration (Section 12.3).

10.3 *Dynamic California Procedures* (Option 2). Atmospheres containing accurately known concentrations of sulfur dioxide are prepared using permeation devices. In the systems for generating these atmospheres, the permeation device emits gaseous SO_2 at a known, low, constant rate, provided the temperature of the device is held constant (±0.1° C) and the device has been accurately calibrated at the temperature of use. The SO_2 permeating from the device is carried by a low flow of dry carrier gas to a mixing chamber where it is diluted with SO_2-free air to the desired concentration and supplied to a vented manifold. A typical system is shown schematically in Figure 4 and this system and other similar systems have been described in detail by O'Keeffe and Ortman; (*19*) Scaringelli, Frey, and Saltzman, (*20*) and Scaringelli, O'Keeffe, Rosenberg, and Bell. (*21*) Permeation devices may be prepared or purchased and in both cases must be traceable either to a National Bureau of Standards (NBS) Standard Reference Material (SRM 1625, SRM 1626, SRM 1627) or to an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 22, and a list of CRM sources is available from the address shown for Reference 22. A recommended protocol for certifying a permeation device to an NBS SRM or CRM is given in Section 2.0.7 of Reference 2. Device permeation rates of 0.2 to 0.4 μg/min, inert gas flows of about 50 mL/min, and dilution air flow rates from 1.1 to 15 L/min conveniently yield standard atmospheres in the range of 25 to 600 μg SO_2/m^3 (0.010 to 0.230 ppm).

10.3.1 *Calibration Option 2A* (30-minute and 1-hour samples): Generate a series of six standard atmospheres of SO_2 (e.g., 0, 50, 100, 200, 350, 500, 750 μg/m^3) by adjusting the dilution flow rates appropriately. The concentration of SO_2 in each atmosphere is calculated as follows:

$$C_a = \frac{P_r \times 10^3}{(Q_d + Q_p)} \qquad (12)$$

where:

C_a = concentration of SO_2 at standard conditions, μg/m^3;
P_r = permeation rate, μg/min;
Q_d = flow rate of dilution air, std L/min; and
Q_p = flow rate of carrier gas across permeation device, std L/min.

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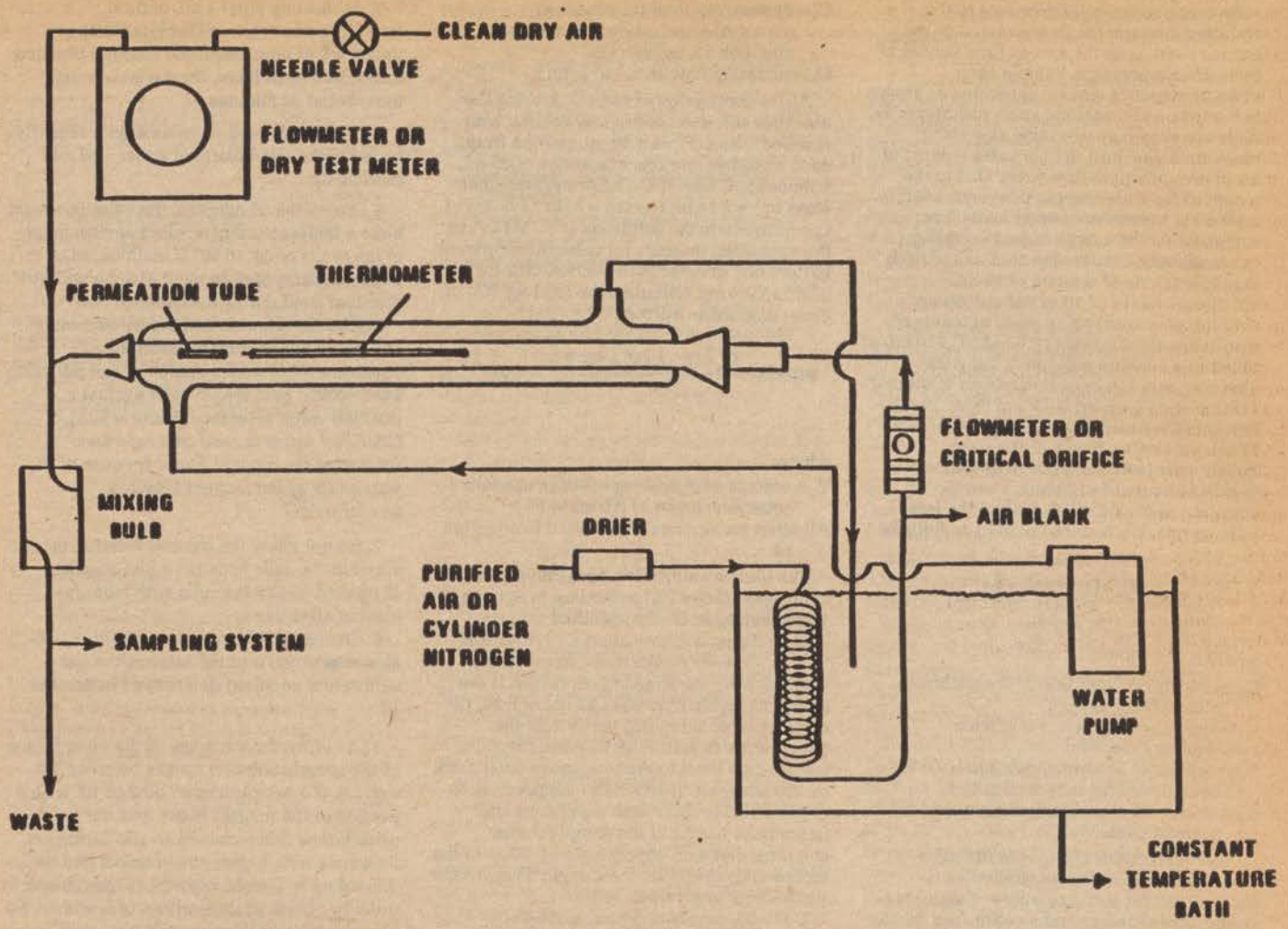


Figure 4. Permeation tube schematic for laboratory use.

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Be sure that the total flow rate of the standard exceeds the flow demand of the sample train, with the excess flow vented at atmospheric pressure. Sample each atmosphere using similar apparatus as shown in Figure 1 and under the same conditions as field sampling (i.e., use same absorbing reagent volume and sample same volume of air at an equivalent flow rate). Due to the length of the sampling periods required, this method is not recommended for 24-hour sampling. At the completion of sampling, quantitatively transfer the contents of each impinger to one of a series of 25-mL volumetric flasks (if 10 mL of absorbing solution was used) using small amounts of distilled water for rinse (<5mL). If >10 mL of absorbing solution was used, bring the absorber solution in each impinger to orginal volume with distilled H_2O and pipet 10-mL portions from each impinger into a series of 25-mL volumetric flasks. If the color development steps are not to be started within 12 hours of sampling, store the solutions at 5° ± 5° C. Calculate the total micrograms SO_2 in each solution as follows:

$$\mu g\ SO_2 = \frac{C_a \times Q_s \times t \times V_a \times 10^{-3}}{V_b} \qquad (13)$$

where:

C_a = concentration of SO_2 in the standard atmosphere, $\mu g/m^3$;
O_s = sampling flow rate, std L/min;
t = sampling time, min;
V_a = volume of absorbing solution used for color development (10 mL); and
V_b = volume of absorbing solution used for sampling, mL.

Add the remaining reagents for color development in the same manner as in Section 10.2 for static solutions. Calculate a calibration equation and a calibration factor (B_s) according to Section 10.2, adhering to all the specified criteria.

10.3.2 Calibration option 2B (24-hour samples): Generate a standard atmosphere containing approximately 1,050 $\mu g\ SO_2/m^3$ and calculate the exact concentration according to equation 12. Set up a series of six absorbers according to Figure 2 and connect to a common manifold for sampling the standard atmosphere. Be sure that the total flow rate of the standard exceeds the flow demand at the sample manifold, with the excess flow vented at atmospheric pressure. The absorbers are then allowed to sample the atmosphere for varying time periods to yield solutions containing 0, 0.2, 0.6, 1.0, 1.4, 1.8, and 2.2 $\mu g\ SO_2$/mL solution. The sampling times required to attain these solution concentrations are calculated as follows:

$$t = \frac{V_b \times C_s}{C_a \times Q_s \times 10^{-3}} \qquad (14)$$

where:

t = sampling time, min;
V_b = volume of absorbing solution used for sampling (50 mL);
C_s = desired concentration of SO_2 in the absorbing solution, μg/mL;
C_a = concentration of the standard atmosphere calculated according to equation 12, $\mu g/m^3$; and
O_s = sampling flow rate, std L/min.

At the completion of sampling, bring the absorber solutions to original volume with distilled water. Pipet a 10-mL portion from each absorber into one of a series of 25-mL volumetric flasks. If the color development steps are not to be started within 12 hours of sampling, store the solutions at° ± 5° C. Add the remaining reagents for color development in the same manner as in Section 10.2 for static solutions. Calculate the total $\mu g\ SO_2$ in each standard as follows:

$$\mu g\ SO_2 = \frac{C_a \times Q_s \times t \times V_a \times 10^{-3}}{V_b} \qquad (15)$$

where:

V_a = volume of absorbing solution used for color development (10 mL).
All other parameters are defined in equation 14.

Calculate a calibration equation and a calibration factor (B_t) according to Section 10.2 adhering to all the specified criteria.

11.0 *Sample Preparation and Analysis.*

11.1 *Sample Preparation.* Remove the samples from the shipping container. If the shipment period exceeded 12 hours from the completion of sampling, verify that the temperature is below 10° C. Also, compare the solution level to the temporary level mark on the absorber. If either the temperature is above 10° C or there was significant loss (more than 10 mL) of the sample during shipping, make an appropriate notation in the record and invalidate the sample. Prepare the samples for analysis as follows:

1. For 30-minute or 1-hour samples: Quantitatively transfer the entire 10 mL amount of absorbing solution to a 25-mL volumetric flask and rinse with a small amount (<5 mL) of distilled water.

2. For 24-hour samples: If the volume of the sample is less than the original 50-mL volume (permanent mark on the absorber), adjust the volume back to the original volume with distilled water to compensate for water lost to evaporation during sampling. If the final volume is greater than the original volume, the volume must be measured using a graduated cylinder. To analyze, pipet 10 mL of the solution into a 25-mL volumetric flask.

11.2 *Sample Analysis.* For each set of determinations, prepare a reagent blank by adding 10 mL TCM absorbing solution to a 25-mL volumetric flask, and two control standards containing approximately 5 and 15 $\mu g\ SO_2$, respectively. The control standards are prepared according to Section 10.2 or 10.3. The analysis is carried out as follows:

1. Allow the sample to stand 20 minutes after the completion of sampling to allow any ozone to decompose (if applicable).

2. To each 25-mL volumetric flask containing reagent blank, sample, or control standard, add 1 mL of 0.6% sulfamic acid (Section 8.2.1) and allow to react for 10 min.

3. Accurately pipet 2 mL of 0.2% formaldehyde solution (Section 8.2.2) and then 5 mL of pararosaniline solution (Section 8.2.13) into each flask. Start a laboratory timer set at 30 minutes.

4. Bring each flask to volume with recently boiled and cooled distilled water and mix thoroughly.

5. During the 30 minutes, the solutions must be in a temperature controlled environment in the range of 20° to 30° C maintained to ± 1° C. This temperature must also be within 1° C of that used during calibration.

6. After 30 minutes and before 60 minutes, determine the corrected absorbances (equation 10) of each solution at 548 nm using 1-cm optical path length cells against a distilled water reference (Section 10.1). (*Distilled water is used as a reference instead of the reagent blank because of the sensitivity of the reagent blank to temperature.*)

7. Do not allow the colored solution to stand in the cells because a film may be deposited. Clean the cells with isopropyl alcohol after use.

8. The reagent blank must be within 0.03 absorbance units of the intercept of the calibration equation determined in Section 10.

11.3 *Absorbance range.* If the absorbance of the sample solution ranges between 1.0 and 2.0, the sample can be diluted 1:1 with a portion of the reagent blank and the absorbance redetermined within 5 minutes. Solutions with higher absorbances can be diluted up to sixfold with the reagent blank in order to obtain scale readings of less than 1.0 absorbance unit. However, it is recommended that a smaller portion (<10 mL) of the original sample be reanalyzed (if possible) if the sample requires a dilution greater than 1:1.

11.4 *Reagent disposal.* All reagents containing mercury compounds must be stored and disposed of using one of the procedures contained in Section 13. Until disposal, the discarded solutions can be stored in closed glass containers and should be left in a fume hood.

12.0 *Calculations.*

12.1 *Calibration Slope, Intercept, and Correlation Coefficient.* The method of least squares is used to calculate a calibration equation in the form of:

$$y = mx + b \qquad (16)$$

where:

y = corrected absorbance,
m = slope, absorbance unit/$\mu g\ SO_2$,
x = micrograms to SO_2,
b = y intercept (absorbance units).

The slope (m), intercept (b), and correlation coefficient (r) are calculated as follows:

$$m=\frac{n\Sigma xy-(\Sigma x)(\Sigma y)}{n\Sigma x^2-(\Sigma x)^2} \quad (17)$$

$$b=\frac{\Sigma y-m\Sigma x}{n} \quad (18)$$

$$r=\sqrt{\frac{m(\Sigma xy-\Sigma x\Sigma y/n)}{\Sigma y^2-(\Sigma y)^2/n}} \quad (19)$$

where n is the number of calibration points.

A data form (Figure 5) is supplied for easily organizing calibration data when the slope, intercept, and correlation coefficient are calculated by hand.

12.2 *Total Sample Volume.* Determine the sampling volume at standard conditions as follows:

$$V_{std}=\frac{Q_i+Q_f}{2}\times t \quad (20)$$

where:

V_{std} = sampling volume in std L,
Q_i = standard flow rate determined at the initiation of sampling in std L/min,
Q_f = standard flow rate determined at the completion of sampling is std L/min, and
t = total sampling time, min.

12.3 *Sulfur Dioxide Concentration.* Calculate and report the concentration of each sample as follows:

$$\mu g\ SO_2/m^3=\frac{(A-A_o)(B_x)(10^3)}{V_{std}}\times\frac{V_b}{V_a} \quad (21)$$

where:

A = corrected absorbance of the sample solution, from equation (10);
A_o = corrected absorbance of the reagent blank, using equation (10);
B_x = calibration factor equal to B_s, B_g, or B_t depending on the calibration procedure used, the reciprocal of the slope of the calibration equation;
V_a = volume of absorber solution analyzed, mL;
V_b = total volume of solution in absorber (see 11.1–2), mL; and
V_{std} = standard air volume sampled, std L (from Section 12.2).

DATA FORM

[For hand calculations]

Calibration point no.	Micrograms SO_2	Absorbance units			
	(x)	(y)	x^2	xy	y^2
1					
2					
3					
4					
5					
6					

Σx = _____ Σy = _____ Σx^2 = _____
Σxy = _____ Σx^2 = _____
n = _____ (number of pairs of coordinates.)

Figure 5. Data form for hand calculations.

12.4 Control Standards. Calculate the analyzed micrograms of SO_2 in each control standard as follows:

$$C_q=(A-A_o)\times B_x \quad (22)$$

where:

C_q = analayzed μg SO_2 in each control standard,
A = corrected absorbance of the control standard, and
A_o = corrected absorbance of the reagent blank.

The difference between the true and analyzed values of the control standards must not be greater than 1 μg. If the difference is greater than 1 μg, the source of the discrepancy must be identified and corrected.

12.5 Conversion of $\alpha T1\mu g/m^3$ to ppm (v/v). If desired, the concentration of sulfur dioxide at reference conditions can be converted to ppm SO_2 (v/v) as follows:

$$\text{ppm } SO_2=\frac{\mu g\ SO_2}{m^3}\times 3.82\times 10^{-4} \quad (23)$$

13.0 *Disposal of Mercury-Containing Solutions.*

13.1 The TCM absorbing solution and any reagents containing mercury compounds must be treated and disposed of by one of the methods discussed below. Both methods remove greater than 99.99 percent of the mercury.

13.2 Method for Forming an Amalgam.

1. Place the waste solution in an uncapped vessel in a hood.

2. For each liter of waste solution, add approximately 10 g of sodium carbonate until neutralization has occurred (NaOH may have to be used).

3. Following neutralization, add 10 g of granular zinc or magnesium.

4. Stir the solution in a hood for 24 hours. Caution must be exercised as hydrogen gas is evolved by this treatment process.

5. After hours, allow the solution to stand without stirring to allow the mercury amalgam (solid black material) to settle to the bottom of the waste receptacle.

6. Upon settling, decant and discard the supernatant liquid.

7. Quantitatively transfer the solid material to a container and allow to dry.

8. The solid material can be sent to a mercury reclaiming plant. It must not be discarded.

13.3 *Method Using Aluminum Foil Strips.*

1. Place the waste solution in an uncapped vessel in a hood.

2. For each liter of waste solution, add approximately 10 g of aluminum foil strips. If all the aluminum is consumed and no gas is evolved, add as additional 10 g of foil. Repeat until the foil is no longer consumed and allow the gas to evolve for 24 hours.

3. Decant the supernatant liquid and discard.

4. Transfer the elemental mercury that has settled to the bottom of the vessel to a storage container.

5. The mercury can be sent to a mercury reclaiming plant. It must not be discarded.

14.0 *References for SO_2 Method.*

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Appendix B—Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)

1.0 *Applicability.*

1.1 This method provides a measurement of the mass concentration of total suspended particulate matter (TSP) in ambient air for determining compliance with the primary and secondary national ambient air quality standards for particulate matter as specified in § 50.6 and § 50.7 of this chapter. The measurement process is nondestructive, and the size of the sample collected is usually adequate for subsequent chemical analysis. Quality assurance procedures and guidance are provided in Part 58, Appendixes A and B, of this chapter and in References 1 and 2.

2.0 *Principle.*

2.1 An air sampler, properly located at the measurement site, draws a measured quantity of ambient air into a covered housing and through a filter during a 24-hr (nominal) sampling period. The sampler flow rate and the geometry of the shelter favor the collection of particles up to 25–50 μm (aerodynamic diameter), depending on wind speed and direction.(*3*) The filters used are specified to have a minimum collection efficiency of 99 percent for 0.3 μm (DOP) particles (see Section 7.1.4).

2.2 The filter is weighed (after moisture equilibration) before and after use to determine the net weight (mass) gain. The total volume of air sampled, corrected to EPA standard conditions (25° C, 760 mm Hg [101 kPa]), is determined from the measured flow rate and the sampling time. The concentration of total suspended particulate matter in the ambient air is computed as the mass of collected particles divided by the volume of air sampled, corrected to standard conditions, and is expressed in micrograms per standard cubic meter (μg/std m³). For samples collected at temperatures and pressures significantly different than standard conditions, these corrected concentrations may differ substantially from actual concentrations (micrograms per actual cubic meter), particularly at high elevations. The actual particulate matter concentration can be calculated from the corrected concentration using the actual temperature and pressure during the sampling period.

3.0 *Range.*

3.1 The approximate concentration range of the method is 2 to 750 μg/std m³. The upper limit is determined by the point at which the sampler can no longer maintain the specified flow rate due to the increased pressure drop of the loaded filter. This point is affected by particle size distribution, moisture content of the collected particles, and variability from filter to filter, among other things. The lower limit is determined by the sensitivity of the balance (see Section 7.10) and by inherent sources of error (see Section 6).

3.2 At wind speeds between 1.3 and 4.5 m/sec (3 and 10 mph), the high-volume air sampler has been found to collect particles up to 25 to 50 μm, depending on wind speed and direction.(*3*) For the filter specified in Section 7.1, there is effectively no lower limit on the particle size collected.

4.0 *Precision.*

4.1 Based upon collaborative testing, the relative standard deviation (coefficient of variation) for single analyst precision (repeatability) of the method is 3.0 percent. The corresponding value for interlaboratory precision (reproducibility) is 3.7 percent.(*4*)

5.0 *Accuracy.*

5.1 The absolute accuracy of the method is undefined because of the complex nature of atmospheric particulate matter and the difficulty in determining the "true" particulate matter concentration. This method provides a measure of particulate matter concentration suitable for the purpose specified under Section 1.0, Applicability.

6.0 *Inherent Sources of Error.*

6.1 *Airflow variation.* The weight of material collected on the filter represents the (integrated) sum of the product of the instantaneous flow rate times the instantaneous particle concentration. Therefore, dividing this weight by the average flow rate over the sampling period yields the true particulate matter concentration only when the flow rate is constant over the period. The error resulting from a nonconstant flow rate depends on the magnitude of the instantaneous changes in the flow rate and in the particulate matter concentration. Normally, such errors are not large, but they can be greatly reduced by equipping the sampler with an automatic flow controlling mechanism that maintains constant flow during the sampling period. Use of a contant flow controller is recommended.*

6.2 *Air volume measurement.* If the flow rate changes substantially or nonuniformly during the sampling period, appreciable error in the estimated air volume may result from using the average of the presampling and postsampling flow rates. Greater air volume measurement accuracy may be achieved by (1) equipping the sampler with a flow controlling mechanism that maintains constant air flow during the sampling period,* (2) using a calibrated, continuous flow rate recording device to record the actual flow rate during the samping period and integrating the flow rate over the period, or (3) any other means that will accurately measure the total air volume sampled during the sampling period. Use of a continuous flow recorder is recommended, particularly if the sampler is not equipped with a constant flow controller.

6.3 *Loss of volatiles.* Volatile particles collected on the filter may be lost during subsequent sampling or during shipment and/or storage of the filter prior to the postsampling weighing.(*5*) Although such losses are largely unavoidable, the filter should be reweighed as soon after sampling as practical.

6.4 *Artifact particulate matter.* Artifact particulate matter can be formed on the surface of alkaline glass fiber filters by oxidation of acid gases in the sample air, resulting in a higher than true TSP determination.(*6 7*) This effect usually occurs early in the sample period and is a function of the filter pH and the presence of acid gases. It is generally believed to account for only a small percentage of the filter weight gain, but the effect may become more significant where relatively small particulate weights are collected.

6.5 *Humidity.* Glass fiber filters are comparatively insensitive to changes in relative humidity, but collected particulate matter can be hygroscopic.(*8*) The moisture conditioning procedure minimizes but may not completely eliminate error due to moisture.

6.6 *Filter handling.* Careful handling of the filter between the presampling and postsampling weighings is necessary to avoid errors due to loss of fibers or particles from the filter. A filter paper cartridge or cassette used to protect the filter can minimize handling errors. (See Reference 2, Section 2).

6.7 *Nonsampled particulate matter.* Particulate matter may be deposited on the filter by wind during periods when the sampler is inoperative. (*9*) It is recommended that errors from this source be minimized by an automatic mechanical device that keeps the filter covered during nonsampling periods, or by timely installation and retrieval of filters to minimize the nonsampling periods prior to and following operation.

*At elevated altitudes, the effectiveness of automatic flow controllers may be reduced because of a reduction in the maximum sampler flow.

6.8 *Timing errors.* Samplers are normally controlled by clock timers set to start and stop the sampler at midnight. Errors in the nominal 1,440-min sampling period may result from a power interruption during the sampling period or from a discrepancy between the start or stop time recorded on the filter information record and the actual start or stop time of the sampler. Such discrepancies may be caused by (1) poor resolution of the timer set-points, (2) timer error due to power interruption, (3) missetting of the timer, or (4) timer malfunction. In general, digital electronic timers have much better set-point resolution than mechanical timers, but require a battery backup system to maintain continuity of operation after a power interruption. A continuous flow recorder or elapsed time meter provides an indication of the sampler run-time, as well as indication of any power interruption during the sampling period and is therefore recommended.

6.9 *Recirculation of sampler exhaust.* Under stagnant wind conditions, sampler exhaust air can be resampled. This effect does not appear to affect the TSP measurement substantially, but may result in increased carbon and copper in the collected sample. (*10*) This problem can be reduced by ducting the exhaust air well away, preferably downwind, from the sampler.

7.0 *Apparatus.*

(See References 1 and 2 for quality assurance information.)

Note.—Samplers purchased prior to the effective date of this amendment are not subject to specifications preceded by (†).

7.1 *Filter.* (Filters supplied by the Environmental Protection Agency can be assumed to meet the following criteria. Additional specifications are required if the sample is to be analyzed chemically.)

7.1.1 *Size:* $20.3 \pm 0.2 \times 25.4 \pm 0.2$ cm (nominal 8×10 in).

7.1.2 *Nominal exposed area:* 406.5 cm^2 (63 in^2).

7.1.3. *Material:* Glass fiber or other relatively inert, nonhygroscopic material. (*8*)

7.1.4 *Collection efficiency:* 99 percent minimum as measured by the DOP test (ASTM–2986) for particles of 0.3 μm diameter.

7.1.5 *Recommended pressure drop range:* 42–54 mm Hg (5.6–7.2 kPa) at a flow rate of 1.5 std m^3/min through the nominal exposed area.

7.1.6 *pH:* 6 to 10. (*11*)

7.1.7 *Integrity:* 2.4 mg maximum weight loss. (*11*)

7.1.8 *Pinholes:* None.

7.1.9 *Tear strength:* 500 g minimum for 20 mm wide strip cut from filter in weakest dimension. (See ASTM Test D828–60).

7.1.10 *Brittleness:* No cracks or material separations after single lengthwise crease.

7.2 *Sampler.* The air sampler shall provide means for drawing the air sample, via reduced pressure, through the filter at a uniform face velocity.

7.2.1 The sampler shall have suitable means to:

a. Hold and seal the filter to the sampler housing.

b. Allow the filter to be changed conveniently.

c. Preclude leaks that would cause error in the measurement of the air volume passing through the filter.

d. (†) Manually adjust the flow rate to accommodate variations in filter pressure drop and site line voltage and altitude. The adjustment may be accomplished by an automatic flow controller or by a manual flow adjustment device. Any manual adjustment device must be designed with positive detents or other means to avoid unintentional changes in the setting.

7.2.2 *Minimum sample flow rate, heavily loaded filter:* 1.1 m^3/min (39 ft^3/min).††

7.2.3 *Maximum sample flow rate, clean filter:* 1.7 m^3/min (60 ft^3/min).††

7.2.4 *Blower Motor:* The motor must be capable of continuous operation for 24-hr periods.

7.3 *Sampler shelter.*

7.3.1 The sampler shelter shall:

a. Maintain the filter in a horizontal position at least 1 m above the sampler supporting surface so that sample air is drawn downward through the filter.

b. Be rectangular in shape with a gabled roof, similar to the design shown in Figure 1.

c. Cover and protect the filter and sampler from precipitation and other weather.

d. Discharge exhaust air at least 40 cm from the sample air inlet.

e. Be designed to minimize the collection of dust from the supporting surface by incorporating a baffle between the exhaust outlet and the supporting surface.

7.3.2 The sampler cover or roof shall overhang the sampler housing somewhat, as shown in Figure 1, and shall be mounted so as to form an air inlet gap between the cover and the sampler housing walls. †This sample air inlet should be approximately uniform on all sides of the sampler. †The area of the sample air inlet must be sized to provide an effective particle capture air velocity of between 20 and 35 cm/sec at the recommended operational flow rate. The capture velocity is the sample air flow rate divided by the inlet area measured in a horizontal plane at the lower edge of the cover. †Ideally, the inlet area and operational flow rate should be selected to obtain a capture air velocity of 25 ±2 cm/sec.

7.4 *Flow rate measurement devices.*

7.4.1 The sampler shall incorporate a flow rate measurement device capable of indicating the total sampler flow rate. Two common types of flow indicators covered in the calibration procedure are (1) an electronic mass flowmeter and (2) an orifice or orifices located in the sample air stream together with a suitable pressure indicator such as a manometer, or aneroid pressure gauge. A pressure recorder may be used with an orifice to provide a continuous record of the flow. Other types of flow indicators (including rotameters) having comparable precision and accuracy are also acceptable.

7.4.2 † The flow rate measurement device must be capable of being calibrated and read in units corresponding to a flow rate which is readable to the nearest 0.02 std m^3/min over the range 1.0 to 1.8 std m^3/min.

7.5 *Thermometer,* to indicate the approximate air temperature at the flow rate measurement orifice, when temperature corrections are used.

7.5.1 *Range:* −40° to +50° C (223–323 K).

7.5.2 *Resolution:* 2° C (2 K).

7.6 *Barometer,* to indicate barometric pressure at the flow rate measurement orifice, when pressure corrections are used.

7.6.1 *Range:* 500 to 800 mm Hg (66–106 kPa).

7.6.2 *Resolution:* ±5 mm Hg (0.67 kPa).

7.7 *Timing/control device.*

7.7.1 The timing device must be capable of starting and stopping the sampler to obtain an elapsed run-time of 24 hr ±1 hr (1,440 ±60 min).

7.7.2 *Accuracy of time setting:* ±30 min. or better. (See Section 6.8).

7.8 *Flow rate transfer standard,* traceable to a primary standard. (See Section 9.2).

7.8.1 *Approximate range:* 1.0 to 1.8 m^3/min.

7.8.2 *Resolution:* 0.02 m^3/min.

7.8.3 *Reproducibility:* ±2 percent (2 times coefficient of variation) over normal ranges of ambient temperature and pressure for the stated flow rate range. (See Reference 2, Section 2.)

7.8.4 Maximum pressure drop at 1.7 std m^3/min; 50 cm H_2O (5 kPa).

7.8.5 The flow rate transfer standard must connect without leaks to the inlet of the sampler and measure the flow rate of the total air sample.

7.8.6 The flow rate transfer standard must include a means to vary the sampler flow rate over the range of 1.0 to 1.8 m^3/min (35–64 ft^3/min) by introducing various levels of flow resistance between the sampler and the transfer standard inlet.

7.8.7 The Conventional type of flow transfer standard consists of: An orifice unit with adapter that connects to the inlet of the sampler, a manometer or other device to measure orifice pressure drop, a means to vary the flow through the sampler unit, a thermometer to measure the ambient temperature, and a barometer to measure ambient pressure. Two such devices are shown in Figures 2a and 2b. Figure 2a shows multiple fixed resistance plates, which necessitate disassembly of the unit each time the flow resistance is changed. A preferable design, illustrated in Figure 2b, has a variable flow restriction that can be adjusted externally without disassembly of the unit. Use of conventional, orifice-type transfer standard is assumed in the calibration procedure (Section 9). However, the use of other types of transfer standards meeting the above specifications, such as the one shown in Figure 2c, may be approved; see the note following Section 9.1.

7.9 *Filter conditioning environment*

7.9.1 *Controlled temperature:* between 15° and 30° C with less than ±° C variation during equilibration period.

7.9.2 *Controlled humidity:* Less than 50 percent relative humidity, constant within ±5 percent.

7.10 *Analytical balance.*

(†) See note at beginning of Section 7.

†† These specifications are in actual air volume units; to convert to EPA standard air volume units, multiply the specifications by $(P_b/P_{std})(298/T)$ where P_b and T are the barometric pressure in mm Hg (or kPa) and the temperature in K at the sampler, and P_{std} is 760 mm Hg (or 101 kPa).

7.10.1 *Sensitivity:* 0.1 mg.

7.10.2 Weighing chamber designed to accept an unfolded 20.3 x 25.4 cm (8 x 10 in) filter.

7.11 *Area light source,* similar to X-ray film viewer, to backlight filters for visual inspection.

7.12 *Numbering device,* capable of printing identification numbers on the filters before they are placed in the filter conditioning environment, if not numbered by the supplier.

8.0 *Procedure.*

(See References 1 and 2 for quality assurance information.)

8.1 Number each filter, if not already numbered, near its edge with a unique identification number.

8.2 Backlight each filter and inspect for pinholes, particles, and other imperfections; filters with visible imperfections must not be used.

8.3 Equilibrate each filter in the conditioning environment for at least 24-hr.

8.4 Following equilibration, weigh each filter to the nearest milligram and record this tare weight (W_i) with the filter identification number.

8.5 Do not bend or fold the filter before collection of the sample.

8.6 Open the shelter and install a numbered, preweighted filter in the sampler, following the sampler manufacturer's instructions. During inclement weather, precautions must be taken while changing filters to prevent damage to the clean filter and loss of sample from or damage to the exposed filter. Filter cassettes that can be loaded in the laboratory may be used to minimize this problem (See Section 6.6).

8.7 Close the shelter and run the sampler for at least 5 min to establish run-temperature conditions.

8.8 Record the flow indicator reading and, if needed, the barometric pressure (P_a) and the ambient temperature (T_a) see NOTE following step 8.12). Stop the sampler. Determine the sampler flow rate (see Section 10.1); if it is outside the acceptable range (1.1 to 1.7 m^3/min [39–60 ft^3/min]), use a different filter, or adjust the sampler flow rate. Warning: Substantial flow adjustments may affect the calibration of the orifice-type flow indicators and may necessitate recalibration.

8.9 Record the sampler identification information (filter number, site location or identification number, sample date, and starting time).

8.10 Set the timer to start and stop and the sampler such that the sampler runs 24-hrs. from midnight to midnight (local time).

8.11 As soon as practical following the sampling period, run the sampler for at least 5 min to again establish run-temperature conditions.

8.12 Record the flow indicator reading and, if needed, the barometric Pressure (P_a) and the ambient temperature (T_a).

Note.—No onsite pressure or temperature measurements are necessary if the sampler flow indicator does not require pressure or temperature corrections (e.g., a mass flowmeter) or if average barometric pressure and seasonal average temperature for the site are incorporated into the sampler calibration (see step 9.3.9). For individual pressure and temperature corrections, the ambient pressure and temperature can be obtained by onsite measurements or from a nearby weather station. Barometric pressure readings obtained from airports must be station pressure, not corrected to sea level, and may need to be corrected for differences in elevation between the sampler site and the airport. For samplers having flow recorders but not constant flow controllers, the average temperature and pressure at the site *during the sampling period* should be estimated from weather bureau or other available data.

8.13 Stop the sampler and carefully remove the filter, following the sampler manufacturer's instructions. Touch only the outer edges of the filter. See the precautions in step 8.6.

8.14 Fold the filter in half lengthwise so that only surfaces with collected particulate matter are in contact and place it in the filter holder (glassine envelope or manila folder).

8.15 Record the ending time or elapsed time on the filter information record, either from the stop set-point time, from an elapsed time indicator, or from a continuous flow record. The sample period must be 1,440 ± 60 min. for a valid sample.

8.16 Record on the filter information record any other factors, such as meteorological conditions, construction activity, fires or dust storms, etc., that might be pertinent to the measurement. If the sample is known to be defective, void it at this time.

8.17 Equilibrate the exposed filter in the conditioning environment for at least 24-hrs.

8.18 Immediately after equilibration, reweigh the filter to the nearest milligram and record the gross weight with the filter identification number. See Section 10 for TSP concentration calculations.

9.0 *Calibration.*

9.1 Calibration of the high volume sampler's flow indicating or control device is necessary to establish traceability of the field measurement to a primary standard via a flow rate transfer standard. Figure 3a illustrates the certification of the flow rate transfer standard and Figure 3b illustrates its use in calibrating a sampler flow indicator. Determination of the corrected flow rate from the sampler flow indicator, illustrated in Figure 3c, is addressed in Section 10.1

Note.—The following calibration procedure applies to a conventional orifice-type flow transfer standard and an orifice-type flow indicator in the sampler (the most common types). For samplers using a pressure recorder having a square-root scale, 3 other acceptable calibration procedures are provided in Reference 12. Other types of transfer standards may be used if the manufacturer or user provides an appropriately modified calibration procedure that has been approved by EPA under Section 2.8 of Appendix C to Part 58 of this chapter.

9.2 *Certification of the flow rate transfer standard.*

9.2.1 *Equipment required:* Positive displacement standard volume meter traceable to the National Bureau of Standards (such as a Roots meter or equivalent), stop-watch, manometer, thermometer, and barometer.

9.2.2 Connect the flow rate transfer standard to the inlet of the standard volume meter. Connect the manometer to measure the pressure at the inlet of the standard volume meter. Connect the orifice manometer to the pressure tap on the transfer standard. Connect a high-volume air pump (such as a high-volume sampler blower) to the outlet side of the standard volume meter. See Figure 3a.

9.2.3 Check for leaks by temporarily clamping both manometer lines (to avoid fluid loss) and blocking the orifice with a large-diameter rubber stopper, wide cellophane tape, or other suitable means. Start the high-volume air pump and note any change in the standard volume meter reading. The reading should remain constant. If the reading changes, locate any leaks by listening for a whistling sound and/or retightening all connections, making sure that all gaskets are properly installed.

9.2.4 After satisfactorily completing the leak check as described above, unclamp both manometer lines and zero both manometers.

9.2.5 Achieve the appropriate flow rate through the system, either by means of the variable flow resistence in the transfer standard or by varying the voltage to the air pump. (Use of resistance plates as shown in Figure 1a is discouraged because the above leak check must be repeated each time a new resistance plate is installed.) At least five different but constant flow rates, even distributed, with at least three in the specified flow rate interval (1.1 to 1.7 m^3/min [39–60 ft^3/min]), are required.

9.2.6 Measure and record the certification data on a form similar to the one illustrated in Figure 4 according to the following steps.

9.2.7 Observe the barometric pressure and record as P_i (item 8 in Figure 4).

9.2.8 Read the ambient temperature in the vicinity of the standard volume meter and record it as T_i (item 9 in Figure 4).

9.2.9 Start the blower motor, adjust the flow, and allow the system to run for at least 1 min for a constant motor speed to be attained.

9.2.10 Observe the standard volume meter reading and simultaneously start a stopwatch. Record the initial meter reading (V_i) in column 1 of Figure 4.

9.2.11 Maintain this constant flow rate until at least 3 m^3 of air have passed through the standard volume meter. Record the standard volume meter inlet pressure manometer reading as ΔP (column 5 in Figure 4), and the orifice manometer reading as ΔH (column 7 in Figure 4). Be sure to indicate the correct units of measurement.

9.2.12 After at least 3 m^3 of air have passed through the system, observe the standard volume meter reading while simultaneously stopping the stopwatch. Record the final meter reading (V_f) in column 2 and the elapsed time (t) in column 3 of Figure 4.

9.2.13 Calculate the volume measured by the standard volume meter at meter conditions of temperature and pressures as $V_m = V_f - V_i$. Record in column 4 of Figure 4.

9.2.14 Correct this volume to standard volume (std m^3) as follows:

$$V_{std}=V_m\frac{P_1-\Delta P}{P_{std}}\frac{T_{std}}{T_1}$$

where:
V_{std} = standard volume, std m^3;
V_m = actual volume measured by the standard volume meter;
P_1 = barometric pressure during calibration, mm Hg or kPa;
ΔP = differential pressure at inlet to volume meter, mm Hg or kPa;
P_{std} = 760 mm Hg or 101 kPa;
T_{std} = 298 K;
T_1 = ambient temperature during calibration, K.

Calculate the standard flow rate (std m^3/min) as follows:

$$Q_{std}=\frac{V_{std}}{t}$$

where:
Q_{std} = standard volumetric flow rate, std m^3/min
t = elapsed time, minutes.

Record Q_{std} to the nearest 0.01 std m^3/min in column 6 of Figure 4.

9.2.15 Repeat steps 9.2.9 through 9.2.14 for at least four additional constant flow rates, evenly spaced over the approximate range of 1.0 to 1.8 std m^3/min (35–64 ft^3/min).

9.2.16 For each flow, compute

$$\sqrt{\Delta H\,(P_1/P_{std})(298/T_1)}$$

(column 7a of Figure 4) and plot these value against Q_{std} as shown in Figure 3a. Be sure to use consistent units (mm Hg or kPa) for barometric pressure. Draw the orifice transfer standard certification curve or calculate the linear least squares slope (m) and intercept (b) of the certification curve:

$$\sqrt{\Delta H\,(P_1/P_{std})(298/T_1)}$$

$=mQ_{std}+b$. See Figures 3 and 4. A certification graph should be readable to 0.02 std m^3/min.

9.2.17 Recalibrate the transfer standard annually or as required by applicable quality control procedures. (See Reference 2.)

9.3 *Calibration of sampler flow indicator.*

Note.—For samplers equipped with a flow controlling device, the flow controller must be disabled to allow flow changes during calibration of the sampler's flow indicator, or the alternate calibration of the flow controller given in 9.4 may be used. For samplers using an orifice-type flow indicator downstream of the motor, do not vary the flow rate by adjusting the voltage or power supplied to the sampler.

9.3.1 A form similar to the one illustrated in Figure 5 should be used to record the calibration data.

9.3.2 Connect the transfer standard to the inlet of the sampler. Connect the orifice manometer to the orifice pressure tap, as illustrated in Figure 3b. Make sure there are no leaks between the orifice unit and the sampler.

9.3.3 Operate the sampler for at least 5 minutes to establish thermal equilibrium prior to the calibration.

9.3.4 Measure and record the ambient temperature, T_2, and the barometric pressure, P_2, during calibration.

9.3.5 Adjust the variable resistance or, if applicable, insert the appropriate resistance plate (or no plate) to achieve the desired flow rate.

9.3.6 Let the sampler run for at least 2 min to re-establish the run-temperature conditions. Read and record the pressure drop across the orifice (ΔH) and the sampler flow rate indication (I) in the appropriate columns of Figure 5.

9.3.7 Calculate $\sqrt{\Delta H(P_2/P_{std})(298/T_2)}$ and determine the flow rate at standard conditions (Q_{std}) either graphically from the certification curve or by calculating Q_{std} from the least square slope and intercept of the transfer standard's transposed certification curve: $Q_{std}=1/m\sqrt{\Delta H(P_2/P_{std})(298/T_2)}-b$. Record the value of Q_{std} on Figure 5.

9.3.8 Repeat steps 9.3.5, 9.3.6, and 9.3.7 for several additional flow rates distributed over a range that includes 1.1 to 1.7 std m^3/min.

9.3.9 Determine the calibration curve by plotting values of the appropriate expression involving I, selected from Table 1, against Q_{std}. The choice of expression from Table 1 depends on the flow rate measurement device used (see Section 7.4.1) and also on whether the calibration curve is to incorporate geographic average barometric pressure (P_a) and seasonal average temperature (T_a) for the site to approximate actual pressure and temperature. Where P_a and T_a can be determined for a site for a seasonal period such that the actual barometric pressure and temperature at the site do not vary by more than ±60 mm Hg (8 kPa) from P_a or ±15° C from T_a, respectively, then using P_a and T_a avoids the need for subsequent pressure and temperature calculation when the sampler is used. The geographic average barometric pressure (P_a) may be estimated from an altitude-pressure table or by making an (approximate) elevation correction of −26 mm Hg (−3.46 kPa) for each 305 m (1,000 ft) above sea level (750 mm Hg or 101 kPa). The seasonal average temperature (T_a) may be estimated from weather station or other records. Be sure to use consistent units (mm Hg or kPa) for barometric pressure.

9.3.10 Draw the sampler calibration curve or calculate the linear least squares slope (m), intercept (b), and correlation coefficient of the calibration curve: [Expression from Table 1] = $mQ_{std}+b$. See Figures 3 and 5. Calibration curves should be readable to 0.02 std m^3/min.

9.3.11 For a sampler equipped with a flow controller, the flow controlling mechanism should be re-enabled and set to a flow near the lower flow limit to allow maximum control range. The sample flow rate should be verified at this time with a clean filter installed. Then add two or more filters to the sampler to see if the flow controller maintains a constant flow; this is particularly important at high altitudes where the range of the flow controller may be reduced.

9.4 Alternate calibration of flow-controlled samplers. A flow-controlled sampler may be calibrated solely at its controlled flow rate, provided that previous operating history of the sampler

demonstrates that the flow rate is stable and reliable. In this case, the flow indicator may remain uncalibrated but should be used to indicate any relative change between initial and final flows, and the sampler should be recalibrated more often to minimize potential loss of samples because of controller malfunction.

9.4.1 Set the flow controller for a flow near the lower limit of the flow range to allow maximum control range.

9.4.2 Install a clean filter in the sampler and carry out steps 9.3.2, 9.3.3, 9.3.4, 9.3.6, and 9.3.7.

9.4.3 Following calibration, add one or two additional clean filters to the sampler, reconnect the transfer standard, and operate the sampler to verify that the controller maintains the same calibrated flow rate; this is particularly important at high altitudes where the flow control range may be reduced.

TABLE 1. EXPRESSIONS FOR PLOTTING SAMPLER CALIBRATION CURVES

Type of sampler flow rate measuring device	Expression	
	For actual pressure and temperature corrections	For incorporation of geographic average pressure and seasonal average temperature
Mass flowmeter	I	I
Orifice and pressure indicator	$\sqrt{I\left(\frac{P_2}{P_{std}}\right)\left(\frac{298}{T_2}\right)}$	$\sqrt{I\left(\frac{P_2}{P_a}\right)\left(\frac{T_a}{T_2}\right)}$
Rotameter, or orifice and pressure recorder having square root scale*	$I\sqrt{\left(\frac{P_2}{P_{std}}\right)\left(\frac{298}{T_2}\right)}$	$I\sqrt{\left(\frac{P_2}{P_a}\right)\left(\frac{T_a}{T_2}\right)}$

*This scale is recognizable by its nonuniform divisions and is the most commonly available for high-volume samplers.

TABLE 2. EXPRESSIONS FOR DETERMINING FLOW RATE DURING SAMPLER OPERATION

Type of sampler flow rate measuring device	Expression	
	For actual pressure and temperature corrections	For use when geographic average pressure and seasonal average temperature have been incorporated into the sampler calibration
Mass flowmeter	I	I
Orifice and pressure indicator	$\sqrt{I\left(\frac{P_3}{P_{std}}\right)\left(\frac{298}{T_3}\right)}$	$\sqrt{I}$
Rotameter, or orifice and pressure recorder having square root scale*	$I\sqrt{\left(\frac{P_3}{P_{std}}\right)\left(\frac{298}{T_3}\right)}$	I

*This scale is recognizable by its nonuniform divisions and is the most commonly available for high-volume samplers.

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10.0 *Calculations of TSP Concentration.*

10.1 Determine the average sampler flow rate during the sampling period according to either 10.1.1 or 10.1.2 below.

10.1.1 For a sampler without a continuous flow recorder, determine the appropriate expression to be used from Table 2 corresponding to the one from Table 1 used in step 9.3.9. Using this appropriate expression, determine Q_{std} for the initial flow rate from the sampler calibration curve, either graphically or from the transposed regression equation:

$$Q_{std} = \frac{1}{m}([\text{Appropriate expression from Table 2}]-b)$$

Similarly, determine Q_{std} from the final flow reading, and calculate the average flow Q_{std} as one-half the sum of the initial and final flow rates.

10.1.2 For a sampler with a continuous flow recorder, determine the average flow rate device reading, I, for the period. Determine the appropriate expression from Table 2 corresponding to the one from Table 1 used in step 9.3.9. Then using this expression and the average flow rate reading, determine Q_{std} from the sampler calibration curve, either graphically or from the transposed regression equation:

$$Q_{std} = \frac{1}{m}([\text{Appropriate expression from Table 2}]-b)$$

If the trace shows substantial flow change during the sampling period, greater accuracy may be achieved by dividing the sampling period into intervals and calculating an average reading before determining Q_{std}.

10.2 Calculate the total air volume sampled as:

$V = Q_{std} \times t$

where:

V = total air volume sampled, in standard volume units, std m^3/;

Q_{std} = average standard flow rate, std m^3/min;

t = sampling time, min.

10.3 Calculate and report the particulate matter concentration as:

$$TSP = \frac{(W_f - W_i) \times 10^6}{V}$$

where:

TSP = mass concentration of total suspended particulate matter, μg/std m^3;

W_i = initial weight of clean filter, g;

W_f = final weight of exposed filter, g;

V = air volume sampled, converted to standard conditions, std m^3,

10^6 = conversion of g to μg.

10.4 If desired, the actual particulate matter concentration (see Section 2.2) can be calculated as follows:

$$(TSP)_a = TSP\ (P_a/P_{std})(298/T_a)$$

where:

$(TSP)_a$ = actual concentration at field conditions, $\mu g/m^3$;

TSP = concentration at standard conditions, μg/std m^3;

P_a = average barometric pressure during sampling period, mm Hg;

P_{std} = 760 mn Hg (or 101 kPa);

T_a = average ambient temperature during sampling period, K.

11.0 *References.*

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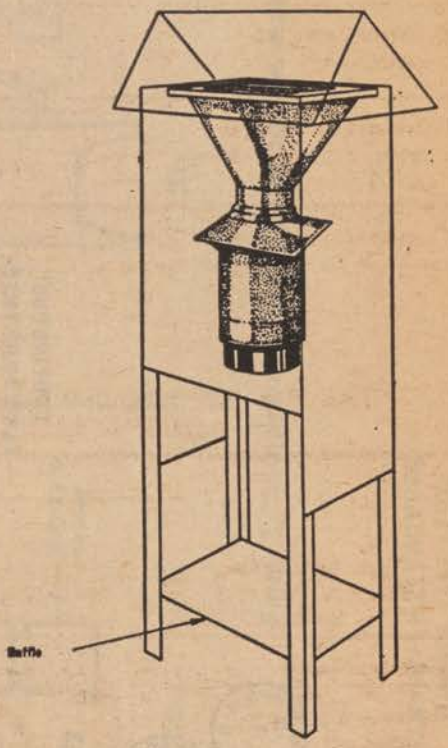
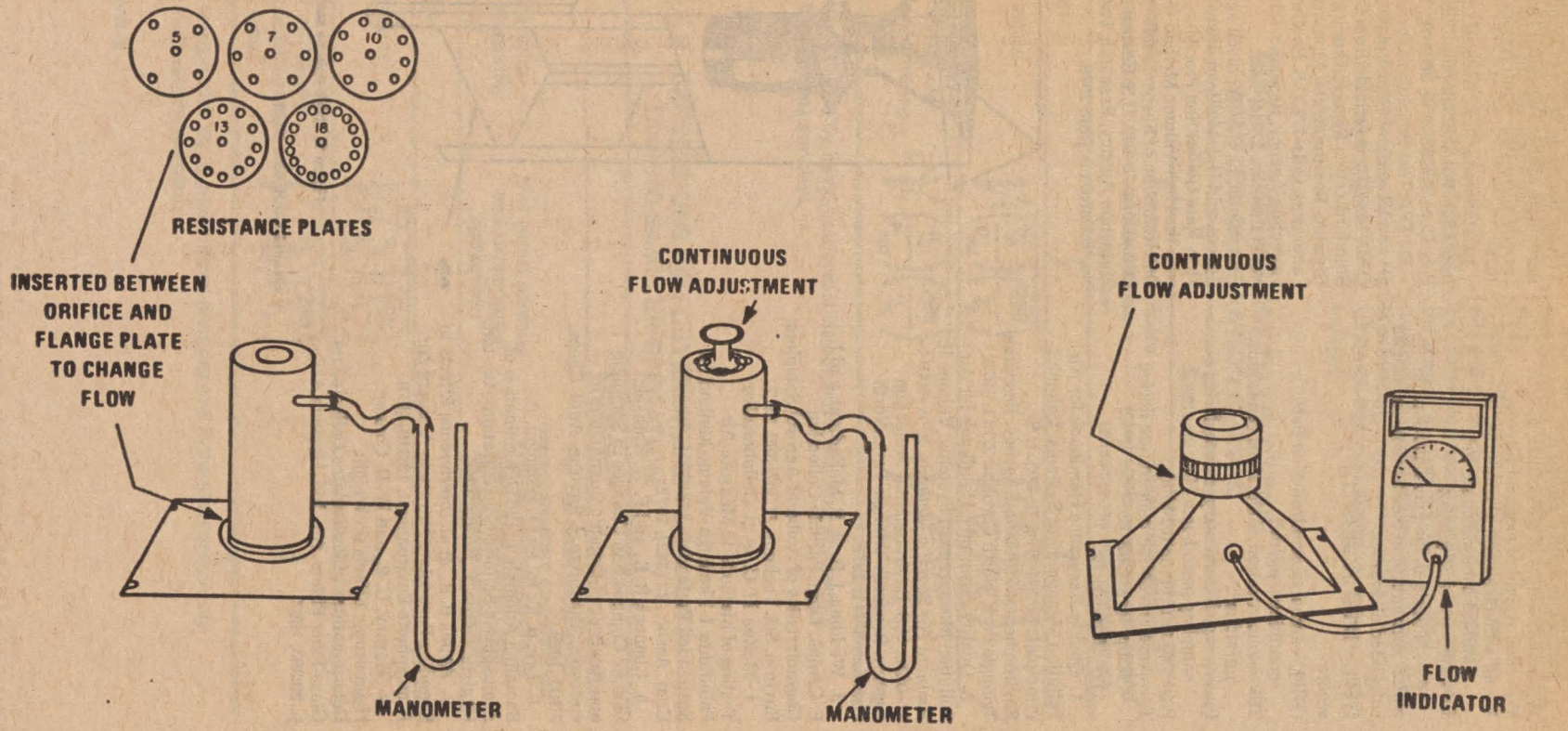


Figure 1. High-volume sampler in shelter.

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ORIFICE TYPE FLOW TRANSFER STANDARDS

NONORIFICE TYPE FLOW TRANSFER STANDARD



2a. ORIFICE UNIT USING FIXED RESISTANCE PLATES.

2b. PREFERABLE ORIFICE UNIT WITH EXTERNALLY ADJUSTABLE RESISTANCE.

2c. ELECTRONIC FLOWMETER WITH EXTERNALLY ADJUSTABLE RESISTANCE.

Figure 2. Various types of flow transfer standards. Note that all devices are designed to mount to the filter inlet area of the sampler.

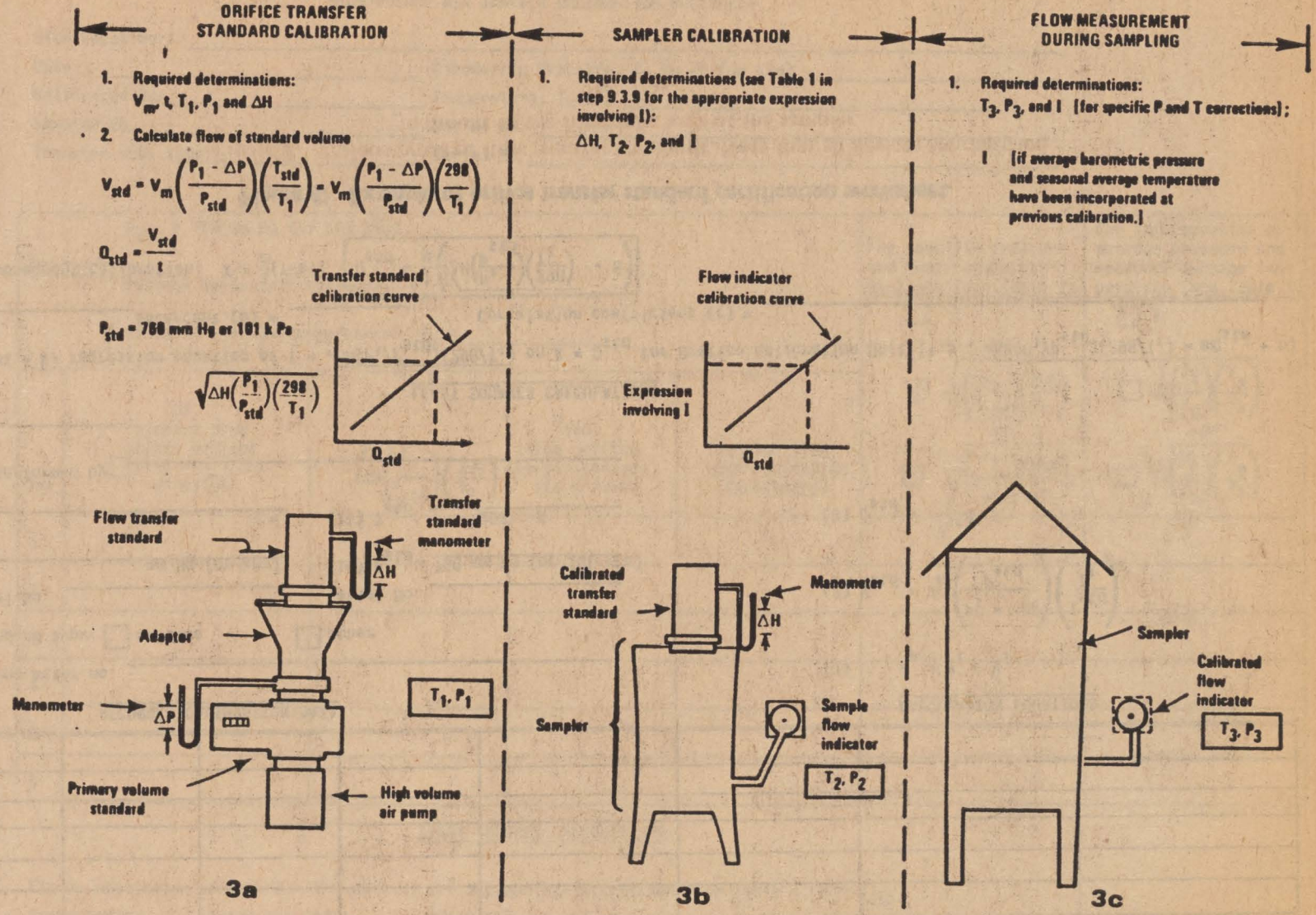


Figure 3. Illustration of the 3 steps in the flow measurement process.

ORIFICE TRANSFER STANDARD CERTIFICATION WORKSHEET

Run No.	(1) Meter reading start V_i (m^3)	(2) Meter reading stop V_f (m^3)	(3) Sampling time t (min)	(4) Volume measured V_m (m^3)	(5) Differential pressure (at inlet to volume meter) ΔP (mm Hg or kPa)	(6) (X) Flow rate Q_{std} (std m^3/min)	(7) Pressure drop across orifice ΔH ☐ (in) or ☐ (cm) of water	(7a) (Y) $\sqrt{\Delta H \left(\frac{P_1}{P_{std}}\right)\left(\frac{298}{T_1}\right)}$
1								
2								
3								
4								
5								
6								

RECORDED CALIBRATION DATA

Standard volume meter no. _____

Transfer standard type: ☐ orifice ☐ other

Model No. _____ Serial No. _____

(8) P_1: _____ mm Hg (or kPa) (10) P_{std}: 760 mm Hg (or 101 kPa)

(9) T_1: _____ K (11) T_{std}: 298 K

Calibration performed by: _____

Date: _____

CALCULATION EQUATIONS

(1) $V_m = V_f - V_i$

(2) $V_{std} = V_m \left(\frac{P_1 - \Delta P}{P_{std}}\right)\left(\frac{T_{std}}{T_1}\right)$

(3) $Q_{std} = \frac{V_{std}}{t}$

LEAST SQUARES CALCULATIONS

Linear ($Y = mX + b$) regression equation of $Y = \sqrt{\Delta H(P_1/P_{std})(298/T_1)}$ on $X = Q_{std}$ for Orifice Calibration Unit (i.e., $\sqrt{\Delta H(P_1/P_{std})(298/T_1)} = mQ_{std} + b$)

Slope (m) = _____ Intercept (b) = _____ Correlation coefficient (r) = _____

To use for subsequent calibration: $X = \frac{1}{m}(Y-b)$; $\boxed{Q_{std} = \frac{1}{m}\left(\sqrt{\Delta H\left(\frac{P_2}{P_{std}}\right)\left(\frac{298}{T_2}\right)} - b\right)}$

Figure 4. Example of orifice transfer standard certification worksheet.

HIGH-VOLUME AIR SAMPLER CALIBRATION WORKSHEET

Site Location: _____

Date: _____ Barometric Pressure, P_2 mm Hg (or kPa) _____

Calibrated By: _____ Temperature, T_2 (K) _____

Sampler No. _____ Serial No. _____

Transfer std. type: _____ Serial No. _____

P_{std} = 760 mm Hg (or 101 kPa)

Optional:

Average barometric pressure: P_a = _____

Seasonal average temperature: T_a = _____

No.	ΔH Pressure drop across orifice ☐(in) or ☐(cm) of water	$\sqrt{\Delta H\left(\frac{P_2}{P_{std}}\right)\left(\frac{298}{T_2}\right)}$	(X) Q_{std} (from orifice certification) std m^3/min	I Sampler flow rate indication (arbitrary)	(Y) For specific pressure and temperature corrections (see Table 1) ☐ I or ☐ $\sqrt{I\left(\frac{P_2}{P_{std}}\right)\left(\frac{298}{T_2}\right)}$ or ☐ $I\sqrt{\left(\frac{P_2}{P_{std}}\right)\left(\frac{298}{T_2}\right)}$	(Y) For incorporation of average pressure and seasonal average temperature (see Table 1) ☐ I or ☐ $\sqrt{I\left(\frac{P_2}{P_a}\right)\left(\frac{T_a}{T_2}\right)}$ or ☐ $I\sqrt{\left(\frac{P_2}{P_a}\right)\left(\frac{T_a}{T_2}\right)}$
1						
2						
3						
4						
5						
6						

LEAST SQUARES CALCULATIONS

Linear regression of Y on X: Y = mX + b; Y = appropriate expression from Table 1; X = Q_{std}

Slope (m) = ____ Intercept (b) = ____ Correlation Coeff. (r) = _____

To determine subsequent flow rate during use: $X = \frac{1}{m}(Y-b)$; $Q_{std} = \frac{1}{m}$ ([appropriate expression from Table 2] - b)

Figure 5. Example of high-volume air sampler calibration worksheet.

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Appendix C—Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)

Measurement Principle

1. Measurements are based on the absorption of infrared radiation by carbon monoxide (CO) in a non-dispersive photometer. Infrared energy from a source is passed through a cell containing the gas sample to be analyzed, and the quantitative absorption of energy by CO in the sample cell is measured by a suitable detector. The photometer is sensitized to CO by employing CO gas in either the detector or in a filter cell in the optical path, thereby limiting the measured absorption to one or more of the characteristic wavelengths at which CO strongly absorbs. Optical filters or other means may also be used to limit sensitivity of the photometer to a narrow band of interest. Various schemes may be used to provide a suitable zero reference for the photometer. The measured absorption is converted to an electrical output signal, which is related to the concentration of CO in the measurement cell.

2. An analyzer based on this principle will be considered a reference method only if it has been designated as a reference method in accordance with Part 53 of this chapter.

3. Sampling considerations.

The use of a particle filter on the sample inlet line of an NDIR CO analyzer is optional and left to the discretion of the user or the manufacturer. Use of filter should depend on the analyzer's susceptibility to interference, malfunction, or damage due to particles.

Calibration Procedure

1. *Principle.* Either of two methods may be used for dynamic multipoint calibration of CO analyzers: (1) One method uses a single certified standard cylinder of CO, diluted as necessary with zero air, to obtain the various calibration concentrations needed. (2) The other method uses individual certified standard cylinders of CO for each concentration needed. Additional information on calibration may be found in Section 2.0.9 of Reference 1.

2. *Apparatus.* The major components and typical configurations of the calibration systems for the two calibration methods are shown in Figures 1 and 2.

2.1 Flow controller(s). Device capable of adjusting and regulating flow rates. Flow rates for the dilution method (Figure 1) must be regulated to ± 1%.

2.2 Flow meter(s). Calibrated flow meter capable of measuring and monitoring flow rates. Flow rates for the dilution method (Figure 1) must be measured with an accuracy of ± 2% of the measured value.

2.3 Pressure regulator(s) for standard CO cylinder(s). Regulator must have nonreactive diaphragm and internal parts and a suitable delivery pressure.

2.4 Mixing chamber. A chamber designed to provide thorough mixing of CO and diluent air for the dilution method.

2.5 Output manifold. The output manifold should be of sufficient diameter to insure an insignificant pressure drop at the analyzer connection. The system must have a vent designed to insure atmospheric pressure at the manifold and to prevent ambient air from entering the manifold.

3. *Reagents.*

3.1 CO concentration standard(s). Cylinder(s) of CO in air containing appropriate concentrations(s) of CO suitable for the selected operating range of the analyzer under calibration; CO standards for the dilution method may be contained in a nitrogen matrix if the zero air dilution ratio is not less than 100:1. The assay of the cylinder(s) must be traceable either to a National Bureau of Standards (NBS) CO in air Standard Reference Material (SRM) or to an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 2, and a list of CRM sources is available from the address shown for Reference 2. A recommended protocol for certifying CO gas cylinders against either a CO SRM or a CRM is given in Reference 1. CO gas cylinders should be recertified on a regular basis as determined by the local quality control program.

3.2 Dilution gas (zero air). Air, free of contaminants which will cause a detectable response on the CO analyzer. The zero air should contain <0.1 ppm CO. A procedure for generating zero air is given in Reference 1.

4. *Procedure Using Dynamic Dilution Method.*

4.1 Assemble a dynamic calibration system such as the one shown in Figure 1. All calibration gases including zero air must be introduced into the sample inlet of the analyzer system. For specific operating instructions refer to the manufacturer's manual.

4.2 Insure that all flowmeters are properly calibrated, under the conditions of use, if appropriate, against an authoritative standard such as a soap-bubble meter or wet-test meter. All volumetric flowrates should be corrected to 25° C and 760 mm Hg (101 kPa). A discussion on calibration of flowmeters is given in Reference 1.

4.3 Select the operating range of the CO analyzer to be calibrated.

4.4 Connect the signal output of the CO analyzer to the input of the strip chart recorder or other data collection device. All adjustments to the analyzer should be based on the appropriate strip chart or data device readings. References to analyzer responses in the procedure given below refer to recorder or data device responses.

4.5 Adjust the calibration system to deliver zero air to the output manifold. The total air flow must exceed the total demand of the analyzer(s) connected to the output manifold to insure that no ambient air is pulled into the manifold vent. Allow the analyzer to sample zero air until a stable respose is obtained. After the response has stabilized, adjust the analyzer zero control. Offsetting the analyzer zero adjustments to +5 percent of scale is recommended to facilitate observing negative zero drift. Record the stable zero air response as Z_{CO}.

4.6 Adjust the zero air flow and the CO flow from the standard CO cylinder to provide a diluted CO concentration of approximately 80 percent of the upper range limit (URL) of the operating range of the analyzer. The total air flow must exceed the total demand of the analyzer(s) connected to the output manifold to insure that no ambient air is pulled into the manifold vent. The exact CO concentration is calculated from:

$$[CO]_{OUT} = \frac{[CO]_{STD} \times F_{CO}}{F_D + F_D} \quad (1)$$

Where:

$[CO]_{OUT}$ = diluted CO concentration at the output manifold, ppm;

$[CO]_{STD}$ = concentration of the undiluted CO standard, ppm;

F_{CO} = flow rate of the CO standard corrected to 25° C and 760 mm Hg, (101 kPa), L/min; and

F_D = flow rate of the dilution air corrected to 25° C and 760 mm Hg, (101 kPa), L/min.

Sample this CO concentration until a stable response is obtained. Adjust the analyzer span control to obtain a recorder response as indicated below:

Recorder response (percent scale) =

$$\frac{[CO]_{OUT}}{URL} \times 100 + Z_{CO} \quad (2)$$

Where:

URL = nominal upper range limit of the analyzer's operating range, and

Z_{CO} = analyzer response to zero air, % scale.

If substantial adjustment of the analyzer span control is required, it may be necessary to recheck the zero and span adjustments by repeating Steps 4.5 and 4.6. Record the CO concentration and the analyzer's response.

4.7 Generate several additional concentrations (at least three evenly spaced points across the remaining scale are suggested to verify linearity) by decreasing F_{CO} or increasing F_D. Be sure the total flow exceeds the analyzer's total flow demand. For each concentration generated, calculate the exact CO concentration using Equation (1). Record the concentration and the analyzer's response for each concentration. Plot the analyzer responses versus the corresponding CO concentrations and draw or calculate the calibration curve.

5. *Procedure Using Multiple Cylinder Method.* Use the procedure for the dynamic dilution method with the following changes:

5.1 Use a multi-cylinder system such as the typical one shown in Figure 2.

5.2 The flowmeter need not be accurately calibrated, provided the flow in the output manifold exceeds the analyzer's flow demand.

5.3 The various CO calibration concentration required in Steps 4.6 and 4.7 are obtained without dilution by selecting the appropriate certified standard cylinder.

References

1. Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II—Ambient Air Specific Methods, EPA–600/4–77–027a, U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Research Triangle Park, North Carolina 27711, 1977.

2. A procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials. EPA–600/7–81–010, U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory (MD–77), Research Triangle Park, North Carolina 27711, January 1981.

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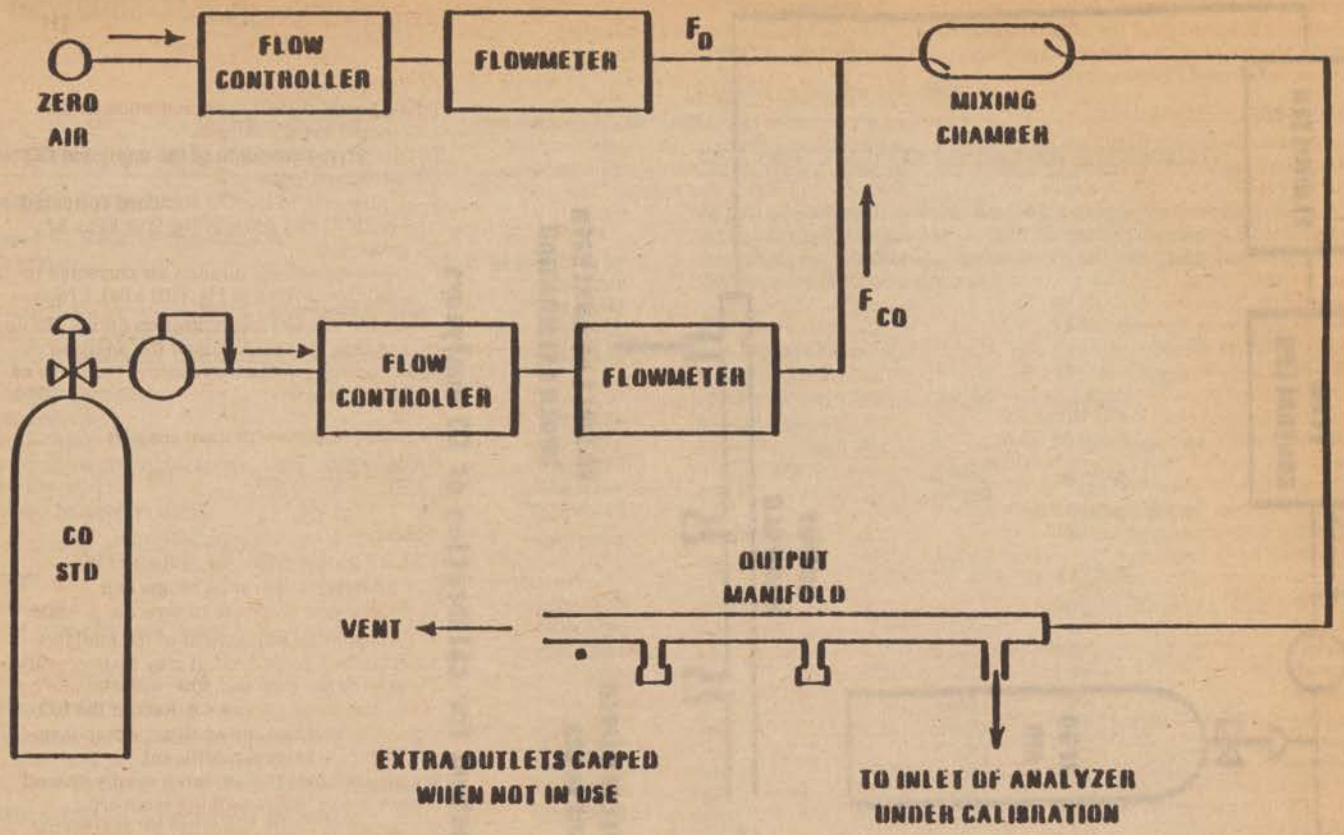


Figure 1. Dilution method for calibration of CO analyzers.

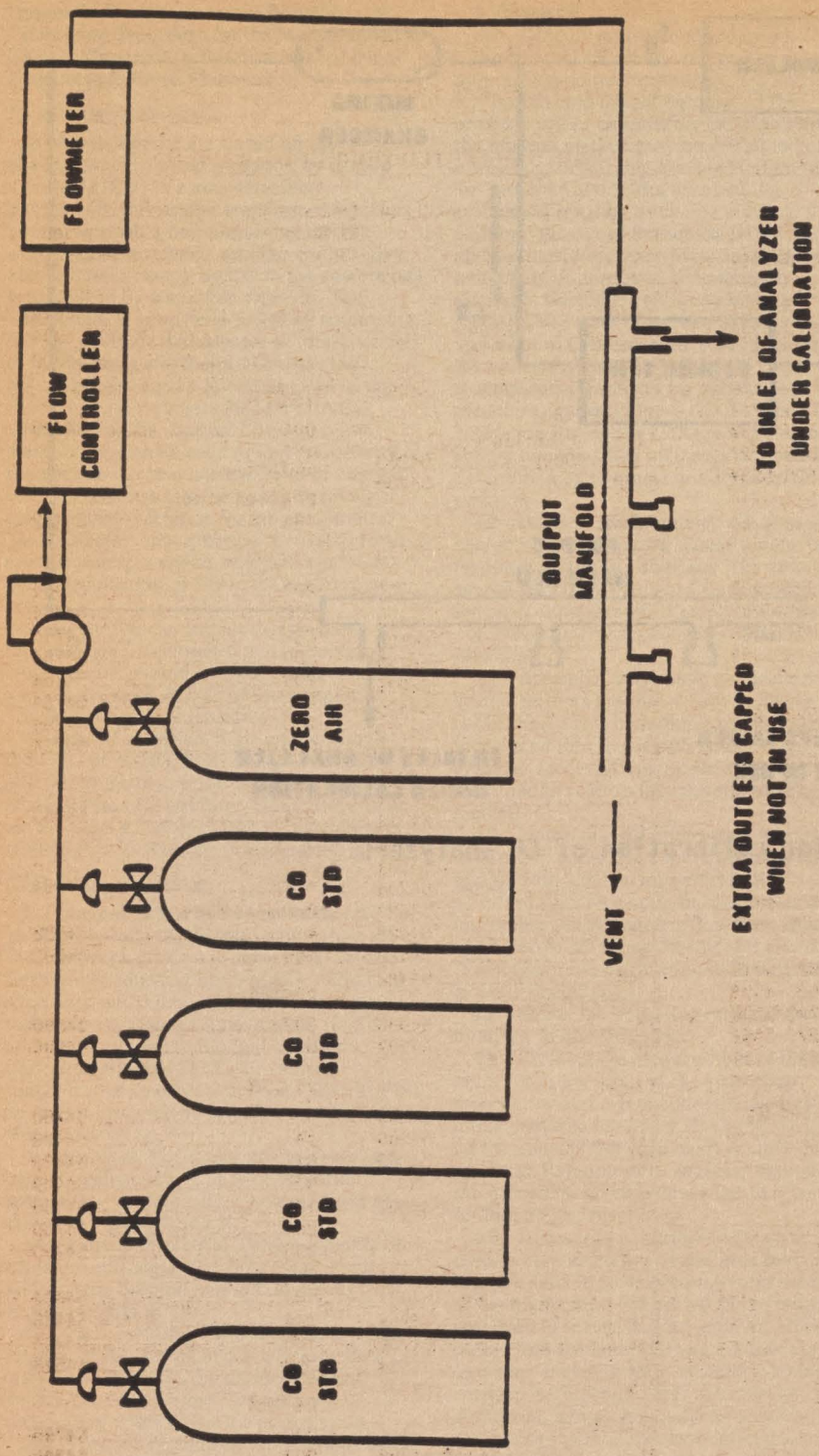


Figure 2. Multiple cylinder method for calibration of CO analyzers.

[FR Doc. 82-32848 Filed 12-3-82; 8:45 am]
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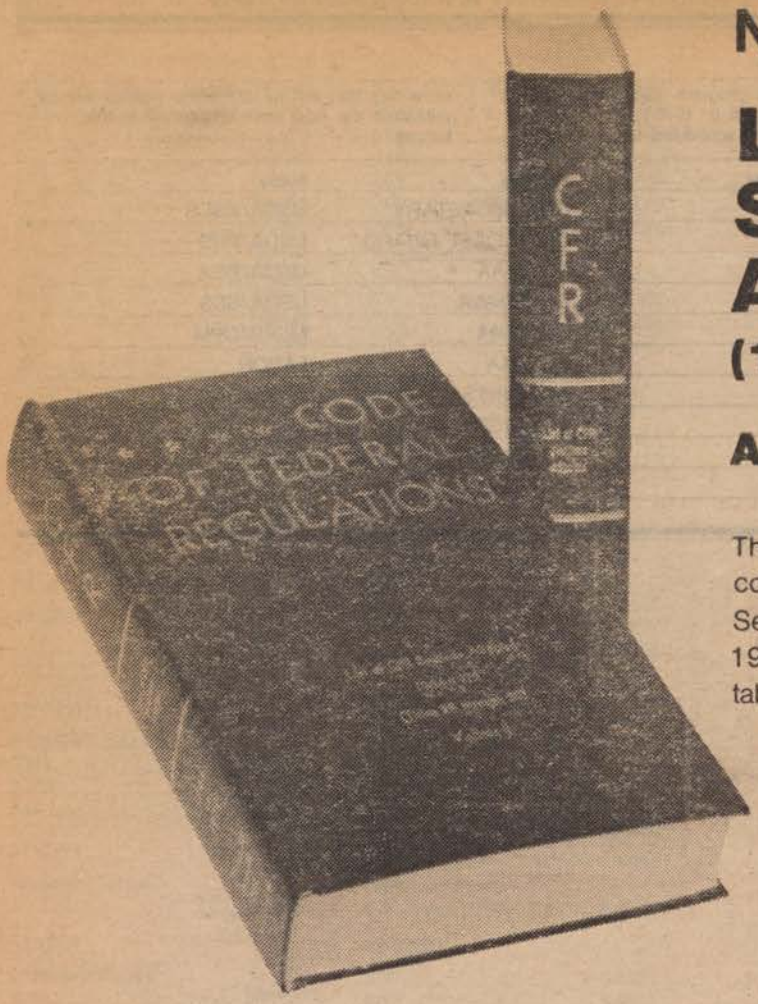
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