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federal register

Monday
April 8, 1985

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Federal Aviation Administration

Bridges
Coast Guard

Claims
National Oceanic and Atmospheric Administration

Exports
International Trade Administration

Household Appliances
Federal Trade Commission

Income Taxes
Internal Revenue Service

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Education Department

Marketing Agreements
Agricultural Marketing Service

National Banks
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National Defense
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Pesticides and Pests
Environmental Protection Agency

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Nuclear Regulatory Commission

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Radio Broadcasting
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Presidential Documents

Title 3—

The President

Proclamation 5314 of April 4, 1985

National Weather Satellite Week, 1985

By the President of the United States of America

A Proclamation

The United States' weather satellites have tracked the Earth's weather since April 1, 1960, and have brought unique benefits to the American people and to the world.

Weather satellites have proven exceptionally valuable in detecting, monitoring, and giving early warning of hurricanes, severe storms, flash floods, and other life-threatening natural hazards, on a local, national, and international basis.

The international weather satellite search-and-rescue program has saved over three hundred lives since 1982. The achievements of the scientific and aerospace communities in developing weather satellites have contributed significantly to the United States' leadership in satellite technology, international cooperation in space, and an integrated global weather forecasting system.

Weather satellites have evolved into environmental satellites that also monitor snow and ice cover, forest damage, vegetation, forest fires, volcanic eruptions, sea surface temperatures, and ocean currents.

Environmental satellite data are used for research and for commercial purposes in meteorology, hydrology, agriculture, oceanography, forestry, and fisheries. The United States' prestige is enhanced by the direct dissemination of environmental satellite data to more than one hundred and twenty countries.

The National Aeronautics and Space Administration has been the world leader in the development of experimental and prototypical weather and environmental satellites. The National Oceanic and Atmospheric Administration of the Department of Commerce has demonstrated outstanding leadership in the management of operational weather and environmental satellite systems and programs.

The Congress, by Senate Joint Resolution 62, has designated the week of March 31, 1985 through April 6, 1985, as "National Weather Satellite Week," and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 31, 1985 through April 6, 1985, as National Weather Satellite Week. In recognition of the twenty-fifth anniversary of weather satellites, I call upon the people of the United States to observe such week with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-8546
Filed 4-5-85; 11:45 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5315 of April 4, 1985

National Child Abuse Prevention Month, 1985

By the President of the United States of America

A Proclamation

There is no more important test of a society than how it treats its children. Children are not only a joy to the parents who raise them; they also represent a society's future. It is imperative for American society to protect its children and nurture them.

More and more Americans are turning once again to strong and loving families as the best way to provide a nurturing environment for children. This is as it should be, but there are still many indications that we must do more to protect our children and show that we love each and every one of them. One of the most disturbing of these indications is the fact that more than 1.5 million children will be reported to local child protective agencies this year as suspected victims of child abuse or neglect. As a direct result of their maltreatment, many of these children will suffer diminished opportunity to develop physically, intellectually, emotionally, and socially, or to become fully contributing citizens.

Their loss is our Nation's loss. In the past decade, our knowledge of how to prevent and treat child abuse has grown substantially. The most important thing we have learned is that the active involvement of neighbors and friends—indeed of everyone in a community—is the key to success. Community child protection agencies cannot do the job alone but must rely on neighbors, friends, teachers, relatives, doctors, and volunteers to provide critical support, information, and guidance to families in which child maltreatment may occur.

Beyond these efforts, we should all consider every day the kind of society we want to create. Problems such as child pornography, violence on television, teenage suicide, missing children, and child abuse are all related to the strength or weakness of our society's values. We should resolve to strengthen the fundamental values of family and community on which our Nation was founded and which can alone provide it with a good future for all our children.

In recognition of our shared responsibility to reduce the occurrence of child abuse and neglect, the Congress, by House Joint Resolution 121, has designated the month of April 1985 as "National Child Abuse Prevention Month," and has authorized and requested the President to issue a proclamation in observance of this period.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of April 1985 as National Child Abuse Prevention Month. As we observe this time, let us all consider the wholesome and secure development of our children on whom we depend to advance our national character and values.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-8547
Filed 4-5-85; 11:46 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5316 of April 4, 1985

World Health Week and World Health Day, 1985

By the President of the United States of America

A Proclamation

World Health Day, which marks the founding of the World Health Organization, serves to remind us that good health is a priceless commodity, which all the world's people should have the opportunity to enjoy throughout their life span.

The theme for World Health Day, 1985, "Healthy Youth: Our Best Resource," is particularly appropriate this year, which has been selected by the United Nations as International Youth Year. Today's youth represent a tremendous potential for society. In all countries, rich and poor, this group is the healthiest age group of all and is far better educated than preceding generations. They have survived the infectious diseases of childhood, such as measles, whooping cough, and polio. But they are also the most vulnerable to lifestyle practices that threaten later adulthood—poor food habits, cigarette smoking, abuse of alcohol and drugs, and inadequate exercise. It is our responsibility as parents and teachers to educate our youth on the importance of avoiding harmful drugs, practicing good safety measures, maintaining a proper diet, and getting regular exercise.

Furthermore, on World Health Day, the United States is pleased to join its fellow members of the World Health Organization in promoting healthy growth, and in pledging our continued support for efforts to improve the health of people throughout the world.

The Congress, by Senate Joint Resolution 50, has designated the week of April 1 through April 7, 1985 as "World Health Week" and designated April 7, 1985 as "World Health Day," and authorized and requested the President to issue a proclamation in observance of these events.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 1 through April 7, 1985, as World Health Week, and April 7, 1985 as World Health Day. I call upon all of the people of the United States to observe this week with appropriate programs, ceremonies, and activities and by practicing the lifestyles that promote good health.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-8548
Filed 4-5-85; 11:47 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5317 of April 4, 1985

Education Day, U.S.A., 1985

By the President of the United States of America

A Proclamation

In order to achieve its highest goals, education must be more than just a training in facts and figures, or even in basic skills, as important as they are. It must also include instruction in the deepest ethical values of our civilization.

Very few Americans have done more to promote these ethical values as the basis of civilization than Rabbi Menachem Mendel Schneerson, the leader of the worldwide Lubavitch movement. The word "Lubavitch" comes from the name of a Russian city and means city of love. That is very appropriate because, of all the ethical values which inform our civilization, none is more important than love—love of wisdom, love of our fellowman, and love of our Creator.

These are the values which Rabbi Menachem Mendel Schneerson exemplifies. And they are the values, with their roots in the Seven Noahide Laws, which have guided the Lubavitch movement throughout its history. They are the essence of education at its best, and we should be certain that we pass on this precious heritage to all young Americans.

In recognition of Rabbi Schneerson's contributions and in honor of his 83rd birthday, which falls this year on April 2, the Congress, by House Joint Resolution 186, has designated April 2, 1985, as "Education Day, U.S.A." and authorized and requested the President to issue an appropriate proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Tuesday, April 2, 1985, as Education Day, U.S.A., and I call upon the people of the United States, and in particular our teachers and other educational leaders, to observe that day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-8549
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1a

Law Enforcement Authorities

AGENCY: Department of Agriculture.
ACTION: Final rule.

SUMMARY: This document amends the regulations governing the law enforcement authorities granted to the Office of Inspector General of the Department of Agriculture by the Agriculture and Food Act of 1981, Pub. L. 97–98.

EFFECTIVE DATE: April 8, 1985.

FOR FURTHER INFORMATION CONTACT: L.L. Free, Assistant Inspector General, Administration, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6915.

SUPPLEMENTARY INFORMATION: In order to provide needed law enforcement authorities to agents of the Office of Inspector General of the Department of Agriculture, Congress granted arrest, search and seizure, and firearms authorities to the Office of Inspector General. These authorities have been implemented in accordance with rules issued by the Secretary of Agriculture. The authorities are exercised by designated agents who are engaged in the investigation of alleged or suspected criminal violations of the various statutes administered by the Department under the authority provided in section 6, or described in section 9, of the Inspector General Act of 1978 (5 U.S.C. App.).

This amendment makes the limitation on the exercise of these authorities consistent with the necessities of carrying firearms in the performance of the agents' duties.

This rule is a rule of agency procedure and practice and related to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act and thus is exempt from the provisions of the Act.

List of Subjects in 7 CFR Part 1a

Law enforcement.

PART 1a—[AMENDED]

Accordingly, 7 CFR Part 1a is amended as follows:

1. The authority citation for Part 1a reads as follows:

Authority: Section 1337, Pub. L. 97–98; 5 U.S.C. 301; 5 U.S.C. App. I.

2. Sections 1a.2 and 1a.4 of Part 1a, Title 7, Code of Federal Regulations are revised to read as follows:

§ 1a.2 Authorization.

Any official of the Office of Inspector General who is designated by the Inspector General according to §§ 1a.3 and 1a.5 of this part and who is engaged in the performance of his/her official duties under the authority provided in section 6, or described in section 9, of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized to—

(a) Make an arrest without a warrant for any criminal felony violation subject to § 1a.4, if such violation is committed, or if the official has probable cause to believe that such violation is being committed, in his/her presence;

(b) Execute and serve a warrant for an arrest, for the search of premises, or the seizure of evidence if such warrant is issued under authority of the United States upon probable cause to believe that any criminal felony violation, subject to § 1a.4, has been committed; and

(c) Carry a firearm.

§ 1a.4 Limitations.

The powers granted by §§ 1a.2(a) and 1a.2(b) shall be exercised only when a designated official is engaged in an investigation of alleged or suspected felony violations of statutes administered by the Secretary of Agriculture or any agency of the Department.

Dated: April 2, 1985.

John R. Block,
Secretary of Agriculture.

[FR Doc. 85–8310 Filed 4–5–85; 8:45 am]
BILLING CODE 3410–23–M

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 261]

Food Stamp Program; Alaska Thrifty Food Plan

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On May 1, 1984, the Department issued an interim rule establishing separate food stamp allotment levels for rural and urban Alaska. Comments were solicited from interested parties through July 2, 1984. This action announces that the method for establishing Alaska rural and urban allotments remains unchanged. This action also addresses the comments received and explains the Department's analysis of those comments.

EFFECTIVE DATE: This rule is effective May 8, 1985. The interim final rule was effective May 1, 1984; and revised food stamp allotments, to take into account food cost differentials in rural and urban areas, were implemented on August 1. These rural and urban allotments were updated on October 1, 1984. This update took into account changes in the cost of food, reduced by one percent, in accordance with the Food Stamp Act of 1977, as amended. Allotments were further adjusted on November 1, 1984, to eliminate the one percent reduction, in accordance with Pub. L. 98–473. The next adjustment in rural and urban allotments will be effective October 1, 1985, based on changes in the cost of food.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA,

Alexandria, Virginia 22302, (703) 756–3427.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512–1. There is no cost involved in this action. It simply makes final an interim rule which is already in effect, and the interim rule had minimal costs. This rule will not have significant adverse effects upon competition, employment, investment, productivity, innovation, or upon the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major".

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act, of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. These provisions have been in effect in the State of Alaska since August 1, 1984, and this action makes no changes in current procedures.

Paperwork Reduction Act

This regulation does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

Background

The Agriculture and Food Act of 1981 (Pub. L. 97–98), enacted on December 22, 1981, provides, in part, for differing allotment levels for rural and urban Alaska to recognize significantly higher food costs in rural Alaska. On May 1, 1984, the Department issued an interim rule implementing this provision of law.

A full explanation of the rationale and purposes of that interim rule was provided when it was published at 49 FR 18458–18463 May 1, 1984. This action announces that the Department is making no changes to the interim rule, which is currently in effect. This final rule explains the Department's rationale in maintaining the current rule, as well as the Department's response to public comments on it.

Unless otherwise stated, the rationale contained in the interim rule should be regarded as a basis for the final action. Thus, a thorough understanding of the grounds for the final action may require reference to the interim rule.

Nine individuals or organizations commented on the interim rule. All comments were carefully considered. Three comments were received from Governmental offices, five comments were received from advocate groups, and one private citizen commented. This action addresses comments received by the Department.

Data Base

The Department used data from the State Division of Personnel (SDP) to establish food costs in the State's county equivalent areas. Many commenters objected to the use of these data. Three commenters objected that the data were out of date. One commenter stated that the SDP data were inappropriate to establish rural and urban allotments, and two commenters said these data were insufficient and unrepresentative. One commenter noted that many changes have occurred in Alaska since 1976, which are not reflected in the SDP data. Commenters noted that as a result of the problems with the SDP data, certain areas were misclassified as urban which should have been rural.

Some commenters suggested alternate data bases. These were more up-to-date than the SDP data base, but they did not cover as many areas of the State. One alternate data base provided detailed results of the commenter's own survey of food prices in 15 places in the Aleutian Islands, Kodiak Island Borough, and Skagway-Yakutat-Angoon. (These areas are currently classified as urban.) This data base suggests greater price variations in some places classified as urban than are shown in the SDP data. However, this 15-place survey did not provide sufficient information to redesign the rule, because there was no comparable information for most of the State. There was also no information on how the places surveyed were selected.

As a result of comments, the Department reconsidered its use of the SDP data. Comments did not indicate that a more up-to-date and comprehensive data base existed. Thus, the Department's reconsideration resulted in a reconfirmation of the SDP data, because the reasons for which it was selected are still valid. That is, the SDP data base has several advantages. This data base contained food cost data for county equivalent areas which represented 95 percent of the population within the State. For the remaining 5 percent, there is a compatible data base available from the Alaska Department of Commerce. After considering all relevant factors, the SDP data continue to be preferable to any other data base because they are from a single point in time and because they provide broader coverage. Therefore, the Department is retaining the SDP data base used in the interim rule.

The Department is aware, however, that efforts are being undertaken by the State agency, and others, to supply more up-to-date data for many areas of the State. These data may ultimately provide sufficient information to warrant a reconsideration of the Department's earlier decision. Therefore, when these data are available and provided to the Department, they will be reviewed carefully to determine the need for a reassessment.

County Equivalent Concept

In the May 1 rule, the Department used the 23 county equivalents in Alaska as the geographic units upon which to base the designations of urban and rural. Each county equivalent was designated as either urban or rural based on its geographic locale and whether its food costs (weighted by food stamp participants) were comparatively high or low.

Two commenters explicitly disagreed with the concept of county equivalents because it resulted in designating all places in a county equivalent area with the same urban or rural designation. Commenters stated that this approach hurt people residing in places with high food prices and small populations since these places count for less in the Department's equation. This is so because their smaller populations provide them with a lower weight than high population areas. The result is that an entire county equivalent area might be designated urban, even though a small place within that area had very high prices. Likewise a small place within a rural area could have relatively low food prices, but it would still be considered rural if most of the food stamp participants in that county equivalent lived in places with high food prices.

To use smaller entities than county equivalents, a place-by-place designation of urban or rural would have to be made. To accomplish this, the Department would have to have food prices for each place. Such comprehensive data on food prices do not exist. In addition, the Department does not consider a place-by-place designation as desirable because it could encourage fraud and abuse. The Department's urban-rural definition minimizes the extent to which there is a patchwork quilt of urban and rural areas

throughout the State. Thus the definition eases the administrative burden of administering the dual allotment system since it results in a clearer and simpler demarcation of urban and rural.

Because of these reasons, the Department decided to retain the use of the county equivalent concept.

Urban-Rural Definition

The Department's designation of each county equivalent area as urban or rural was based upon each area's food prices. The urban differential of 6.04 percent and the rural differential of 50.7 percent were obtained by taking a weighted average of the food prices in urban and rural areas, respectively. Rural areas were those areas with food prices greater than 130 percent of Anchorage costs.

Many commenters raised objections to the results of the use of the Department's methodology. That is, they suggested that certain areas which the Department had classified as urban be reclassified as rural. However, there was no objection to, or alternative proposed to, the actual approach or to the use of 130 percent as the dividing line. Essentially, commenters wanted the definition applied to smaller entities within county equivalent areas (see above discussion). Therefore, the Department did not change the urban-rural definition.

Conclusion

After a careful review and analysis of the comments received, the Department does not find cause to change the interim rule. Therefore, the Department is adopting the interim rule published at 49 FR 18458, May 1, 1984.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

(91 Stat. 958 (7 U.S.C. 2011–2029))

Dated: April 2, 1985.

Mary C. Jarratt,

Assistant Secretary.

[FR Doc. 85–8363 Filed 4–5–85; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 905

[Oranges, Grapefruit, Tangerine, and Tangelo Reg. 6, Admt. 35]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action lowers the minimum grade requirement for domestic and export shipments of Florida Honey tangerines from Florida No. 1 Golden to U.S. No. 2 Russet during the period April 3, 1985 to August 18, 1985. The change in minimum grade of such fruit recognizes the grade composition of the available fruit supply and is in the interest of growers and consumers.

EFFECTIVE DATE: April 3, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This action is based upon recommendations and information submitted by the Citrus Administrative Committee, and upon other available information. Shipments of Honey tangerines are currently regulated by grade and size under Orange, Grapefruit, Tangerine and Tangelo Regulation 6, which is effective on a continuing basis. It is hereby determined that it is necessary to continue for the remainder of the current season the regulation of Honey tangerines to avoid a disruption of the orderly marketing of such fruit in the public interest.

Relaxation of the current minimum grade requirement for April 3, 1985 to August 18, 1985, specified herein, reflects the committee's and the Department's appraisal of the need to revise the grade requirement applicable to fresh shipments of Florida Honey tangerines in recognition of the current and prospective supply and demand for such fruit. The committee reports increased amounts of rind discoloration of Honey tangerines. Some handlers are having difficulty packing fruit to meet current quality requirements causing a reduction in the supply of Honey tangerines for fresh market. For the season through March 24 disposition of Honey tangerines totaled 740,000 boxes or about 94 percent of the crop. This amendment is necessary to provide consumers with an adequate supply of acceptable quality fruit. On and after August 19, 1985 the grade regulation for Honey tangerines would change to Florida No. 1.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. This amendment relieves restrictions on shipments of Florida Honey tangerines. Handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 905

Marketing Agreements and Orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entry in Table I, paragraph (a), applicable to domestic shipments, and Table II paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * *			
Tangerines:			
Honey	4/3/85–8/18/85.	U.S. No. 2 Russet.	2 2/64
	On and after 8/19/85.	Florida No. 1	2 2/64
* * * * *			

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * *			
Tangerines:			
Honey	4/3/85–8/18/85.	U.S. No. 2 Russet.	2 2/64

TABLE II—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
	On and after 8/19/85	Florida No. 1	2 1/16
*	* *	* *	

* * * * *

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

Dated: April 3, 1985.

Thomas R. Clark,

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

[FR Doc. 85–8374 Filed 4–5–85; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 85–4]

Rules, Policies and Procedures for Corporate Activities—Capital Changes (Equity Capital and Subordinated Debt)

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is simplifying the process for a bank seeking approval to change its equity capital accounts or to issue subordinated notes or debentures. These revisions are needed to eliminate unnecessary regulatory requirements. The revisions benefit national banks and the Office by removing burdensome and costly regulatory requirements, while maintaining the Office's ability to render decisions based on the condition of the bank and the bank's adherence to statutory requirements and Office policy.

EFFECTIVE DATE: May 8, 1985.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Director, Licensing Policy and Systems, Bank Organization and Structure, Office of the Comptroller of the Currency, (202) 447–1184.

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this final rule is to minimize costs and burdens on national banks and the Office by clarifying policies and streamlining the procedures for a national bank applying to increase, reduce, or change its equity capital accounts or to issue subordinated debt.

Background

This final rule is part of the Office's Corporate Activities Review and Evaluation (CARE) Program. That program is described in the **Federal Register** (45 FR 68586), dated October 15, 1980, and involves a comprehensive review of Office rules, policies, procedures, and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize the costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures, and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

Summary of the Comments

On April 25, 1984, the Office published a notice of proposed rulemaking (49 FR 17764) to amend its policies and procedures concerning the filing and processing of applications to change equity capital or issue subordinated debt. Three commenters submitted remarks which generally supported the proposal. One commenter suggested only that the simplified procedures extend to issuances of previously authorized but unissued preferred stock. Another commenter suggested that the proposed rule could be streamlined further for almost all types of increases in capital. The third commenter urged adoption of the changes as proposed. The issues raised by the commenters are discussed in the following paragraphs.

A commenter suggested that the simplified procedures for common stock should also apply to issuances of preferred stock and increases in capital connected with an employee stock option plan. Another commenter similarly suggested that the simplified procedures for common stock should extend to issuances of previously authorized but unissued preferred stock. Under the simplified procedures for common stock a bank must notify the Office that the sale is completed and meets the statutory requirements. The Office will certify the increase in common stock, provided it is legal, and will not review for supervisory concerns since all issuances of common stock generally are considered permanent capital. This simplified procedure is not feasible for other issuances such as preferred stock. Other issuances raise considerations requiring review under the Office's capital adequacy requirements. For example, preferred stock may have characteristics which preclude it from being defined under the Office's requirements as permanent capital. Also, dividends required on a preferred stock issuance may not conform to a capital plan a bank may have with the Office. For these reasons, the Office desires to review all proposed changes in capital, except issuances of common stock, prior to granting final approval. The review is needed to determine if a bank is subject to a capital adequacy agreement and, if applicable, to assure that the proposed issue conforms to the terms of the agreement. The Office will also review proposed issues to determine that the issue can be considered capital under the definitions adopted by the Office and will meet the general requirements imposed by the Office relating to capital adequacy.

The Office has eliminated approval of all types of authorized but unissued stock. Shareholders may authorize any amount or type of unissued stock without Office approval. However, statutes require that a bank must receive Office approval and certification prior to issuing the stock. In cases where the bank decides to create authorized but unissued preferred stock, it is advantageous for the bank to notify the Office of such plans and receive preliminary approval to issue capital prior to requesting shareholder approval.

One of the commenters further suggested that only notification should be required any time additional capital is being issued in the form of common stock or perpetual preferred stock, unless the bank is subject to special supervisory attention. The Office has chosen not to deregulate perpetual preferred stock in the same manner as common stock for the reasons stated above. In addition, there are some banks which are subject to capital adequacy agreements with the Office, but are not subject to special supervisory attention.

The same commenter suggested that the procedures should differ for subsidiary banks of major bank holding companies. The Office has reduced the processing requirements for equity and debt capital changes to the minimum amount for all banks regardless of size or affiliation while preserving the Office's ability to review for compliance with laws, regulations and supervisory concerns. All banks and the Office benefit from the uniform and streamlined notification and review process.

The commenter also suggested that automatic approval of subordinated debt issues should include automatic approval of the note format and note agreement. The note format and appended agreements are a supervisory

concern and currently are subject to a separate regulatory review by the Washington Office. The Office is reviewing its policies and procedures concerning the note format and appended agreements and will consider this suggestion during the review.

Lastly, the commenter stated that an increase in capital that is connected with an employee stock option plan should require nothing more than notification to the Office. This final rule requires that if an increase is by means of common stock then the bank would only notify the Office prior to issuance. However, if the increase is by any means other than common stock, the bank is required to request preliminary approval for the proposed issuance. The Office will review and treat all proposed capital increases associated with an employee stock option plan in the same manner it reviews all capital increases to assure conformity to law and Office policy. While the Office does not approve employee stock option plans, the statutes require that a bank receive Office approval prior to issuing capital. To avoid possible unnecessary expense, a bank should submit a letter of intent concerning the proposed issue and receive the Office's preliminary approval (except for increases in common stock) prior to seeking shareholder approval of the plan.

For the reasons stated above the final rule is adopted as proposed. A few technical changes have been made for clarification purposes, including the addition of language under the subordinated debt provisions relating to shareholder approval. The regulation clarifies that the issuance of subordinated debt is permissible when authorized by the bank's articles of association or with approval by stockholders owning a majority of stock entitled to vote. While this was the intent in the language as proposed, the added provision eliminates any potential ambiguity in this regard. Other technical changes were made to delegate approvals for all types of changes in capital to the district offices. Since new delegations are internal procedural matters of the Office, they are adopted as final rules without prior notice and comment.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612) the Secretary of the Treasury has certified that this final rule does not have a significant economic impact on a substantial number of small entities. This final rule would ease the burden of the existing regulations. The effect of this final rule is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments as well as larger institutions.

Paperwork Reduction Act

The collection of information requirements contained in this final rule have been reviewed and approved by the Office of Management and Budget pursuant to section 3504(h) of the Paperwork Reduction Act (OMB Control # 1557-0162)

Executive Order 12291

This rule is not classified as a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Part 5

Administrative practice and procedure, Securities, National banks, Capital, Equity capital, Subordinated debt.

Authority and Issuance

Accordingly, the Comptroller of the Currency is amending 12 CFR Part 5 as follows.

PART 5—[AMENDED]

1. The authority citation for Part 5—Rules, Policies, and Procedures for Corporate Activities continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. In § 5.3 the paragraph heading of (c), paragraph (c)(1), introductory text of (c)(2), and (c)(2)(i) are revised to read as follows:

§ 5.3 Corporate activities processing and delegations.

* * * * *

(c) *District Offices and Multinational Banking.* (1) The Deputy Comptrollers for the district offices and the Deputy Comptroller for Multinational Banking are delegated by the Comptroller of the Currency the authority to act in any matter delegated to District Administrators under § 5.3(c) of this part.

(2) Each District Administrator is delegated the authority to act for the Comptroller of the Currency in the following matters:

(i) Approval (but not disapproval) of capital increases through sales of additional common stock;

* * * * *

3. Section 5.3 is further amended by removing paragraph (c)(2)(ii) and by redesignating paragraphs (c)(2)(iii) through (v) as (c)(2)(ii) through (iv) respectively.

4. In § 5.3 a new paragraph (c)(3)(i)(F) is added, and paragraph (c)(3)(ii)(F) is revised to read as follows:

§ 5.3 Corporate activities processing and delegations.

* * * * *

(c) * * *

(3)(i) * * *

(F) Approval of all other changes through increases or decreases in capital accounts not listed in paragraph (c)(2) of this section.

(ii) * * *

(F) Any additional requirements imposed by §§ 5.26, 5.30, 5.31, 5.40, 5.42, 5.46 and 5.47 of this part have been satisfied.

* * * * *

5. Section 5.46 is revised to read as follows:

§ 5.46 Changes in equity capital.

(a) *Authority.* 12 U.S.C. 1 *et seq.*, 21a, 51, 51a, 51b, 51b-1, 52, 56, 57, 59, 60 and 93a

(b) *Rules of general applicability.* Sections 5.8, 5.9, 5.10 and 5.11 of this part do not apply to changes in equity capital.

(c) *Office approval.* All changes in outstanding equity capital are subject to approval by the Comptroller or an authorized delegate. All offers or sales of equity securities are subject to the requirements of Part 16 of this chapter.

(d) *Shareholder approval.* When shareholder approval is required, the bank should submit the letter of intent to change capital prior to seeking shareholder approval. The following capital changes require shareholder approval:

(1) *Increases in common stock.* A bank's Articles of Association must state a specific level of authorized common stock. Amendments to the Articles of Association changing the authorized common stock level require the approval of the holders of two-thirds of the stock entitled to vote.

(2) *Increases in preferred stock.* An amendment to the Articles of Association to authorize preferred stock or to change the amount of authorized preferred stock, requires the approval of the holders of a majority of the stock entitled to vote.

(3) *Changes in par value.* A change in par value of common or preferred stock requires an amendment to the Articles of Association and the approval of the holders of a majority of the stock entitled to vote except as noted in paragraph (d)(4) of this section.

(4) *Reduction of capital.* (i) A reduction of the aggregate amount in a bank's common or preferred stock account, through a change in par value or otherwise, requires an amendment to the Articles of Association by a vote of

the holders of two-thirds of the stock entitled to vote.

(ii) A distribution of cash or assets resulting from a reduction of capital requires the approval of the holders of two-thirds of the shares of each class of stock outstanding, voting as classes.

(5) *Employee Stock Option and Stock Purchase Plans.* An increase in capital through employee stock option and stock purchase plans generally requires the approval of two-thirds of the shareholders entitled to vote and the approval of this Office. In addition, the terms of such plans must be approved by a majority of the shareholders entitled to vote or two-thirds of the shareholders if pre-emptive rights exist.

(e) *Amendments to the Articles of Association.* A certified copy of every amendment to the Articles of Association involving a change in equity capital structure shall be sent to the appropriate district office.

(f) *Office Policy.*—(1) *General.* The Office will generally approve a change in capital provided that the change complies with applicable statutes and regulations and the bank has provided the information requested by the Office.

(i) A bank may consider a change in capital preliminarily approved 30 days after the day on which the Office receives the letter of intent to change capital unless the bank is notified by the Office that preliminary approval is delayed, conditioned or denied. The Office may delay preliminary approval if it requires additional information. Preliminary approval also may be delayed pending the bank's submission of a capital plan acceptable to the Office whenever such a plan is required under terms of any statute, regulation, decision, order, directive or written agreement. For banks in satisfactory condition, the Office may condition or deny preliminary approval only if the bank's present or proposed capital structure is not, or would not be, in compliance with the minimum capital requirements applicable to the bank, or if the bank is not, or would not be, in compliance with a required capital plan. For banks not in satisfactory condition, the Office may condition or deny preliminary approval for any reason it deems appropriate. Examples of such reasons include: The change would weaken the bank's capital position; there is a violation of law or a pattern or practice of violations which may have a significant impact on the bank; conditions exist which could undermine the safety and soundness of the bank; or the Office does not consider the bank's present or proposed capital structure adequate. If preliminary approval is delayed, conditioned or denied, the Office will provide the reasons for the decision in writing.

(ii) The Office will grant final approval and (if necessary) certification after receipt of written notice as described in paragraph (g)(2) of this section and provided all the conditions required by the Office have been met. A bank may consider the proposed change approved and certified seven days after the day on which the Office receives the letter of notification, unless the bank is advised otherwise. If approval is granted, the Office will send a letter of certification to the bank. The Office may shorten either of the time periods described above.

(2) *Common stock.* The Office will always approve sales of common stock after a bank has notified the Office of its compliance with the requirements of 12 U.S.C. 57 and paragraph (g)(2) of this section. No letter of intent or 30-day review period is required for sales of common stock.

(3) *Stock dividends.* The Office will consider a bank's request for a declaration of stock dividends in accordance with 12 U.S.C. 51 and 57. Fractional shares created by stock dividends should be treated in accordance with § 7.6040 of this chapter.

(4) *Preferred stock.* The Office will consider a bank's request for the issuance of preferred stock (including limited life preferred stock) in accordance with 12 U.S.C. 51a and 51b and § 3 of this chapter or such related rules as may be promulgated by the Office. Under 12 U.S.C. 51b, provisions in the Articles of Association concerning preferred stock dividends, voting and conversion rights, retirement and rights to exercise control over management require Office approval.

(5) *Changes in par value.* Changes in par value which do not change the aggregate amount in a bank's common stock account do not require Office approval. Changes in par value of preferred stock do require Office approval.

(6) *Reduction of capital.* The Office will consider a bank's request for a reduction of the common or preferred stock account, through a change in par value or otherwise, in accordance with the requirements of 12 U.S.C. 59. When submitting a letter of intent to reduce capital, the bank must include a schedule detailing the present and proposed capital structure, explain the reasons for the request and give details on any cash or asset distribution. Distributions resulting from the proposed reduction of capital must also be approved by the Office.

(g) *Procedures.* (1) A bank must submit to the appropriate district office by hand or by mail, return receipt requested, a letter of intent to change capital. The bank must receive preliminary approval for any change in capital except for a sale of common stock. A sale of common stock is subject only to the notification process described in paragraph (g)(2) of this section. The bank must describe in its letter of intent the type and amount of the proposed change, and state if it is subject to a capital plan with the Office. If a capital plan is required, the bank must state how the proposed change conforms to the plan. The bank may consider its proposed change preliminary approved 30 days after the day on which the Office receives the letter of intent, unless the bank is notified that preliminary approval is delayed, conditioned or denied. The bank should submit the letter of intent and receive preliminary approval prior to seeking shareholder approval. The bank may proceed with an increase in capital after preliminary approval is received; however, it may not reduce its capital or make a distribution until the Office has given final approval as specified in paragraph (g)(2) of this section.

(2) After the bank completes the increase in capital or the reduction in capital is preliminarily approved, the bank must submit a letter of notification to the district office by hand or by mail, return receipt requested, in order to obtain final approval and (if necessary) certification. The letter of notification must be acknowledged before a notary public by the bank's president, vice president or cashier and contain: (i) the amount and effective date of the increase or decrease; (ii) certification that the funds have been paid in, if applicable; (iii) certification of shareholder approval, if not previously filed; (iv) a certified copy of the amendment to the Articles of Association, if required; and (v) a statement that the bank has complied with all laws, regulations and conditions imposed by the Office.

(h) *Fees.* [Reserved]

(i) *Forms.* None.

(Approved by the Office of Management and Budget under control number 1557-0162)

6. Section 5.47 is revised to read as follows:

§ 5.47 Subordinated debt as capital.

(a) *Authority.* 12 U.S.C. 1 *et seq.*

(b) *Rules of general applicability.* Sections 5.8, 5.9, 5.10 and 5.11 of this part do not apply to the issuance of subordinated debt.

(c) *Office approval.* Subordinated debt is subject to Office approval if it is to be considered a part of the bank's capital structure for the purpose of computing capital adequacy or statutory limitations in accordance with 12 CFR Part 3 or such related rules as may be promulgated by the Office. Offers or sales of subordinated notes and debentures are also subject to the requirements of Part 16 of this chapter.

(d) *Shareholder approval.* The issuance of convertible or nonconvertible subordinated notes or debentures by a bank is permissible if authorized in its Articles of Association or by approval of the stockholders owning a majority of the stock entitled to vote. Amendments to the Articles of Association to authorize or to change the amount of authorized convertible or nonconvertible subordinated notes or debentures, require approval of the stockholders owning a majority of the stock entitled to vote. Amendments to the Articles of Association changing the authorized common stock level to permit the conversion of subordinated notes or debentures must be made in accordance with the procedures set forth in § 5.46 of this part.

(e) *Amendments to the Articles of Association.* If an issuance of subordinated debt requires an amendment to the Articles of Association, a certified copy of the amendment shall be sent to the appropriate district office.

(f) *Office policy.*—(1) *General.* The Office will generally approve issues of convertible and nonconvertible subordinated notes or debentures as capital provided that the issue complies with applicable statutes and regulations, including the requirements of paragraphs (f) (2) and (3) of this section, and the bank has provided the information requested by the Office.

(i) A bank may consider the issue of subordinated debt preliminarily approved as capital 30 days after the day on which the Office receives the letter of intent to issue subordinated debt, unless the bank is notified by the Office that preliminary approval is delayed, conditioned or denied. The Office may delay preliminary approval if it requires additional information. Preliminary approval also may be delayed pending the bank's submission of a capital plan acceptable to the Office whenever such a plan is required under the terms of any statute, regulation, decision, order, directive or written agreement. For banks in satisfactory condition, the Office may condition or deny preliminary approval only if the bank's present or proposed capital structure is not, or would not be, in compliance with the minimum capital requirements applicable to the bank, or if the bank is not, or would not be, in compliance with a required plan. For banks not in satisfactory condition, the Office may condition or deny preliminary approval for any reason it deems appropriate. Examples of such reasons include: The debt issue would weaken the bank's capital position; there is a violation of law or pattern or practice of violations which may have a significant impact on the bank; conditions exist which could undermine the safety and soundness of the bank; or the Office does not consider the bank's present or proposed capital structure adequate. If preliminary approval is delayed, conditioned or denied, the Office will provide the reasons for the decision in writing.

(ii) The Office will grant final approval after receipt of written notice described in paragraph (g)(2) of this section and provided all the conditions required by the Office have been met. A bank may consider the proposed issue legally approved seven days after the day on which the Office receives the letter of notification, unless the bank is advised otherwise. A letter evidencing approval will be forwarded to the bank. The Office may shorten either of the time periods described above.

(2) *Requirements.* In order for an issue of subordinated debt to be considered as capital it must meet the definitional and other requirements contained in 12 CFR Part 3 or any other rules, regulations, or policies promulgated by the Office.

(3) *Provisions.* In assessing a proposed debt instrument's compliance with the above policies, the Office will pay particular attention to:

(i) Provisions which may have the effect of accelerating the repayment date of the indebtedness. The instrument must provide that no repayment prior to maturity (other than a regularly scheduled repayment already approved by the Office) either pursuant to an acceleration in the event of default or otherwise, may be made without the prior written approval of the Office.

(ii) Provisions which may restrict the bank from engaging in activities which would otherwise be permissible. The terms of the debt instrument shall not unreasonably impair the bank's flexibility in conducting its operations.

(iii) Provisions which may place note holders in a secured creditor status or give such holders priority over other creditors. Subordinated note holders may not obtain secured creditor status.

(g) *Procedures.* (1) A bank must submit to the appropriate district office by hand or by mail, return receipt requested, a letter of intent to issue subordinated debt and receive preliminary approval prior to any issuance. The bank must describe in its letter of intent the type and amount of the proposed issuance, and state if it is subject to a capital plan with the Office. If a capital plan is required, the bank must state how the proposed change conforms to the plan. The proposed subordinated note format and note agreement should be enclosed with the letter. A bank must receive preliminary approval of the issuance as capital and a letter of no objection to the note format and note agreement prior to the issuance of the subordinated debt. The bank may consider its proposed issue preliminarily approved after 30 days from the day on which the Office receives the letter of intent, unless the bank is notified that preliminary approval is delayed, conditioned or denied. The Office's letter of no objection or comments relating to the terms and conditions of the note format and agreement will be sent separately. The bank may proceed with the transaction after obtaining preliminary approval of the debt issuance, a letter of no objection to the note format and note agreement, and, if necessary, shareholder approval. The bank should submit the letter of intent and receive preliminary approval prior to seeking shareholder approval.

(2) After the bank completes the sale of subordinated debt, it must submit a letter of notification to the district office by hand or by mail, return receipt requested, in order to obtain final approval. The letter of notification must include: (i) the amount and date of receipt of funds; (ii) a certification that funds have been paid in; (iii) a certification of shareholder approval, if necessary; (iv) a certified copy of the amendment to the Articles of Association, if required; and (v) a statement that the issue complies with all laws, regulations, conditions imposed by the Office, and the requirements of paragraph (f)(2) of this section.

(h) *Fees.* [Reserved]

(i) *Forms.* None.

(Approved by the Office of Management and Budget under control number 1557–0162)

Dated: January 25, 1985.

C.T. Conover,

Comptroller of the Currency.

[FR Doc. 85–8224 Filed 4–5–85; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-18-AD; Amdt. 39-5022]

Airworthiness Directives; Cessna Models 552 and 650 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On February 6, 1985, the FAA issued a telegraphic airworthiness directive (AD) that requires, prior to further flight, inspection of certain SAFT nickel cadmium batteries and the installation of battery cover insulators on certain Cessna 552 and 650 series airplanes. This action was prompted by reports of battery cell terminal screws being pushed through the molded rubber battery lid insulation when the holddown mount thumbscrews were overtorqued; this allowed the terminal to make contact with aircraft structure and short and battery to ground. If allowed to go undetected, this condition could discharge the battery and could result in an electrical fire on board the airplane. This document publishes the telegraphic AD in the **Federal Register**, making it effective to all persons.

DATES: Effective April 11, 1985. This AD was effective earlier to all recipients of Telegraphic AD T85-03-51 dated February 6, 1985.

ADDRESSES: The applicable service information may be obtained upon request to the Cessna Marketing Division, Cessna Aircraft Company, P.O. Box 7706, Wichita Kansas 67277, or may be examined either at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas, or at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. E.N. (Ed) Mosman, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: Two occurrences have recently been reported of the battery making contact with aircraft structure on Cessna 552 airplanes.

The affected Model 552 airplanes require the SAFT battery, which is installed, to provide the required engine cranking capacity. The affected Model 650 airplanes require a close battery height tolerance to ensure clearance of the baggage floor cover by the battery compartment.

In attempting to meet both these requirements, SAFT supplied a battery with reduced height. However, this shorter SAFT battery permitted the lid rubber insulators to be penetrated by the battery cell terminals if the battery holddown mount thumbscrews were overtorqued.

As a two-phase corrective action, SAFT America, Inc., issued Service Bulletin 0005, dated January 17, 1985, which:

a. Announced availability of battery insulators and adhesive.

b. Provided instructions for field fabrication and insulation instructions.

c. Specified the holddown mount torque limit of hand tight plus one turn for wingnuts or 20±5 inch pounds.

d. Recommended that operators mark cover and case with a "Mod A."

e. Recommended inspection and replacement of these insulators, as required, each 100 flight hours.

Cessna followed this action with the issue of Cessna Service Letter SL650-25-03, dated January 21, 1985.

The FAA then issued telegraphic AD T85-03-15 on February 6, 1985, which requires the actions listed above and requires continued insulator inspections every 100 flight hours until these batteries have been replaced with approved replacement batteries.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued February 6, 1985, to all known U.S. owners and operators of certain Cessna Model 552 and 650 series airplanes. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to Part 39.13 of the Federal Aviation Regulations to make it effective as to all persons.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Cessna: Applies to Cessna Model 552 series airplanes, serial numbers 552-0001, 552-0003 through 552-0006 and 552-0008; and Model 650 series airplanes, serial numbers 650-0001 through 650-0072; certificated in all categories. Compliance required as indicated unless previously accomplished.

To prevent short-to-ground of the nickel cadmium battery which could result in an electrical fire, accomplish the following:

A. Prior to further flight, inspect the aircraft battery to determine if a SAFT type 40976, P/N 18585, is installed:

1. If SAFT type 40976 battery P/N 18585, is not installed, no other action is necessary.

2. If SAFT type 40976 battery P/N 18585, is installed: for Model 650 airplanes, modify the battery in accordance with Cessna Service Letter SL650-24-03, dated January 21, 1985, and SAFT Service Bulletin 0005, dated January 17, 1985, referenced therein; for Model 552 airplanes, modify in accordance with SAFT Service Bulletin 0005, dated January 17, 1985.

a. Thereafter, reinspect the insulators installed on the SAFT type 40976 batteries every 100 flight hours.

b. These inspections may be terminated upon installation of an approved Marathon battery, Cessna P/N 9914058-2, or SAFT battery, Cessna P/N 99914058-5, on the Model 650 airplanes; or SAFT battery, Cessna P/N 9914058-5, on the Model 552 airplanes.

B. Alternate means of compliance with this AD which provide an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office, FAA Central Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Cessna Marketing Division, Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277, or may be examined either at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas, or at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington.

This amendment becomes effective April 11, 1985.

It was effective earlier to all recipients of Telegraphic AD T85-03-51, dated February 6, 1985.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449; Jan. 12, 1983); 14 CFR 11.89)

Issued in Seattle, Washington, on March 22, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-8288 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AAL-1]

Revision of Transition Area, Farewell, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice revises the transition area at Farewell, AK, to provide aircraft conducting flight under Instrument Flight Rules (IFR) with exclusive use of that airspace when the flight visibility is less than 3 miles, thereby enhancing the safety of such operations. The circumstances which created the need for this action were the revocation of the Farewell, AK, control zone and the development of new instrument approach procedures to the Farewell, AK, Airport from the Farewell Lake, AK, Nondirectional Radio Beacon (NDB).

EFFECTIVE DATE: 0901 G.m.t., August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist (AAL-536), Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

History

On January 30, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the transition area at Farewell, AK (50 FR 4229). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. 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 Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will establish the base of controlled airspace at 700 feet above the surface in a circular area 7.5 statute mile radius of a point 7.5 statute miles from the Farewell Lake, AK, RBN on the 254° T (230° M) bearing and 1,200 feet above the surface in a rectangular area 18.5 statute miles long by 14 statute miles wide, north of the Farewell Lake, AK, RBN on the 044° T (020° M) bearing. While this airspace designation would exclude aircraft from conducting flight under visual flight rules (VFR) when the visibility is less than 3 miles, it would enhance the safety of aircraft conducting flight under Instrument Flight Rules (IFR).

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.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

§ 71.181 Farewell, AK [Revised]

That airspace extending upward from 700 feet above the surface within a 7.5 mile radius of a point 7.5 miles from the Farewell Lake NDB on the 254° T (230° M) bearing and from 1,200 feet above the surface within 9.5 miles west and 4.5 miles east of the 044° T (020° M) bearing from the Farewell Lake NDB (lat. 62°32'37.18" N., long. 153°37'03.63" W.) extending from the NDB to 18.5 miles north.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, Jan. 12, 1983)); and 14 CFR 11.69)

Issued in Anchorage, Alaska, on March 28, 1985.

Franklin L. Cunningham,

Director, Alaskan Region.

[FR Doc. 85-8274 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-2]

Alteration of Transition Area, Holland, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Holland, Michigan, transition area to accommodate a new RNAV Runway 8 instrument approach procedure to Tulip City Airport. The intended effect of this action is to ensure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 G.m.t., June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new RNAV Runway 8 instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The additional airspace designated will be approximately a 1-mile expansion to the southwest of the existing transition area. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On January 29, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Holland, Michigan, transition area (49 FR 3921).

Interested parties were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

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 Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Holland, Michigan, transition area to accommodate a new RNAV Runway 8 instrument approach procedure to Tulip City Airport.

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.

List of Subjects in 14 CFR Part 71

Aviation safety, 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) is amended, as follows:

Holland, MI

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Park Township Airport (latitude 42°48'00" N., longitude 86°10'00" W.); within a 6-mile radius of Tulip City Airport (latitude 42°45'00" N., longitude 86°07'00" W.); within 3 miles each side of the 175° bearing from Park Township Airport, extending from the 6-mile radius area to 8 miles south of the airport; and within 3 miles northwest and 5 miles southeast of the 237° bearing from Park Township Airport, extending from the 6-mile radius area to 9.5 miles southwest of the airport; and within 3 miles each side of the 040° bearing from Park Township Airport, extending from the 6-mile radius area to 8.5 miles northeast of the airport; and within 2 miles each side of the Pullman, Michigan, VORTAC 359° radial, extending from the 6-mile radius area to 12 miles north of the VORTAC.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Des Plaines, Illinois, on March 22, 1985.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 85-8283 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-ACE-12]

Alteration of Transition Area, Kennett, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the 700-foot transition area at Kennett, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Kennett Memorial Airport, Kennett, Missouri, utilizing the Kennett Non-Directional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106. Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Kennett, Missouri, Memorial Airport is being established utilizing the Kennett NDB as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Kennett, Missouri, at and above 700 feet above the ground within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

Discussion of Comments

On pages 2825 and 2826 of the Federal Register dated January 22, 1985, the FAA published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Kennett, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the proposed rulemaking.

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.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

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) is amended, by altering the following transition area:

Kennett, Missouri

That airspace extending upward from 700 feet above the surface within a 7 mile radius of Kennett Memorial Airport (latitude 36°13'50" N., longitude 90°02'05" W.); and within 3 miles either side of the 360° bearing from Kennett NDB (latitude 36°13'44" N., longitude 90°02'10" W.), extending from the 7 mile radius to 8.5 miles north of the NDB.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S., 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69). This amendment becomes effective at 0901 G.M.T. June 6, 1985.

Issued in Kansas City, Missouri, on March 29, 1985

Murray E. Smith,

Director, Central Region.

[FR Doc. 85-8282 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-1]

Alteration of Transition Area, Madison, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Madison, South Dakota, transition area to accommodate a new VOR Runway 32 instrument approach procedure to Madison Municipal Airport. The intended effect of this action is to ensure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 G.m.t., June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new VOR Runway 32 instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The additional airspace designated will be approximately a 1.5-mile expansion to the southeast of the existing transition area. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On January 29, 1985, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Madison, South Dakota, transition area (49 FR 3920).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

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 Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Madison, South Dakota, transition area to accommodate a VOR Runway 32 instrument approach procedure for Madison, South Dakota, Municipal Airport.

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. If, 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.

List of Subjects in 14 CFR Part 71

Aviation safety, 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), is amended as follows:

Madison, SD

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Madison municipal area (latitude 44°01'00" N., longitude 97°05'00" W.); within 3 miles each side of the 346° bearing from the Madison Municipal Airport, extending from the 5-mile radius to 8½ miles north of the airport; within 2½ miles each side of the 329° Radial True from the FSD VORTAC, extending from the 5-mile radius to 6½ miles southeast of the airport.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a)]; [49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)]; and 14 CFR 11.65)

Issued in Des Plaines, Illinois, on March 22, 1985.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 85-8284 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWA-27]

Alteration of VOR Federal Airways—Badger, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters three Federal Airways in the vicinity of Badger, WI, to improve flight planning and traffic flow management. Due to numerous technical problems which preclude the commissioning of the Timmerman, WI, very high frequency omni-directional radio range tactical air navigational aid (VORTAC), airways and jet routes that were proposed to utilize the new Timmerman VORTAC have not been adopted.

EFFECTIVE DATE: June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On March 5, 1984, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the descriptions of several VOR Federal Airways and Jet Routes located in the vicinity of Badger, WI (49 FR 8005). Four airway and nine jet route descriptions were proposed to be based on the new Timmerman, WI, VORTAC. The Timmerman VORTAC would have been located east of Badger, on the Lawrence J. Airport, Milwaukee, WI. However, because of technical problems the Timmerman, WI, VORTAC was not commissioned. FAA is not certain the problems with Timmerman can be resolved at its current location. Therefore, the airways/jet routes that have been proposed for establishment based on the Timmerman VORTAC have not been adopted in this final rule. No comments objecting to the proposal were received. Except for the foregoing, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters three VOR Federal Airways in the vicinity of Badger, WI. V-177, V-262 and V-341.

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.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

V-177 [Amended]

By removing the words "Stevens Point, WI, including a west alternate via Dells, WI; Wausau, WI;" and substituting the words "Stevens Point, WI, Wausau, WI;"

V-262 [Revised]

From Peoria, IL, via Bradford, IL; to Joliet, IL, INT Joliet 067° and Du Page, IL, 129° radials.

V-341 [Revised]

From Cedar Rapids, IA, via Dubuque, IA; Madison, WI; to Oshkosh, WI.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on April 1, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-8276 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 50446-5046]

Amendments to the Commodity Control List

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

ACTION: Final rule.

SUMMARY: The Office of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This rule revises the CCL entry 1203A for electric vacuum furnaces; deletes electric furnaces in CCL 4203B, replacing such furnaces with induction furnaces; and revises entry CCL1312A for presses.

EFFECTIVE DATE: April 3, 1985.

FOR FURTHER INFORMATION CONTACT: Nick Maddage, Capital Goods Division, Office of Export Administration, Telephone (202) 377-3206.

SUPPLEMENTARY INFORMATION: The new COCOM agreement requires that certain changes to the Commodity Control List (CCL) be made. Accordingly, the Department of Commerce in consultation with the Department of Defense is amending the CCL to implement these changes. These items are controlled for national security reasons, and controls are being enacted thereon notwithstanding any foreign availability.

- Replaces units of weight expressed in tons with kilograms.
- Includes controls for specially designs software for electric vacuum furnaces, components and controls.
- Releases controls for electric furnaces for producing pyrolytic graphite.
- Adds controls for induction furnaces used to graphitize carbon.
- Releases controls for hot forming presses and hydraulic presses.
- Releases all hot isostatic presses with less than 5 inches inside diameter.
- Adds controls for isostatic presses with a controlled thermal environment regardless of pressure.

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and delay in effective date (5 U.S.C. 553) are inapplicable because this regulation involves a foreign affairs function of the United States.

2. This rule contains a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The collection of this information has been approved by the Office of Management and Budget under control number 0625-0001.

3. Because a notice of proposed rulemaking is not required to be published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Flexibility Analysis has been or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 399

Exports.

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

1. In Supplement No. 1 to section 399.1 (the Commodity Control List), Commodity Group 2 (Electrical and Power-Generating Equipment), ECCN 1203A is revised to read as follows:

1203A Electric vacuum furnaces, specially designed components and controls therefor, and "specially designed software" for the use of such furnaces, components or controls.

Controls for ECCN 1203A

Unit: Report in "$ value"

Validated License Required: Country Groups QSTVWYZ

GLV $ Value Limit: $2,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations

Processing Code: TE

Reason for Control. National security

Special Licenses Available: See Part 373

List of Equipment Controlled by ECCN 1203A:

(a) Consumable electrode vacuum arc furnaces with a capacity in excess of 20,000 kg (44,092 lb);

(b) Skull type vacuum arc furnaces; and

(c) "Vacuum induction furnaces" with a capacity in excess of 2,273 kg (5,000 lb) designed to operate at pressures lower than 0.05 mm of mercury, at temperatures higher than 1,375 K (1,100 °C, 2,012 °F), from which the molten metal may be poured into a mold within the same vacuum chamber without breaking the vacuum.

Note.—"Vacuum induction furnaces" include all portions of the furnace system within the vacuum chamber. (See also ECCNs 1080 and 1301.)

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q W Y of electric furnaces with a capacity up to 499 tons.

2. In supplement No. 1 to Section 399.1 (The Commodity Control List) Commodity Group 2 (Electrical and Power Generating Equipment) is amended by deleting the existing ECCN *4203B* and replacing it with *ECCN* 4203B to read as follows:

4203B Induction furnaces incorporating susceptors designed to operate at temperatures in excess of 2,273 K (2,000 °C, 3,632 °F) and having a working diameter greater than 100 mm (4.0 in), and specialized parts, components and controls for the equipment specified.

Controls for ECCN 4203B

Unit: Report in "$ Value"

Validated License Required: Country Groups QSTVWYZ

GLV $ Value Limit: $2,000 for Country Groups T & V except $0 for the Peoples Republic of China; $0 for all other destinations

Processing Code: TE

Reason for Control: National Security

Special Licenses Available: See Part 373

3. In Supplement No. 1 to section 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1312A is revised to read as follows:

1312A Isostatic presses; specially designed dies and molds (*except* those used in isostatic presses operating at ambient temperatures), components, accessories and controls therefor; and "specially designed software" therefor.

Controls for ECCN 1312A

Unit: Report machines in "number", parts and accessories in "$ value"

Validated License Required: Country Groups QSTVWYZ

GLV $ Value Limit: $2,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations

Processing Code: National security; paragraph (b) of the List below is also controlled for nuclear non-proliferation

Special Licenses Available: None for commodities in paragraph (b) of the List below. See Part 373 for special licenses that may be available for other commodities

List of Equipment controlled by ECCN 1312A Isostatic presses, as follows:

(a) Capable of achieving a maximum working pressure of 138 MPa (20,000 p.s.i.) or greater and possessing a chamber cavity with an inside diameter in excess of 406 mm (16 inches); or

(b) Having a controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 127 mm (5 inches) or more.

Note.—Isostatic presses are those capable of pressurizing a closed cavity through various media (gas, liquid, solid particles, etc.) to create equal pressure in all directions within the cavity upon a workpiece or material.

Advisory Note.—Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of isostatic presses controlled by sub-paragraphs (a) and (b) above, provided that the equipment will be used for non-strategic applications and not for any nuclear or aerospace applications *and* provided that:

(a) Isostatic presses having a controlled thermal environment within the closed cavity are limited as follows:

(1) Maximum working pressure not exceeding 207 MPA (30,000 p.s.i.); *and*

(2) Chamber cavity with an inside diameter of the working chamber) not exceeding 406 mm (16 inches), when the controlled thermal environmental that can be achieved and maintained does not exceed 1,500°C;

(b) Isostatic presses other than those covered by sub-paragraph (a) above are limited as follows:

(1) Maximum working pressure not exceeding 414 MPa (60,000 p.s.i.); *and*

(2) Chamber cavity with an inside diameter (i.e., the maximum inside diameter of the working chamber) not exceeding 508 mm (20 inches).

Note—The inside chamber dimension referenced in sub-paragraphs (a)(2) and (b)(2) above is the chamber in which both the working temperature and the working pressure are achieved. That dimension will be the smaller of either the inside diameter of the pressure chamber or the inside diameter of the insulated furnace chamber, depending on which of the two chambers is located inside the other. For isostatic presses having a controlled thermal environment, the insertion of fixturing leaves a diameter of less than 406 mm (16 inches) in the chamber for the piece to be pressed. For isostatic presses operating at ambient temperatures, the insertion of fixturing leaves a diameter of less than 508 mm (20 inches) in the chamber for the piece to be pressed.

Authority: Secs. 203, 206, Pub. L. 96-223, Title II, 91 Stat. 1628, 1628 (50 U.S.C. 1702, 1704); Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984).

Dated April 3, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85-8407 Filed 4-4-85; 10:53 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 178

[T.D. 85-53]

OMB Approval of Information Collections in Customs Regulations

Correction

In FR Doc. 85-7100 beginning on page 11849 in the issue of Tuesday, March 26, 1985, on page 11850, twenty second line down in the table, the first section number reading "113.32" should read "133.32".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 544

National Marksmanship Matches and Excellence-In-Competition (EIC) Matches

AGENCY: Department of the Army, DOD.

ACTION: Interim final rule.

SUMMARY: This regulation on the rules and regulations for National Marksmanship Matches and Excellence-in-Competition [EIC] matches has been added. It gives responsibilities for the National Matches, eligibility criteria and categories for the competitors, and the program for the National Trophy Matches. It also describes the awards for the National Matches. This regulation has been added to change the staff organization of the National Matches, show new eligibility requirements and programs for the National Trophy Matches, and introduce new awards.

EFFECTIVE DATE: April 8, 1985.

ADDRESS: Director of Civilian Marksmanship, Attention: Lieutenant Colonel William Creech, 20 Massachusetts Avenue, NW, Room 1205, Pulaski Building, Washington, D.C. 20314-0100.

FOR FURTHER INFORMATION CONTACT: LTC William Creech at (202) 272-0810 at the above address.

SUPPLEMENTARY INFORMATION: This regulation promotes the maintenance of National defense through the promotion of nationally held rifle and pistol matches. The only comment the Proposed Rule related to the clarity of the Regulatory Flexibility Act statement and this has been amended.

Executive Order 12291

The Secretary of the Army has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is administrative and has no economic effect on the public.

Regulatory Flexibility Act

The Secretary of the Army has determined that this rule does not have a significant economic effect on a substantial number of small entities and does not require a flexibility analysis under the Regulatory Flexibility Act (J.U.S.C. 601 et seq.). It is an administrative and procedural rule.

Paperwork Reduction Act

This rule does not contain information collection requirements which would require approach by the Office of Management and Budget under 44 U.S.C. 350 et seq.

List of Subjects in 32 CFR Part 544

Armed forces, National defense, Awards, Nonprofit organizations.

Accordingly, a new Part 544 is added to read as follows:

PART 544—CIVILIAN MARKSMANSHIP

Subpart A—General

Sec.
544.1 Purpose.
544.2 References.
544.3 Explanation of abbreviations and terms.
544.4 The intent of the National Matches.
544.5 Composition of the National Matches.
544.6 National Match Staff.
544.7 Armed Forces involvement.
544.8 Role of the NRA.
544.9 Places and dates.
544.10 Fees.
544.11 Subsistence and travel allowances.

Subpart B—Responsibilities

544.12 Secretary of the Army (SA).
544.13 President, National Board for the Promotion of Rifle Practice (NBPRP).
544.14 Director of Civilian Marksmanship (DCM).
544.15 Executive Officer, National Matches (XO, NM).
544.16 Executive Officer, Civilian Marksmanship Program (Support) (XO, CMP (SPT)).
544.17 National Match Support Coordinator (NMSC).
544.18 Match Directors.
544.19 Range Director.
544.20 Statistical Director.
544.21 Director, Small Arms Firing Schools (SAFS).
544.22 The Commanding General, US Army Materiel Command (CG, AMC).
544.23 Chief of Public Affairs (CPA).
544.24 Chief, National Matches Support Detachment (NMSD).
544.25 Ordnance Safety Officer (OSO).
544.26 Commanding General, US Army Forces Command (CG, FORSCOM).
544.27 Commanding General, US Army Training and Doctrine Command (CG, TRADOC).
544.28 Commanding General, US Army Communications-Electronics Command (CG, CECOM).
544.29 Adjutant General, Ohio National Guard.

Subpart C—Competitor Eligibility, Requirements, Categories, and Teams

544.30 Eligibility for the matches.
544.31 Requirements for competitors in individual matches.
544.32 Requirements for military competitors.
544.33 Requirements for certain civilian competitors.
544.34 Competitor categories for National Trophy Matches.
544.35 Team member eligibility.
544.36 Authorized teams in National Trophy Team Matches.
544.37 Requirements for new shooters in National Trophy Team Matches.

Subpart D—General Rules for National Trophy Matches

General Match Rules

544.38 National Trophy and EIC match rules.
544.39 Entries.
544.40 Directives competitors must follow.
544.41 Coaching.
544.42 Elimination of teams or individuals.
544.43 Penalties.
544.44 Competitors verifying their scores.
544.45 Referees, scoring, and challenge procedures.
544.46 Protests.
544.47 Bulletins.

Team Match Rules

544.48 Team composition.
544.49 Team squadding.
544.50 Station and duties of team coaches.
544.51 Station of team captain.

Types of Firearms, Ammunition, and Other Equipment

544.52 Description of arms to be used.
544.53 Rifles and pistols available.
544.54 Checking firearm characteristics.
544.55 Use of the same firearm by more than one competitor.
544.56 Disabled firearm.
544.57 Ammunition.
544.58 Targets.
544.59 Field glasses and binoculars.

Firing

544.60 Safety precautions.
544.61 Organization of firing areas.
544.62 Station of competitors.
544.63 Target assignments and operations in rifle matches.
544.64 Slow target operation in rifle matches.
544.65 Practice firing.
544.66 Firing procedure and punctuality.
544.67 Firing positions.
544.68 Loading and reloading the rifle in rapid fire.
544.69 Unauthorized firing.
544.70 Time limits and extensions.
544.71 Sighting shots.
544.72 Competitors serving as range officials.

Subpart E—Program for the National Trophy Matches

544.73 The President's Pistol Match.
544.74 National Trophy Individual Pistol Match.
544.75 National Trophy Pistol Team Match.
544.76 The President's Rifle Match.
544.77 National Individual Trophy Rifle Match.
544.78 National Trophy Rifle Team Match.
544.79 National Trophy Infantry Team Match.

Subpart F—Awards

544.80 General.
544.81 Participation requirements for certain National Trophy Match awards.
544.82 Awards for the President's Pistol Match.
544.83 Awards for the National Trophy Individual Pistol Match.
544.84 Awards for the National Trophy Pistol Team Match.
544.85 Additional National Trophy Pistol Match awards.
544.86 Awards for the President's Rifle Match.
544.87 Awards for the National Trophy Individual Rifle Match.
544.88 Awards for the National Trophy Rifle Team Match.
544.89 Additional National Trophy Rifle Match awards.
544.90 Awards for the National Trophy Infantry Team Match.
544.91 Special medals in National Trophy Individual Pistol and Rifle Matches.
544.92 Place medals in National Trophy team matches.
544.93 Place medals in individual EIC matches.
544.94 Distinguished designation and badge awards.
544.95 EIC badges.
544.96 Marksmanship qualification awards.
544.97 Scores allowed for club qualification firing.
Appendix A—Related Publications
Appendix B—Trophies of the National Board for the Promotion of Rifle Practice
Appendix C—Glossary
Appendix D—Tables 5-1 through 5-6

Authority: 10 U.S.C. 4307 through 4313.

Subpart A—General

§ 544.1 Purpose.

This regulation prescribes the policies, procedures, and responsibilities for the National Matches and other excellence-in-competition (EIC) matches.

§ 544.2 References.

Related publications are listed in Appendix A of this part.

§ 544.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this regulation are explained in Appendix D—Glossary.

§ 544.4 The intent of the National Matches.

(a) The national Matches and included competitions are part of the Civilian Marksmanship Program (CMP). Sections 4307 through 4313, title 10, United States Code (U.S.C.), establish the CMP to be conducted under rules approved by the Secretary of the Army (SA).

(b) As part of the CMP, these matches are intended to promote the national defense. The CMP provides and encourages voluntary marksmanship traning for persons who are not reached by training programs of the Armed Forces and who might be called into service in an emergency. The National Matches enhance this training by offering open competition at the highest national level. Further, the statutes in paragraph (a) of this section provide that marksmanship competitions sponsored by the National Rifle Association (NRA) may be held in connection with the National Matches.

(c) The Services have established individual rifle and pistol matches at major command levels in which civilians may participate. The Services will conduct these matches according to the parts of this regulation that apply.

(d) Upon approval by the Director of Civilian Marksmanship (DCM), recognized civilian rifle and pistol clubs and State rifle and pistol associations may conduct similar matches in conjunction with NRA Regional and State Championships. The intention of all of these matches is to promote civilian marksmanship training.

§ 544.5 Composition of the National Matches.

The National Matches are composed of paragraphs (a) through (e) of this section.

(a) *Small Arms Firing Schools (SAFS).* The SAFS give instruction in the service rifle and pistol, particularly the current service rifle with which civilians may not be familiar. The SAFS also introduce the latest approved training concepts for these arms. The Army will conduct the schools and provide the Director, SAFS. Other Services, including Reserve Components, will assist at the schools. The Director, SAFS, may request Armed Forces shooting teams participating in the National Matches to provide qualified persons to serve as assistant instructors and coaches. The SA will prescribe the curriculum based on the recommendation of the National Board for the Promotion of Rifle Practice (NBPRP). The Director, SAFS, will give a certificate of satisfactory completion to those who meet the qualifications set by the NBPRP.

(b) *National Trophy Match.* The National Trophy Matches are listed as follows:

(1) The President's Pistol Match.

(2) National Trophy Individual Pistol Match.

(3) National Trophy Pistol Team Match.

(4) The President's Rifle Match.

(5) National Trophy Individual Rifle Match.

(6) National Trophy Rifle Team Match.

(7) National Trophy Infantry Team Match.

(c) *NRA National Rifle and Pistol Championships.* The NRA National Rifle and Pistol Championships are conducted according to the NRA's rules and regulations. These championships are listed as follows:

(1) National Pistol Championships.

(2) National Smallbore Rifle Position Championships.

(3) National Smallbore Rifle Prone Championships.

(4) National Highpower Rifle Championships.

(d) *Additional events.* The National Matches also include events sponsored by the SA or sponsored by the NRA and arranged in coordination with the SA, such as the NRA Junior Smallbore Camp and Whistler Boy Smallbore and Highpower Matches.

(e) *Ceremonies.* As approved by the DXM, (who is also the National Matches Installation Commander (NMIC)), the appropriate opening, closing, award, and other ceremonies are conducted as official parts of the National Matches.

§ 544.6 National Match Staff.

(a) The organization of the National Match Staff is shown in figure 1–1.

(b) The specific duties of the National Match Staff are set by the DCM/NMIC and the NRA National Match Coordinator.

(c) Key members of the National Match Staff are listed as follows. Their responsibilities are explained in the sections cited after their titles.

(1) DCM/NMIC (§ 544.3).

(2) Executive Officer, National Matches (XO,NM)/Deputy Installation Commander (Operations/Services) (DNMIC (Ops/Svcs)) (§ 544.14 and 544.15).

(3) Executive Officer, Civilian Marksmanship Program (Support) (XO,CMP (SPT)) (§ 544.15).

(4) NRA National Matches Coordinator (§ 544.81).

(5) Match Directors (§ 544.17).

(6) Deputy Match Directors (§ 544.8).

(7) Range Director (§ 544.18).

(8) Statistical Director (§ 544.19).

(9) Director, SAFS (§ 544.20).

(10) National Matches Support Coordinator (§ 544.6).

(11) Chief, National Matches Support Detachment (NMSD) (§ 544.23).

(12) Ohio Army National Guard Facilities Manager (§ 544.23).

(13) Billeting Officer. (§ 544.28)

(14) US Army Reserve Command and Liaison Group Commander. (§ 544.26)

(15) Active Army Food Service Advisor. (§ 544.26)

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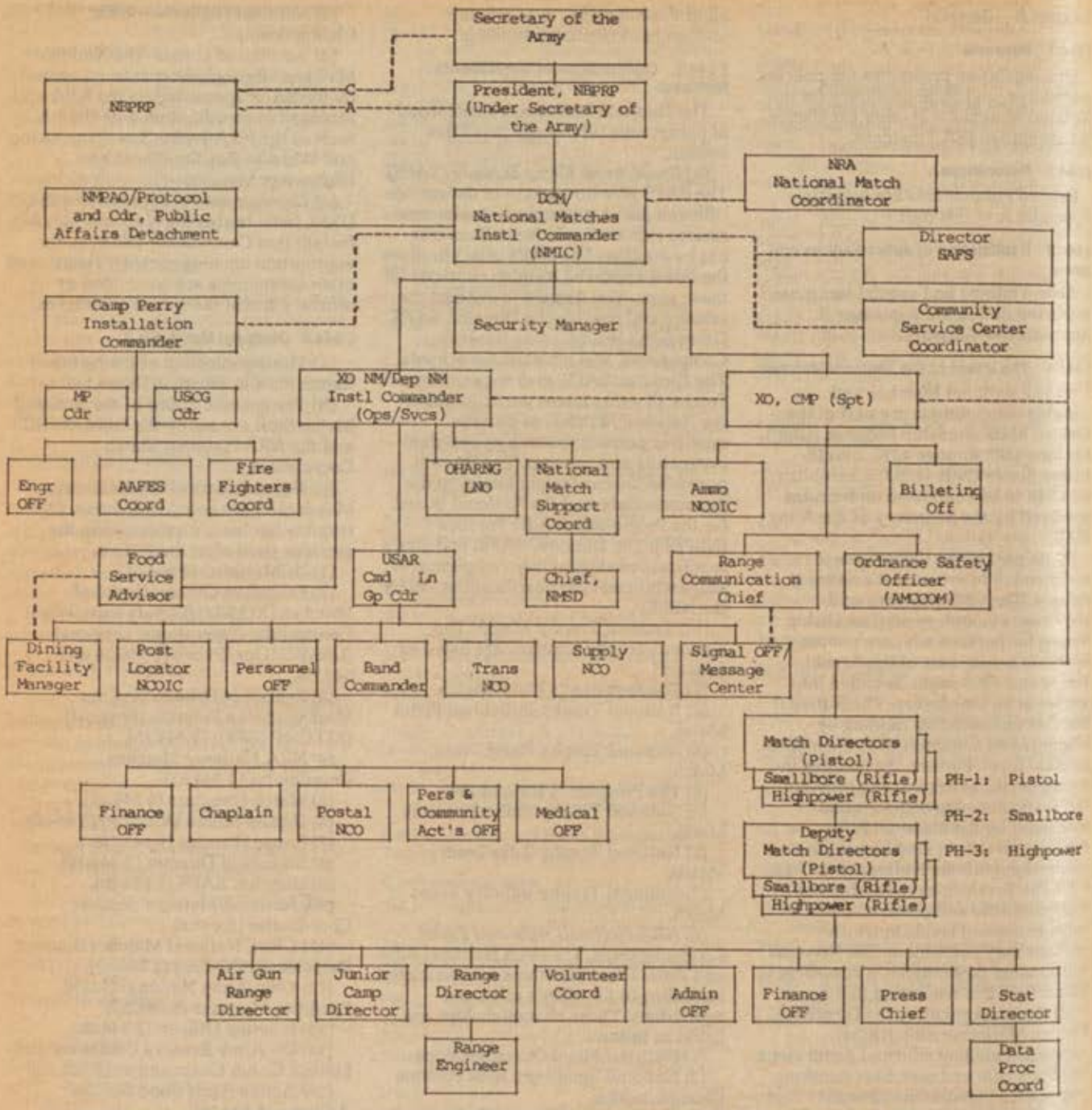

Figure 1-1. National Matches Organization Chart

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§ 544.7 Armed Forces involvement.

The US military services will support the National Matches as follows:

(a) The Army will conduct the SAFS.

(b) As approved by the SA and subject to the availability of resources, the Army will also supply the personnel, equipment, and supplies needed to conduct the National Matches.

(c) Subject to the availability of resources, all Services will furnish personnel as requsted by the DCM and approved by their respective departments. The number of personnel furnished should be proportional to the number of competitors that the particular Service furnished in the most recent National Matches.

§ 544.8 Role of the NRA.

(a) The NRA sponsors and regulates the conduct of the NRA National Rifle and Pistol Championships. The NRA advises the NBPRP on NRA participation in the National Matches. It also coordinates with the DCM and the XO,NM, on National Match matters.

(b) Unless the SA determines otherwise, the NRA will be invited to assist in the conduct of the National Matches. The NRA assists the DCM/NMIC in the conduct of the schools related to the matches and provides, administers, and funds the NRA Match Coordinator, Match Director, Deputy Match Director, Range Director, Range Engineer, and Statistical Director and staff. (Their responsibilities are outlined in Subpart B.) The NRA also provides other personnel needed to conduct the shooting events and NRA-sponsored schools.

(c) The NRA National Match Coordinator is the principal representative of the NRA at the National Matches and conducts the NRA-sponsored events of the matches. When the NRA is requested to conduct the shooting events related to the National Matches, the NRA National Match Coordinator will also—

(1) Conduct the National Trophy Matches.

(2) Coordinate match operations with the DCM/NMIC.

(d) The NRA Match Directors will follow § 544.18.

(e) The NRA Deputy Match Directors will assist their NRA Match Director in conducting specific shooting events, groups of events, or championships.

§ 544.9 Places and dates.

The National Matches will be held each year at Camp Perry, Ohio, or at other places. The DCM will recommend the places and dates for the matches, and the SA will approve and publish them in advance. The National Matches Program, approved by the DCM and NRA, gives additional details on the matches.

§ 544.10 Fees.

When approved by the DCM, nominal administrative fees may be charged for the National Trophy Matches, the SAFS, and EIC matches approved by the DCM. The NRA prescribes fees for its NRA National Championships and its other events.

§ 544.11 Subsistence and travel allowances.

Civilian competitors at the National Matches may be reimbursed for subsistence and travel expenses at rates set forth in Invitational Travel Orders. The payment of subsistence and travel allowances for civilian competitors is authorized by section 4313, title 10, United States Code (USC), and Joint Travel Regulations (JTR), Volume 2, para C–6002–6. General qualifications and criteria for reimbursement are as follows:

(a) Civilian competitors must be members of DCM-enrolled clubs or State Associations. Competitors must have Invitational Travel Orders issued by the Office of the Secretary of the Army.

(b) The rate of payment for travel (mileage) will be announced in the Invitational Travel Orders. The rate of payment for the mileage allowance will be based on travel from the place of residence, as stated in the orders, to the National Matches and return regardless of the actual location of the competitor when travel commences. The mileage will be determined from the Official Table of Distance (AR 55–60).

(c) The authorized subsistence and mileage allowance rates payable to civilian competitors may not exceed the amount paid to military members and Federal Government employees under the JTR.

(d) Subsistence is not payable to competitors while they are traveling to and from the National Matches.

(e) Subsistence will be prorated, meal by meal, on the days of arrival and departure. Subsistence for full days is authorized when a competitor is present for an event during an entire day, from 0001 hours through 2400 hours (midnight to midnight). The rate of reimbursement for each meal will be published in the Invitational Travel Orders for each competitor and will be used for proration of entitlement to the authorized subsistence allowance.

(f) Constructive payment of allowances for the return trip may be made before departure from the National Matches. Payment will be made only for return to place of residence, without regard to the actual destination of the competitor.

(g) Competitors may travel by any method desired; however, reimbursement will be based on the mileage rate for travel by privately owned vehicle.

(h) If a competitor provides a substantiating document (such as an airline ticket) and claims reimbursement for travel by air or other mode, reimbursement will be made for the mode of travel claimed but will not exceed the amount which would have been payable for travel by privately owned vehicle.

(i) Each competitor is entitled to reimbursement for mileage from the residence to the National Matches and return, regardless of the ownership of the vehicles used or the number of occupants.

(j) All substantiating documents (receipts) accompanying travel claims must be originals.

(k) Firearms for marksmanship or rifle practice are authorized to be carried incident to travel performed by DCM-sponsored competitors.

(l) Payment of entry fees and other administrative fees will be authorized only to the extent they are indicated in Invitational Travel Orders.

(m) Collection for meals in Government-sponsored or Government-affiliated messes will be made at the time of consumption of each meal.

(n) Civilian competitors or support personnel, traveling under Invitational Travel Orders published by Office of the Secretary of the Army, are not required to pay surcharges in Government-sponsored or Government-affiliated messes.

Subpart B—Responsibilities

§ 544.12 Secretary of the Army (SA).

The SA shall conduct the National Matches each year. The SA may delegate this authority to the President, NBPRP.

§ 544.13 President, National Board for the Promotion of Rifle Practice (NBPRP).

The President, NBPRP, will—

(a) Act for the SA in the conduct of the National Matches.

(b) Advise the SA on the conduct of the National Matches.

(c) Receive advice of the NBPRP concerning the conduct of the National Matches.

(d) Provide guidance to the DCM governing the conduct of National Matches and approve the annual National Matches plan and expenditures.

§ 544.14 Director of Civilian Marksmanship (DCM).

The DCM, a statutory official, will—

(a) Direct and implement the National Matches as approved by the President, NBPRP, for the SA.

(b) Serve as the NMIC according to AR 600–20.

(c) When the National Match Staff (§ 544.6) is assembled for duty at the site of the National Matches, the NMIC will assign duties to the National Match Staff and be responsible to the President, NBPRP, for all National Match matters. However, when the NRA is requested to conduct the National Matches, the NMIC will not conduct the shooting events. Further, the NMIC will supervise personnel involved in conducting base operations associated with the National Matches. This supervision does not include courts martial jurisdiction.

§ 544.15 Executive Officer, National Matches (XO, NM).

The XO, NM, will—

(a) Perform the year-round planning and operations needed to conduct the National Matches. This responsibility includes recommending support requirements.

(b) Serve as the Deputy National Matches Installation Commander (Operations and Services) (DNMIC (Ops/Svcs)).

§ 544.16 Executive Officer, Civilian Marksmanship Program (Support) (XO, CMP (SPT))

The XO, CMP (SPT) will—

(a) Provide technical assistance and operational advice to all DCM-affiliated clubs and State associations that participate in the National Matches.

(b) Provide communications, supply and billeting (logistics), ammunition, and the ordnance safety officer (OSO) support to the NRA National Match Coordinator as required and directed.

(c) Insure the NBPRP trophies, medals, brassards, and prizes are available.

(d) Arrange for NBPRP awards ceremonies and receptions. Coordinate combined ceremonies.

(e) Supervise the in and out processing of DCM-supported State association and club teams.

§ 544.17 National Match Support Coordinator (NMSC).

The NMSC will be designated by the Commanding General, US Army Forces Command (CG, FORSCOM). The NMSC will—

(a) Coordinate the activities of the National Match Support Detachment during the National Matches.

(b) Assist the XO, NM/DNMIC (Ops/Svce) with year-round planning and coordination for the National Matches.

(c) Attend meetings, conferences, and briefings concerning logistics support for the National Matches.

§ 544.18 Match Directors.

The Match Directors for Pistol, Smallbore rifle, and Highpower rifle will conduct specific shooting events, groups of events, or championships. When the Army conducts the matches, the Match Directors are responsible to the DCM/NMIC. When the NRA conducts the shooting events of the National Matches, the Match Directors are responsible to the NRA National Match Coordinator (§ 544.8(c)).

§ 544.19 Range Director.

The Range Director is responsible to the respective Deputy Match Director. The Range Director will prepare, maintain, and operate the firing ranges. Operating the ranges includes controlling and directing all personnel, competitors, and spectators on the ranges. Normally, the Range Director is assisted by and is responsible for the functions of the following officials and others as designated:

(a) Range Safety Officer.

(b) Range Communications Officer (normally provided from the military).

(c) Range Engineer Officer.

(d) Chief Range Officer (usually one for each range).

(e) Chief Pit Officer (usually one each operating rifle range).

§ 544.20 Statistical Director.

The Statistical Director is responsible to the Match Director and will perform the statistical operations. These operations include—

(a) Insuring that entries are correct.

(b) Checking the eligibility of competitors and teams. The Statistical Director will work with the Range Director in assigning these people to relays and targets.

(c) Verifying scores.

(d) Listing participants in order of excellence.

(e) Publishing match results in official bulletins.

§ 544.21 Director, Small Arms Firing Schools (SAFS).

The Director, SAFS, will organize and conduct the SAFS.

§ 544.22 The Commanding General, US Army Material Command (CG, AMC).

CG, AMC, will act as the procurement agent for small arms and related equipment used to support the National Matches. Also, CG, AMC, will budget for and provide—

(a) The personnel, supplies, and equipment needed for the onsite repair of service-type small arms. Such repair will be provided only if required and authorized.

(b) Technical assistance and advice regarding National Match arms, ammunition, target materiel, and related equipment.

(c) Limited logistical support as required.

(d) The OSO (§ 544.25).

§ 544.23 Chief of Public Affairs (CPA).

(a) The CPA will—

(1) Arrange for appropriate public affairs support to the National Matches and other Excellence-in-Competition (EIC) matches. Such support will be provided within available resources.

(2) Designate a qualified individual to serve as the National Matches Public Affairs Officer (NMPAO) for a period not to exceed three weeks before and one week after the competitions.

(b) The NMPAO will work with the public information activities conducted by the Services and directed by the NMIC.

§ 544.24 Chief, National Matches Support Detachment (NMSD).

The Chief, NMSD, will, through the NMSC, act as the logistics coordinator for the National Matches, supervise all National Match supply activities, and coordinate service activities. The Chief, NMSD, will—

(a) Procure, control, and issue Army-furnished supplies and equipment.

(b) Provide repair and utilities activities.

(c) Issue and/or sell ammunition or arms that are provided by the DXM and that are required and authorized.

(d) Coordinate logistical matters between National Match activities and match support organizations.

§ 544.25 Ordnance Safety Officer (OSO).

The OSO will—

(a) Investigate the circumstances leading to any weapon or ammunition malfunction that results in an accident or creates a hazardous condition at the match site.

(b) Determine the probable cause of a malfunction and insure the problem has been resolved before the weapon or ammunition is returned to the firing line.

(c) Report to the Match Director, in writing, about an incident or malfunction that called for his or her services.

§544.26 Commanding General, US Army Forces Command (CG, FORSCOM).

The CG, FORSCOM, will—

(a) Appoint the NMSC.

(b) Budget for and provide personnel and other support and services as required by the National Matches Support and Operations Plan.

§ 544.27 Commanding General, US Army Training and Doctrine Command (CG, TRADOC).

The CG, TRADOC, will budget for and provide services and equipment in the areas of communications, facilities engineering, food service, medicine, maintenance, supply, transportation, procurement and contracting, and other areas as may be required by the National Matches Support and Operations Plan. The CG, TRADOC, will also provide comptroller assistance as requried.

§ 544.28 Commanding General, US Army Communications-Electronics Command (CG, CECOM).

The CG, CECOM, will budget for and provide selected items of signal equipment as set forth in the National Matches Support and Operations Plan.

§ 544.29 Adjutant General, Ohio National Guard.

(a) Per existing leases and contracts, the Adjutant General, Ohio National Guard, will provide personnel, services, facilities, and equipment to the maximum extent possible to support and conduct the National Matches.

(b) Additional support that may be requested that is not provided for elsewhere, may be provided for when concurred in by the Adjutant General, Ohio National Guard, and approved by the National Guard Bureau as appropriate.

Subpart C—Competitor Eligibility, Requirements, Categories, and Teams

§ 544.30 Eligibility for the matches.

(a) The National Trophy matches are open to all US citizens 16 years of age or older, any other persons subject to induction in the US Armed Forces, and all members of the US Armed Forces, both Regular and Reserve Components. The minimum age may be waived. (Requests for waivers, with justification, must be submitted to the DCM before the opening date of the National Matches.)

(b) Other EIC matches noted in § 544.31 are open as described in paragraph (a) of this section. However, there are restrictions for these matches. These restrictions are described in §§ 544.31(c) and (d) and 544.94. Further restrictions for Service personnel are described in the regulations of their own Service. The match sponsor may waive the minimum age requirement. Request for waiver will be submitted to the sponsor as explained in the match program. These requests must include a justification. For example, an acceptable justification is that the person is classified by the NRA as a Sharpshooter or higher or has completed an EIC match with the arm concerned.

(c) Competitors designated Distinguished with the arm concerned may enter the National Trophy Matches and other EIC matches. Non-Distinguished competitors cannot enter any EIC match on a noncredit basis (such as entering for practice).

(d) Non-Distinguished military competitors may not enter EIC matches at NRA Regional or State championship matches if these competitors have earned, with the arm concerned, the maximum credit points their Service allows for such matches.

(e) The SAFS are open to all US citizens, any other persons subject to induction in the US Armed Forces, and all members of the US Armed Forces, both Regular and Reserve Components. To attend the SAFS, a person must not necessarily compete in the National Matches. For pistol instruction, a person must be 16 years old or older; for rifle instruction, 12 years old or older.

§ 544.31 Requirements for competitors in individual matches.

(a) All competitors must state on their entry forms whether their status is Distinguished or non-Distinguished.

(b) For the National Trophy Matches, non-Distinguished military competitors must advise the DCM when, per their Service's regulations, they cannot be credited with points earned in National Trophy Matches. Competitors must advise the DCM before the matches and in writing.

§ 544.32 Requirements for military competitors.

Military competitors (Regular and Reserve Components) who compete in the National Matches and whose transportation or other expenses connected with the matches are paid, wholly or in part, from appropriated or non-appropriated funds (NAF) must meet special requirements. (Examples of NAF are funds for exchanges, recreation, and morale.) These competitors will—

(a) Participate in the appropriate SAFS.

(b) Enter and complete the appropriate National Trophy Individual Team Match and President's Match if eligible under this regulation, unless eliminated from the match.

(c) Enter and complete the appropriate National Trophy Matches if eligible under this regulation and selected by the team captain, unless eliminated from the match.

(d) Fire a service rifle (authorized by § 554.52) at ranges of 200 through 600 yards in both the NRA and the National Trophy Rifle Matches, unless exempted in the current match program. These military competitors may also use other rifles at greater ranges.

§ 544.33 Requirements for certain civilian competitors.

Civilian competitors in the National Trophy Matches whose transportation or other expenses connected with these matches are paid, wholly or in part, by the DCM must meet special requirements. These competitors will—

(a) Attend the appropriate SAFS.

(b) Enter and complete the appropriate National Trophy Individual Match and President's Match, unless eliminated according to § 544.42.

(c) Enter and complete the appropriate National Trophy Team Matches if eliminated according to § 544.42.

§ 544.34 Competitor categories for National Trophy Matches.

Competitors may register and participate in only one of the following categories:

(a) *Regular Service.* (1) This category consists of—

(i) Regular Service personnel on active duty.

(ii) National Guard and Reserve personnel on extended active duty with active forces of 90 days or more with a Regular Service status under Title 10 USC.

(2) This category does not include enrolled undergraduates of the Service academies.

(b) *Reserve.* This category consist of members of any Reserve branch of the US Armed Forces who are not on extended active duty as in § 554.34(a) of this section above. It includes Fleet Reserve but excludes Fleet Marine Corps Reserve. This category also excludes Army or Air National Guard and ROTC. If also qualified under § 544.84 (e) and (f)(3), Reserve members may instead register and participate in one of those categories.

(c) *National Guard.* This category consists of members of the Army or Air National Guard who are not on extended active duty as in paragraph (a)(i)(ii) of this section. If also qualified under paragraph (e) or (f)(3) of this section, National Guard members may instead register and participate in one of those categories.

(d) *Service Academy and Reserve Officers Training Center (ROTC).* (1)

This category consists of enrolled undergraduate members of—

(i) The Service academies of the Armed Forces,

(ii) Any high school or college Army, Navy, or Air Force ROTC unit.

(2) If also qualified under paragraph (f)(3) of this section, Service Academy and ROTC members may instead register and participate in that category.

(e) *Police.* This category is defined in NRA Rule 2.4. If also qualified in the Reserve, National Guard, or Civilian categories, police may instead register and participate in one of those categories.

(f) *Civilian.* This category consists of competitors listed in paragraphs (f)(1) through (f)(3) of this section. Reserve or National Guard category personnel who elect to compete as civilians under paragraph (f)(3) of this section may not revert to a Reserve or National Guard category later, unless the proper authority orders them to active duty for a purpose other than marksmanship competition. The penalty for noncompliance will be determined by the DCM.

(1) Individuals who are not in the Regular Service, Reserve, National Guard, Service Academy and ROTC, or Police categories.

(2) Retired service (Regular, Reserve, or National Guard) and Fleet Marine Corps Reserve personnel. However, if qualified in the Police category, they may instead register and participate as police.

(3) Members of the Reserve, National Guard, Service Academy and ROTC, or Police categories who, during the current calendar year,

(i) Have not competed with the arm concerned in any of the Reserve, National Guard, Service Academy and ROTC, or Police categories.

(ii) Received support for any competition in the form of arms, ammunition, or travel expenses, wholly or in part, from organizations in the Reserve, National Guard, and Service Academy and ROTC categories. Do not include as support the arms or ammunition provided for a specific competition (such as National Trophy or other EIC matches) when such items are available to all competitors within the calendar year.

(g) *Junior.* This category consists of civilians who will not reach 20 years old by the end of the calendar year. Juniors may compete on Civilian teams if they are eligible. Individuals who have National Guard, Reserve, or Regular Service status may not compete as juniors.

§ 544.35 Team member eligibility.

For teams to be eligible to compete, the following requirements must be met:

(a) No person may be a team captain, firing member, or alternate member of a team unless he or she is qualified in the category the team represents. (Categories are listed in § 544.34) This rule does not apply to police on State Civilian teams as authorized in paragraph (f)(1) of this section. Nor does it apply to qualified juniors on Civilian teams.

(b) Individuals must be bona fide members of the organization and category represented for at least 30 days before the opening date of the matches.

(c) Members of State Civilian, State Junior, State fraternal-type Police organization, or club teams must be bona fide residents of the State that the team represents or in which the club is located. Further, they must have lived in that State for at least 30 days before the opening date of the matches.

§ 544.36 Authorized teams in National Trophy Team Matches.

The categories of teams that may enter the National Trophy Team Matches and the number that may enter in each category are listed below.

(a) *Regular Service.* Two teams may represent each Service (the Army, Navy, Marine Corps, Air Force, and Coast Guard).

(b) *Reserve.* Two teams may represent the Reserve branch of each Service (the Army, Navy, Air Force, Marine Corps, and Coast Guard).

(c) *National Guard.* Two teams may represent the National Guard at large. Such teams may be composed of both Army National Guard and Air National Guard personnel.

(d) *Service Academy and ROTC.* One team from each Service academy may participate in the match. One team from each Army ROTC region, Naval Base Command, and Air Force ROTC Liaison Area within the continental United States (CONUS) may participate. ROTC members from units outside CONUS will compete on ROTC teams as authorized by the DCM.

(e) *Police.* One or more teams may represent each bona fide organized Federal, State, county, or municipal agency having law enforcement police powers. Also, one or more teams may represent a State, Commonwealth, Territory, or District of Columbia police organization of a fraternal nature. Fraternal organizations may enter only if they are organized according to AR 920–20 and affiliated with the DCM, or they are organized as a club and in good standing under the rules of the NRA. However, the entry of more than one team per fraternal organization will be subject to the availability of range facilities.

(f) *Civilian and Junior.* (1) One or more State Civilian Teams and one or more State Junior teams may represent the DXM-affiliated State association of each State, Commonwealth, Territory, and the District of Columbia. However, the entry of more than one team per organization will be subject to the availability of range facilities. Also, only one State Civilian team and State Junior team may be supported by the DCM through payment of travel and subsistence expenses on a cost sharing basis. Each State Civilian team in the National Trophy Pistol Team Match may include two police officers; however, the officers must not be members of a police organization that enters a team in the same match.

(2) One or more Civilian teams and one or more Junior teams may represent a club. The club must be organized according to AR 920–20 and in good standing on the rolls of the DCM, or it must be organized and in good standing under the rules of the NRA. The entry of more than one team per club will be subject to the availability of range facilities.

§ 544.37 Requirements for new shooters in National Trophy Team Matches.

(a) *Regular Service, Reserve, and National Guard Teams.* Pistol teams will have at least one firing member who has never fired before as a member of any team that has competed in the particular event. Rifle teams will have at least two such firing members.

(b) *Civilian and Police teams.* These teams will have at least one firing member who has never fired before as a member of any team that has competed in the particular event.

(c) *Service Academy, ROTC, and Junior teams.* There are no requirements for new shooters on these teams. Having fired as a member of a Service Academy ROTC or Junior team or as a junior member of a Civilian team is not considered previous participation. It will not disqualify a competitor from being a member of teams in paragraphs (a) and (b) of this section.

Subpart D—General Rules for National Trophy Matches

General Match Rules

§ 544.38 National Trophy and EIC match rules.

(a) NRA rules will apply unless changed by this regulation or as stated in paragraph (b) of this section.

(b) The XO, NM, or the corresponding official in another EIC match, may alter, the NRA rules for a particular match only if such action is needed to complete the match successfully. If any alterations are made, the XO, NM, or the corresponding official must immediately report the details in writing to the President, NBPRP (ATTN: DCM).

§ 544.39 Entries.

(a) Individual entries will be made in advance as prescribed in the match program. Post entries will be accepted if the established post entry fee is paid, range space is available, and the acceptance of the post entry will not interfere with match operations. The following individual entry forms may be obtained by request to the Statistical Director or the DCM. Forms that require personal information must be accompanied by a Privacy Act statement (AR 340-21, para 4-3 and 5 U.S.C. 552a(e)(3)).

(1) DA Form 1342 (Entry and Score Card for Individual Pistol Match) or a substitute form approved by the DCM.

(2) DA Form 1344 (Entry and Score Card for Individual Rifle Match) or a substitute form approved by the DCM.

(b) Team match entries will be made by team captains using official forms provided by the Statistical Director. Team captains will—

(1) Enter the following data on the team entry form:

(i) The full official name and address of the organization their team represents. Civilian, Junior, and Police teams will be recognized as representing a particular State, Commonwealth Territory, the District of Columbia, or DCM or NRA-affiliated organization only if attested to on the form by an official of the organization represented.

(ii) The category under which the team will enter according to § 544.34.

(iii) Further identification of the organization's team name (such as "Blue," "Jones," or the like) if the organization enters more than one team.

(iv) The designations of team officials and other members.

(v) Each member's correct first name, middle initial, last name, home address, and if applicable, the member's grade and official military mailing address.

(vi) A statement by the team captain that the team is certified under this regulation.

(2) Submit entry forms at the match site as prescribed in the match program. Entries by mail will not be accepted.

(c) Incomplete or inaccurate entry forms or the use of the wrong form may cause the entries to be refused or the individual or team entrant to be disqualified.

(d) Entries will be accepted on a first-come, first-served basis until range capacity is filled.

§ 544.40 Directives competitors must follow.

(a) The competitor must know and comply with this regulation, the Official Match Program, and the NRA rules and Match bulletins that apply.

(b) In team matches, the team captain will insure that team members comply with paragraph (a) of this section.

§ 544.41 Coaching.

Coaching is not permitted in individual matches, it is permitted only in team matches. Usually, coaching is permitted only within the team, but there are exceptions to this rule:

(a) Service members will coach teams of their respective Service, and only Service members may coach Service Academy and ROTC teams. They may also coach Police, Civilian, and Junior teams.

(b) Upon request by a Civilian, Junior, or Police team, the XO, NM, will assign a coach from among qualified and available Service personnel.

§ 544.42 Elimination of teams or individuals.

The XO, NM, or the corresponding official in matches may establish standards by which individuals and teams of the lowest standing may be eliminated after the first stage of a match is completed.

§ 544.43 Penalties.

(a) Any person interfering with or annoying a competitor on the firing line will be warned by a range official to stop. If the offender does not stop, he or she will be disqualified from that match and ordered off the range immediately.

(b) If the XO, NM, finds a competitor guilty of any of the offenses below, the competitor may be disqualified from competing further in the current National Trophy Matches. Further, the competitor may be denied any award won during the current matches. However, these penalties will be imposed only if the competitor is found guilty. The offenses are—

(1) Violating range safety regulations or the safety precautions prescribed in this regulation.

(2) Firing under an assumed name.

(3) Firing under a name other than the one on the entry form.

(4) Firing more than once for the same award.

(5) Falsifying scores or being an accessory to falsifying scores.

(6) Offering any person a bribe relating to a match.

(7) Evading the conditions prescribed for a match.

(8) Refusing to obey the instructions of a match official.

(9) Disorderly conduct.

(10) Being guilty of conduct that the XO, NM, considers a discredit to the National Matches, their sponsors, or the intended purposes of the matches.

§544.44 Competitors verifying their scores.

The competitor in individual matches and the team captain in team matches must verify the score card. Verification includes checking the names on the card, the value of each shot, and all other data and then signing the card. The signature acknowledges the card is correct. Should a competitor or team captain sign an incorrect score card or leave the firing line without signing the card, no challenge or protest concerning data recorded on the card will be allowed. If the competitor or team captain wants to protest data recorded on the card, he or she will write the word "Protested" above the signature and follow the procedure prescribed in § 544.46.

§ 544.45 Referees, scoring, and challenge procedures.

NRA rules cover the use of referees and scoring and challenge procedures. Exceptions are listed below.

(a) The Match Director will appoint an Official Referee and Assistant Referees are required, including Scoring Referees for Pistol matches.

(b) If a competitor (in individual matches) or a team captain (in team matches) is not satisfied with the score announced by the scorer, the competitor or team captain may challenge it. They must pay a challenge fee (paragraph (c) of this section) to have the Referee settle the disputed score. The Referee's decision wil be final. For pistol matches, the decision of the Scoring Referee is final. For rifle matches, the decision of the Pit Officer is final.

(c) The XO, NM, will establish the challenge fee. When the Referee's decision is not in favor of the competitor or team member, the challenge fee will be delivered to the XO, NM, for deposit into the National Match Fund. If the decision is in favor of the competitor, the challenge fee will be returned.

§ 544.46 Protests.

(a) Competitors (individual matches) or team captains (in team matches) may protest any decision or injustice that they believe unfairly affects the competition. Protests may be in such areas as competitor or team eligibility, the conditions of firing (including the

conditions under which another competitor is permitted to fire), or the equipment allowed. However, competitors or team captains may not protest the score of a target. In this case, they must challenge the score according to § 544.45.

(b) A protest must be made when the incident occurs and according to the steps below. Failure to comply with these steps may void a protest.

(1) State the complaint orally to the Chief Range Officer or to the Statistical Director, as appropriate, for a decision. If not satisfied with the decision, then follow paragraph (b)(2) of this section.

(2) State the complaint orally to the Official Referee for a decision. If not satisfied with that decision, carry out paragraph (b)(3) of this section within 2 hours after completing the match.

(3) File a formal, written protest with the Official Referee. State all the facts the protest is based on. As quickly as possible, the Official Referee must send this protest to the National Trophy Match Protest Committee. The Official Referee will include his or her own statement concerning the alleged facts, any other facts considered pertinent to the case, and copies of related documents such as entry forms and score cards.

(c) The National Trophy Match Protest Committee will sit at the match site. The committee will consist of three or more members appointed by the Match Director. The Match Director will not appoint competitors or team or match officials participating in the match being protested. The decision of the committee will be final.

§ 544.47 Bulletins.

Preliminary bulletins showing award winners will be published at the match site. Complete, final official bulletins showing the scores for all competitors, including all firing members of teams, will be published by the Statistical Director in coordination with the DCM/NMIC. The bulletins will be published as soon as possible after the matches are completed.

Team Match Rules

§ 544.48 Team composition.

Each team will include the number of firing members required by the match conditions to fire for score. A team may include up to two alternate firing members who are eligible to fire as substitutes. (Follow NRA Rule 12.4 when using substitutes.) Each team will have a designated team captain and may have a designated team coach. (See § 544.41 on when coaches are allowed and who may serve as a coach.) The captain and coach may be firing members or alternates if eligible, and must be listed as such on the team entry form. (§§ 544.37 and 544.38 discuss new shooter requirements and team member eligibility.)

§ 544.49 Team squadding.

(a) All teams will be assigned the same number of targets.

(b) In rifle team matches, slow fire will be conducted with two firers assigned to a single target. This is known as pair firing. If firing points are too narrow to permit this procedure, each team may be assigned one or more adjoining firing points, provided all teams fire concurrently. When enough targets are available, each team may be assigned more than one target. However, in this case, each team must be assigned the same number of targets.

(c) When two competitors are assigned to a single target (pair firing), they will fire alternately. The competitor on the right will fire first. A shot fired out of turn will be scored as a miss. A range official may require a left-handed competitor to be on the left of a pair.

(d) Team captains may place team members on assigned targets in any order they choose. They may change the order of a team member firing between stages, in each case notifying the scorer.

§ 544.50 Station and duties of team coaches.

(a) In the slow fire stages of rifle matches, the team coach's station will be between the pair on the firing line. If only one member is firing, the station will be directly behind the member. In rapid fire stages, the station will be directly behind the member firing.

(b) In pistol team matches, one coach is allowed for each target assigned the team. When the team is on the firing line, the team coach's station will be directly behind the team member or members firing. The team captain may act as a coach on the second target.

(c) In pair firing, the positions of the coach or competitors may not be shifted to form a windshield for a firer.

(d) When the team is on the firing line, coaches will be confined to the prescribed station and to the activities normally expected of a coach. Coaches may assist team members by calling shots, checking time and scores, ordering sight changes, and so on. However, coaches may not physically assist in loading, making sight changes, or in assuming positions. Also, they must control their voices and actions so as not to distrub other competitors. In communicating with the team, coaches will not use electrical or mechanical means.

§ 544.51 Stations of team captain.

When a team is on the firing line, the team captain and one assistant may be stationed in front of the ready line and slightly behind the coach. The captain is positioned there to observe team operations and the scorekeeping. The team captain may not assist in coaching unless occupying the coach's station. The captain may talk with the coach if it does not distract firers on the firing line. The captain may not talk to the firer.

Types of Firearms, Ammunition, and Other Equipment

§ 544.52 Description of arms to be used.

(a) US rifle, caliber .30 M1 as issued by the US Army, a commercial rifle of the same type and caliber, or either rifle if chambered for 7.62mm. The requirements for these rifles are listed below.

(1) The trigger pull must be at least 4½ pounds.

(2) A standard issue type wood or synthetic material stock and standard issue type leather or web sling must be used.

(3) Sling cuffs and sling pads are not permitted. Hooks, buttons, straps, or other similar devices fastened to the shooting coat for the purpose of holding the sling in place are prohibited.

(4) The gas system must be fully operational.

(5) The front and rear sights must be of US Army design for this rifle, but the dimensions of the rear sight aperture and front sight blade may vary.

(6) External alterations to the assembled arm are not allowed.

(7) These rifles may be modified internally to improve functioning and accuracy. A special match barrel may be installed. Synthetic materials may be applied to the interior of the stock to improve the bedding. Modifications must not interfere with the functioning of the rifle and safety devices as manufactured. Also, modifications must not change the configuration or appearance of the assembled arm.

(b) US rifle, caliber 7.62mm M14 series. Competitors may use the caliber 7.62mm M14 series as issued by the US Army or a commercial rifle of the same type and caliber. The requirements for these rifles are listed below.

(1) The trigger pull must be at least 4½ pounds.

(2) A standard issue type wood or synthetic material stock must be used. The stock must not be more than 2 inches wide at a point immediately to the rear of the front band and not more than 2.5 inches wide at the front and rear of the receiver. The width at the

receiver may be carried through to the butt plate. The stock must have a continuous taper from receiver to front band.

(3) A standard issue type leather or web sling must be used. Sling cuffs and sling pads are not permitted. Hooks, buttons, straps, or other similar devices fastened to the shooting coat for the purpose of holding the sling in place are prohibited.

(4) The gas system must be fully operational. To improve operation, the gas cylinder plug may be altered by making an axial hole that is approximately 1/64th inch in diameter in the center of the plug.

(5) The front and rear sights must be of US Army design for this rifle, but the rear sight aperture and front sight blade may vary in dimensions.

(6) The rifle must be adjusted so that automatic fire is impossible without removing the stock and changing or altering parts.

(7) The standard 20 or 30 round box magazine must be attached during the firing of all courses and in all positions.

(8) The hinged butt plate will be used only in the folded position.

(9) External alterations to the assembled arm are not allowed.

(10) The rifle may be modified internally to improve functioning and accuracy. A special match barrel may be installed. Synthetic materials may be applied to the interior of the stock to improve the bedding. Modifications must not interfere with the proper functioning of the rifle or safety devices as manufactured. Modifications must not change the configuration or appearance of the assembled arm.

(c) US rifle, caliber 5.56mm M16 series. Competitors may use the caliber 5.56mm M16 series as issued by the US Armed Forces or a commercial rifle of the same type and caliber. (The US rifle caliber 5.56mm M16 AZ or its commercial equivalents are not authorized under this regulation.) The requirements for these rifles are listed below.

(1) A bipod or grenade launcher will not be used.

(2) The trigger pull must be at least 5 pounds.

(3) A standard issue type stock, pistol grip, handguard, and web sling must be used.

(4) The rifle must be modified so that automatic fire is impossible without removing, replacing, or altering parts.

(5) The standard 20 or 30 round box magazine must be attached during the firing of all courses and in all positions.

(6) The gas system must be fully operational.

(7) External alterations to any part of the assembled arm are not allowed. However, an external device may be attached to prevent selector level movement to the auto position.

(8) The front and rear sights must be the standard design for this rifle as issued by the US Armed Forces.

(9) Hooks, buttons, straps, or other similar devices fastened to the shooting coat for the purpose of holding the sling in place are prohibited.

(d) US pistol, caliber .45M1911 or M1911A1. Competitors may use the caliber, 45M1911 or M1911A1 as issued by the US Armed Forces or a commercial pistol of the same type and caliber. The requirements for these pistols are listed below.

(1) A standard issue stock or wood or synthetic material, a similar stock of commercial manufacture, or another comparable design that does not interfere with the functional or maintenance features of the pistol must be used. The stock must be functionally identical for right or left hand use. It must not—

(i) Be more than 1½ inches thick between the right and left side extremities.

(ii) Cover the mainspring housing.

(iii) Prevent holstering in the standard service holster.

(2) The trigger pull must be at least 4 pounds.

(3) The pistol will have open sights only. The front sight must be non-adjustable. The rear sight may be adjustable and must have an open "U" or rectangular notch. The distance between sights, measured from the apex of the front sight to the rear face of the rear sight, must not be more than 7¼ inches.

(4) The forestrap of the grip may be checkered or stippled.

(5) The mainspring housing may be either the straight or the arched type, and may be checkered or stippled.

(6) Trigger shoes and trigger stops, internal or external, may be used.

(7) External finishes may be blued, parkerized, or bright. All other external alterations, additions, or changes to the appearance or configuration of the assembled arm are prohibited, except that the ejection part may be lowered to aid in ejection.

(8) The pistol may be modified internally to improve functioning and accuracy. (For example, a special match barrel may be fitted.) However, the modifications may not interfere with the proper functioning or safety devices of the arm as issued by the US Armed Forces. All safety features must operate properly.

§ 544.53 Rifles and pistols available.

Under rules announced by the DCM, National Match-grade rifles M14 and M1 and pistols M1911 series will be made available at the National Matches for temporary loan to participants.

§ 544.54 Checking firearm characteristics.

The competitor will insure that his or her firearm is safe and meets the requirements of § 544.52. At any time, the XO, NM, may direct the weighing of triggers with official test weights and may check other functions and component parts.

§ 544.55 Use of the same firearm by more than one competitor.

More than one competitor may use the same firearm in a match if squadding permits, but special squadding for this purpose is not authorized.

§ 544.56 Disabled firearm.

Within 30 minutes of the time the appropriate range official declares a firearm disabled, the competitor must repair or replace the firearm and report with it to a range official. A replacement firearm, if authorized, must be of the same type and caliber as the disabled firearm.

§ 544.57 Ammunition.

Range personnel will issue Government special match, match-grade, or service-grade service ammunition at the firing line. A single lot will be used if feasible, but more than one lot may be used if circumstances require. Competitors will fire only this ammunition and none other. Competitors will be disqualified if ammunition issued to them is altered in any way. Competitors will also be disqualified if any other ammunition is found about their person or equipment while they are on the firing line. However, if the match sponsor does not make 5.56mm ammunition available, competitors using the M–16 series rifle or commercial equivalent will use their own safe ammunition.

§ 544.58 Targets.

The following targets will be used:

(a) Pistol targets.

(1) For firing at 50 yards, use the Standard American 50-yard pistol target with the X, 10, 9, and 8 rings black (NRA B–6 target).

(2) For firing at 25 yards, use the Standard American 25-yard, rapid fire pistol target. Use the same dimensions as 544.5(a)(1) of this section, but with only the X, 10, and 9, rings black (NRA B–8 target).

(b) Rifle targets (except in the National Trophy Infantry Team Match).

(1) For firing at 200 yards or meters, use the standard US Army, short range (200 to 300 yards or meters), competitive rifle target with the X, 10, and 9 rings black (NRA SR target).

(2) For firing at 300 yards or meters, use the same target and distance as in 544.5(b)(1) of this section, except the aiming black is enlarged to include the 8 rings (NRC SR–3 target).

(3) For firing at 500 yards or meters, use the standard US Army target, midrange (500 yards or meters), competitive rifle target with the X, 10, 9, and 8 rings black (NRA MR target).

(4) For firing at 600 yards or meters, used the standard U.S. Army target, midrange (600 yards or meters), competitive rifle target with the X, 10, 9, 8, and 7 rings black (NRA MR–1 target).

(c) For the National Trophy Infantry Team Match, use the targets described in § 544.80(c)(4).

§ 544.59 Field glasses, and binoculars.

In the Infantry Match, the team captain and coach will not be permitted to use field glasses or binoculars of greater power or objective lens diameter than 10 x 50. Binoculars will be provided on the firing line for teams requiring them. The team captain and coach may use a telescope behind the assembly line for the purpose of reading the wind before the start of their team relay. These telescopes will not be used for coaching after the targets have appeared for the team and may not be displaced forward of the assembly line.

Firing

§ 544.60 Safety precautions.

(a) Arms will be loaded only at a firing point and only when directed by a range official for authorized firing.

(b) Unless competitors are at a firing point and the range official has given the order to load, they must keep—

(1) The magazines must be removed from the firearm.

(2) The slides or bolts locked back.

(3) The safeties of rifles on.

(c) During and until their arms are unloaded, competitors will—

(1) Keep their pistols at the raised (or ready) pistol position or hold them on the bench and pointed downrange at the target.

(2) Keep their rifles pointed downrange at the target.

§ 544.61 Organization of firing areas.

The firing areas on each range will be organized into a firing line, a ready line, and an assembly line.

§ 544.62 Station of competitors.

Each competitor will remain on or behind the assembly line until the competitor's assigned relay is called to the ready line or firing line. Without the Range Director's permission, only the following people will be allowed forward of the assembly line:

(a) The officials of the matches.

(b) NBPRP members.

(c) Team officials.

(d) Competitors on the ready line and on the firing line.

(e) Scorers.

(f) Others on duty.

§ 544.63 Target assignments and operations in the rifle matches.

(a) The Statistical Director will assign targets and relays. Competitors may obtain these assignments at times announced by the Statistical Director. Before the matches start, target assignments will be posted at a convenient location.

(b) Each team will assign two target pullers to work in the pits. Target pullers must be physically able and experienced in handling targets for high power rifles. Failure to provide capable target pullers may disqualify the team involved. Both target pullers will go to the target assigned to their team. Before the firing starts, one puller will be reassigned at random by the chief pit officer.

(c) Firing will not be interrupted for changes of pit personnel. Once firing has started, and if other conditions permit, the match will continue until all firing is completed.

§ 544.64 Slow target operation in rifle matches.

In individual matches, if a competitor believes a target is operating slowly he or she must complain to a line official. In team matches, the team captain makes the complaint. Complaints must be made before completing a firing stage and in ample time to enable the line official to check the time used. The line official will check the time used. The line official will check the time used by the competitor and by the target operators and make adjustments as needed. When there is no complaint to a line official by the competitor or team captain, it will be assumed the target was operated satisfactorily.

§ 544.65 Practice firing.

During the SAFS, the only firing permitted is that scheduled in the school curriculum. At other times, practice firing may be allowed if the match program states that it is allowed at the range and range personnel are available.

§ 544.66 Firing procedure and punctuality.

(a) Matches will be fired in relays. The XO, NM, may decide whether to allow infiltration squadding in slow fire stages of rifle matches.

(b) After a relay is called to the firing line, competitors on that relay will be allowed 3 minutes in which to prepare to fire. competitors will not be allowed to take positions on the firing line after the 3-minute preparation time expires, and they will lose their right to fire if they arrive after that time. They may regain their right to fire only if they present satisfactory evidence to the XO, NM, that the delay was the fault of the range operating personnel.

(c) In team matches, only the first pair of competitors for a team need to be present at the time the firing is scheduled to commence.

§ 544.67 Firing positions.

NRA Rule 5.5 on firing positions will apply. The rules for rifles are as follows:

(a) *Standing.* The sling must be attached to the rifle at both standard attachment points, in the parade position. On the M–14 rifle, the sling may rest along either the side or the bottom of the magazine. The sling may not be used for support, except as provided for in the National Trophy Infantry Team Match rules.

(b) *Kneeling.* Use of a kneeling roll or pad is prohibited.

(c) *Using ground cloths or ground pads.* Ground cloths or ground pads may be used if they do not provide artificial support. They may not be used in the National Trophy Infantry Team Match.

§ 544.68 Loading and reloading the rifle in rapid fire.

NRA Rule 9.22 applies in all matches except the National Trophy Infantry Team Match. In this match, team captains will direct loading and reloading.

§ 544.69 Unauthorized firing.

No firing is allowed except at authorized targets in prescribed practice or competition and under the supervision of assigned officials. Violation of this rule may disqualify the offender for the rest of the matches.

§ 544.70 Time limits and extensions.

(a) Time limits are prescribed in NRA Rules, section 8.

(b) The range official may extend the time in the slow fire stages if delays are caused by—

(1) Target malfunctions.

(2) Slow or improper target operation.

(3) Reasons over which the competitor or team has no control.

§ 544.71 Sighting shots.

Sighting shots are not allowed in any National Trophy Matches.

§ 544.72 Competitors serving as range officials.

In the match program, the Match Director or the Range Director may require competitors to score, operate, or mark targets or serve as range officials; in team matches, they may require a team of furnish scorers for teams firing on adjacent targets. The XO, NM, may disqualify from further participation a competitor who is detailed to perform such duties and fails to do so satisfactorily.

Subpart E—Program for the National Trophy Matches

§ 544.73 The President's Pistol Match.

Table 5–1 in Appendix D of this part gives the course of fire for this match.

§ 544.74 National Trophy Individual Pistol Match.

Competitors will use the National Match Pistol Course as the course of fire. Table 5.2 in Appendix D of this part gives this course of fire.

Other EIC individual pistol matches will schedule this course of fire.

§ 544.75 National Trophy Pistol Team Match.

(a) *Team composition.* Four members fire for the team's score.

The team will consist of a team captain, team coach, four firing members, and up to two alternates.

(b) *Course of fire.* Each firing member will use the National Match Pistol Course (table 5–2 in Appendix D of this part).

§ 544.76 The President's Rifle Match.

Table 5–3 in Appendix D of this part gives the course of fire for the President's Rifle Match.

§ 544.77 National Trophy Individual Rifle Match.

(a) Course A is the National Match Rifle Course. Only Course A will be scheduled in the National Trophy Matches. Table 5–4 in Appendix D of this part gives this course of fire. Other EIC individual rifle matches will consist of the National Match Rifle Course A except as described in paragraph (b) of this section.

(b) Course B is restricted to the M16-series rifle or commercial rifle of the same type and caliber (§544.51). This course may be scheduled for EIC individual rifle matches other than those in the National Trophy Matches. Table 5-5 in Appendix D of this part gives this course of fire.

§ 544.78 National Trophy Rifle Team Match.

(a) *Team composition.* Six member fire for the team's score. The team will consist of a team captain, a team coach, six firing members, and two alternates.

(b) *Course of fire.* Course A of the National Match Rifle Course will be used for each firing member. Table 5–4 in Appendix D of this part gives this course of fire.

§ 544.79 National Trophy Infantry Team Match.

(a) *Team composition.* Six members fire for the team's score. The team will consist of a team captain, team coach, six firing members, and two alternates.

(b) *Course of fire.* Table 5–6 in Appendix D of this part gives the course of fire for this match.

(c) *Conditions.* (1) A sling may be used for support in all positions.

(2) On the 600-yard firing line, 384 rounds of ammunition of one caliber will be issued to each team. This ammunition is the team's total for the match. The team captain will divide the ammunition among firing members and stages and decide the number of rounds to be loaded into clips or magazines.

(3) Each team will use eight adjoining targets. Gaps in the target line will separate one team's targets from another.

(4) For firing at 600 and 500 yards, a standard 600-yard target will be pasted on a standard competitive target frame. The face of the target will be reversed to display a solid white background. The Army "E" silhouette target will be pasted on this background and centered horizontally, with the top of the silhouette 13 inches below the top of the frame. For firing at 300 and 200 yards, the Army "F" silhouette target will l pasted over the face of a standard 200-yard target, with the top of the silhouette located at the top of the 8 ring.

(5) Teams will take firing positions on the 600-yard firing line as directed by the team officials. Only the captain, coach, and firing members will be permitted on the firing line during the match. After teams are in firing position with rifles loaded and locked, they may start firing when the targets appear. The targets will be withdrawn after 50 seconds. Between stages, teams will move forward abreast in a line. Their rifles will be unloaded, magazines removed, bolts open, and muzzles elevated and pointed downrange. The firing procedure at each range will be the same as those at 600 yards. Each relay will complete the match before the next relay is called to the 600-yard firing line.

(6) Scoring. (i) All scores will be recorded on the firing line at the end of each stage. Spotters will indicate hits on the silhouettes only.

(ii) Hits on the silhouettes will count 4 points at 600 yards, 3 points at 500 yards, 2 points at 300 yards, and 1 point at 200 yards. Hits outside the silhouettes will not be scored or marked.

(iii) A bonus for distribution will be computed. At each range, count the number of silhouette targets that contain six or more hits each. Square that number, then add the square to the total hit score for that range.

(iv) Ties will be broken by the highest team score at the longest range. If the tie cannot be broken by that score, use the highest team score at the next longest range, and so on.

(7) No alibis will be allowed for misfires, disabled pieces, or other failures of range or team equipment or personnel.

(8) Telescopes and field glasses may be used as follows:

(i) Before the start of the team's relay, the team captain and coach may use a telescope behind the assembly line. These telescopes will neither be moved forward of the 600-yard assembly line nor be used for coaching after the team's preparation period starts.

(ii) After the team's preparation period starts, the captain and coach may use field glasses. However, the power and objective lens diameter of the glasses must not be more than 10 x 50mm. Field glasses will be provided on the firing line for teams requiring them.

(9) An assistant range officer will be assigned for each team to enforce safety regulations and supervise the scoring.

Subpart F—Awards

§ 544.80 General.

(a) *All EIC matches.* The providing of awards that are prescribed and earned always depends on whether funds are available.

(b) *National Trophy Matches.* (1) Awards for the National Trophy Matches will normally be given at the time and place of the National Matches.

(i) Permanent trophies will remain in the DCM's custody. They will be engraved with the names of the winners.

(ii) Winners will be awarded plaques or miniatures of the trophies. These plaques and miniatures will be engraved at the DCM's expense and according to the DCM's instructions.

(iii) In certain matches, categories, or award groups, a Secretary of the Army Trophy Firearm award will be given to the highest scoring competitor who has never received this award before. No competitor may receive more than one of these awards for a match. This award is subject to restrictions of law.

(iv) Further match awards may be authorized from time to time. Such awards and the conditions for receiving them will be published in the Match Program or in the Match Director's Bulletins.

(2) Correspondence concerning awards for the National Trophy Matches will be addressed to the Director of Civilian Marksmanship, Office of the Secretary of the Army, HQDA(SFDM), Washington, DC 20314-0100.

§ 544.81 Participation requirements for certain National Trophy Match awards.

In certain National Trophy Matches, awards are given for a named category or special awards group (such as Navy, Women, Infantry, Junior, or Police). These awards will be given only if the required number of competitors from the category or award group fire in the match. The required number are listed below.

(a) *Individual matches.* (1) Winner: At least 5 competitors.

(2) Second place: At least 8 competitors.

(3) Third place: At least 12 competitors.

(b) *Team matches.*

(1) Winner: At least 3 teams.

(2) Second place: At least 5 teams.

(3) Third place: At least 7 teams.

§ 544.82 Awards for the President's Pistol Match.

(a) The match winner will be awarded the President's Trophy Plaque, a congratulatory letter from the President of the United States, and a President's Hundred Metallic Brassard.

(b) The match winner may also be awarded a Secretary of the Army Trophy Firearm if the requirements in § 544.80(b)(i)(ii) are met.

(c) The highest scoring 15 percent of all competitors who fire in the match will be designated "The President's Hundred." They will be awarded a "President's Hundred" metallic brassard. Not more than 100 of these awards will be given.

§ 544.83 Awards for the National Trophy Individual Pistol Match.

(a) The match winner will be awarded the Custer Trophy Plaque and a gold medal.

(b) The highest scoring Reserve competitor will be awarded the U.S. Army Reserve Memorial Trophy Plaque.

(c) The highest scoring National Guard competitor will be awarded the National Guard Association Trophy Plaque.

(d) The highest scoring Service Academy and ROTC competitor will be awarded the Intercollegiate Trophy Plaque.

(e) The highest scoring Police competitor will be awarded the Ancient Archer Trophy Plaque.

(f) The highest scoring Civilian competitor will be awarded the Silver Bowl Trophy Plaque.

(g) The highest scoring Junior competitor and Women competitor will be awarded a trophy plaque. These plaques will be named at a later date.

(h) Per § 544.80(b)(i)(iii), a Secretary of the Army Trophy Firearm award may be awarded to the highest scoring competitor in—

(1) The match (match winner).

(2) Each of the Regular Service, Reserve, National Guard, Service Academy and ROTC, Police, Civilian, Junior, and Woman competitor categories (if not the match winner).

§ 544.84 Awards for the National Trophy Pistol Team Match.

Listed in this section are the trophy awards following the type of category. Also listed are what second and third place teams and designated competitors will receive.

(a) *Winning team awards—The Gold Cup Trophy.*

(1) The winning team will be awarded Gold Cup Trophy Plaques and gold metals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(b) *Reserve Components awards—The U.S. Coast Guard Memorial Trophy.*

(1) The highest scoring Reserve Component team will be awarded U.S. Coast Guard Memorial Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(c) *Service Academy and ROTC awards—The Alden Partridge Trophy.*

(1) The highest scoring Service Academy and ROTC team will be awarded Alden Partridge Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(d) *Police awards—The American Indian Trophy.*

(1) The highest scoring Police team will be awarded American Indian Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(e) *Civilian awards—The Oglethorpe Trophy.*

(1) The highest scoring Civilian team will be awarded Oglethorpe Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(f) *Junior awards—(trophy to be named).*

(1) The highest scoring Junior team will be awarded trophy plaques (to be named at a later date) and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(g) *Awards for highest scoring competitors.*

(1) The highest scoring competitor will be awarded the Military Police Corps Trophy Plaque.

(2) The highest scoring Army competitor (Regular, A Reserve, or Army National Guard) will be awarded the General Mellon Trophy Plaque.

(3) The highest scoring Air Force competitor (Regular, Reserve, or Air National Guard) will be awarded the General Carl Spaatz Trophy Plaque.

(h) *Awards for the National Civilian Pistol Team.* The National Civilian Pistol Team will be awarded Elihu Root gold medals. This team will consist of the four highest scoring individual Civilian competitors in this match and the coach and captain of the highest scoring Civilian team.

§ 544.85 Additional National Trophy Pistol Match awards.

The competitors with the highest aggregate score in the National Trophy Individual Pistol Match and the National Trophy Pistol Team Match will receive the following awards:

(a) The Regular Army competitor will be awarded the FORSCOM Pistol Trophy Plaque.

(b) The Navy competitor (Regular or Reserve) will be awarded the Fleet Admiral Nimitz Trophy.

(c) The Marine competitor (Regular or Reserve) will be awarded the McMillan Trophy Plaque.

(d) The Civilian competitor will be awarded the Anheuser-Busch Trophy Miniature.

§ 544.86 Awards for the President's Rifle Match.

(a) The match winner will be awarded a President's Trophy Plaque, a congratulatory letter from the President of the United States, and a President's Hundred Metallic Brassard.

(b) The match winner may also be awarded a Secretary of the Army

Trophy Firearm, subject to the conditions in § 544.81(b)(1)(iii).

(c) The highest scoring 15 percent of all competitors who fire in the match will be awarded the "President's Hundred" metallic brassard. This group will be designated "The President's Hundred." Not more than 100 of these awards will be given.

§ 544.87 Awards for the National Trophy Individual Rifle Match.

The following awards are for Course A:

(a) The match winner will be awarded the Daniel Boone Trophy Plaque and a gold medal.

(b) The highest scoring Reserve competitor will be awarded the Citizen Soldier Trophy Plaque.

(c) The highest scoring National Guard competitor will be awarded the National Guard Association Trophy Plaque.

(d) The highest scoring Service Academy and ROTC competitor will be awarded the Hearst Rifle Trophy Plaque.

(e) The highest scoring Police competitor will be awarded a trophy plaque to be named later.

(f) The highest scoring Civilian competitor will be awarded the Nathan Hale Trophy Plaque.

(g) The highest scoring Junior competitor will be awarded the Golden Eagle Trophy Plaque.

(h) The highest scoring Woman competitor will be awarded a trophy plaque to be named later.

(i) The highest scoring Army competitor (Regular, Reserve, or National Guard) will be awarded the Association of the United States Army Trophy Plaque.

(j) The highest scoring Marine competitor (Regular or Reserve) will be awarded the Coast Artillery Trophy Plaque.

(k) The highest scoring Air Force competitor (Regular, Reserve, or National Guard) will be awarded the Lieutenant Paul J. Roberts, Jr. Memorial Trophy Plaque.

(l) The highest scoring Infantry competitor (Regular Army, Army Reserve, or Army National Guard) will be awarded the 25th Infantry Division Trophy Plaque.

(m) Per a Secretary of § 544.80(b)(iii) the Army Trophy Firearm may be awarded to—

(1) The match winner.

(2) The highest scoring competitor in each of the Regular Service, Reserve National Guard, Service Academy and ROTC, Police, Civilian, Junior, and Woman categories.

§ 544.88 Awards for the National Trophy Rifle Team Match.

Listed in this section are the trophy awards following the type of category. Also listed are what second and third place teams and designated competitors will receive.

(a) *Awards for the winning team—The National Trophy.*

(1) The winning team will be awarded National Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(b) *Reserve Component awards—The Hilton Trophy.*

(1) The highest scoring Reserve Component team will be awarded Hilton Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(c) *Service Academy and ROTC awards.* (1) The highest scoring Service Academy and ROTC team will be awarded NBPRP Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(d) *Civilian awards—The Soldier of Marathon Trophy.*

(1) The highest scoring Civilian team will be awarded Soldier of Marathon Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(e) *Junior awards—The Minuteman Trophy.*

(1) The highest scoring Junior team will be awarded Minuteman Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(f) *Awards for highest scoring individual competitors.*

(1) The highest scoring competitor will be awarded the Pershing Trophy Plaque.

(2) The highest scoring Army competitor (Regular, Reserve, or National Guard) will be awarded the Rattlesnake Trophy Plaque.

(3) The highest scoring Air Force competitor (Regular, Reserve, or National Guard) will be awarded the General Thomas D. White Trophy Plaque.

(g) *Awards for the National Civilian Rifle Team.* The National Civilian Rifle Team will be awarded Elihu Root gold medals. This team will consist of the six highest scoring individual Civilian competitors and the coach and captain of the highest scoring Civilian team.

§ 544.89 Additional National Trophy Rifle Match awards.

The competitors with the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match will receive the following awards:

(a) The Regular Army competitor will be awarded the FORSCOM Rifle Trophy Plaque.

(b) The Navy competitor (Regular or Reserve) will be awarded the Admiral Arleigh A. Burke Trophy Plaque.

(c) The Marine competitors (Regular or Reserve) will be awarded the General Shepherd Trophy Plaque.

(d) The Civilian competitor will be awarded the Pietroforte Trophy Plaque.

§ 544.90 Awards for the National Trophy Infantry Team Match.

Listed in this section are the trophy awards following the type of category. Also listed are what second and third place teams and designated competitors will receive.

(a) *Winning team awards—The Infantry Trophy.*

(1) The winning team will be awarded Infantry Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(b) *Reserve Component/team awards—The Celtic Chieftain Trophy.*

(1) The highest scoring Reserve Component team will be awarded Celtic Chieftain Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(c) *Civilian team awards—The Leatherneck Trophy.*

(1) The highest scoring Civilian team will be awarded Leatherneck Trophy Plaques and gold medals.

(2) The second place team will be awarded silver medals.

(3) The third place team will be awarded bronze medals.

(d) *Junior team awards—Junior Infantry Team Trophy.*

(1) The highest scoring Junior team will be awarded trophy plaques (to be named at a later date) and gold medals.

(2) The second place team will be award silver medals.

(3) The third place team will be awarded bronze medals.

§ 544.91 Special medals in National Trophy Individual Pistol and Rifle Matches.

(a) The highest 10 percent of Civilians who fire in the National Trophy Individual Pistol or National Trophy Individual Rifle Match, but who do not receive match awards or the place medals prescribed in § 544.95 below, will be given bronze medals. The medal for the pistol match will depict the Silver Bowl Trophy and the medal for the rifle match will depict the Nathan Hale Trophy.

(b) The highest 10 percent of Juniors who fire in the National Trophy Individual Pistol or National Trophy Individual Rifle Match, but who do not receive match awards or the place medals prescribed in § 544.95, will be given bronze medals. The medal for the pistol match will depict the Junior Pistol Trophy and the medal for the rifle match will depict the Golden Eagle Trophy.

(c) The highest 10 percent of Women who fire in the National Trophy Individual Pistol Match or the National Trophy Individual Rifle Match, but who do not receive match awards or the place medals prescribed in § 544.95, will be given bronze medals. The medal for the pistol match will depict the Women's Pistol Trophy and the medal for the rifle match will depict the Women's Rifle Trophy.

(d) The highest 10 percent of Police competitors who fire in the National Trophy Individual Pistol Match or the National Trophy Individual Rifle Match, but who do not receive match awards or the place medals prescribed in § 544.95, will be given bronze medals. The medal for the pistol match will depict the Ancient Archer Trophy and the medal for the rifle match will depict the Police Rifle Trophy.

§ 544.92 Place medals in National Trophy team matches.

Place medals will be given to the captain, coach, and firing members of the highest 15 percent of all teams firing in the match. Medals will be given as follows:

(a) The winning team will be awarded gold medals.

(b) The second place team will be awarded silver medals.

(c) The third place team will be awarded bronze medals.

(d) The remainder of the 15 percent will be awarded bronze medals.

§ 544.93 Place medals in Individual EIC matches.

(a) For the EIC matches listed in § 544.94, place medals will be awarded to the highest scoring 10 percent of all non-Distinguished competitors competing in the match. These medals will be awarded as follows:

(1) The highest one-sixth of the 10 percent will be gold.

(2) The next highest one-third of the 10 percent will be silver.

(3) The remainder of the 10 percent will be bronze.

(b) Competitors who have attained or are qualified for Distinguished designation with the arm concerned will be ranked among the non-Distinguished competitors according to score. Each will be awarded a medal of the same type (gold, silver or bronze) as the non-Distinguished competitor next below him or her.

(1) For rifle, Daniel Boone Trophy medals, will be awarded.

(2) For pistol, General Custer Trophy medals, will be awarded.

§ 544.94 Distinguished designation and badge awards.

(a) Competitions in which credits toward Distinguished designation may be earned and for which EIC badges may be awarded are—

(1) The National Trophy Individual Pistol and National Trophy Individual Rifle Matches.

(2) Certain Service matches not open to civilians.

(3) NRA Regional and State Championships.

(b) For credits earned in an EIC match to be recognized, the match must—

(1) Conform to all parts of this regulation that apply.

(2) Include at least 10 non-Distinguished competitors eligible according to this regulation.

(3) Be completed.

(c) The following rules apply to Civilian competitors competing for the Distinguished Designation and Badge award:

(1) In any calendar year, these competitors may compete in not more than four EIC matches for pistol and not more than four for rifle. The matches they may enter are listed as follows:

(i) The National Trophy Individual Match.

(ii) NRA Regional or State championships. Civilian competitors may not compete in more than three NRA Regional or State championship EIC matches a year.

(iii) A Service-sponsored match. If entry in such a match is possible, the match will constitute as one of the three matches authorized in 544.94(b) of this section.

(2) The DCM will award credit points toward Distinguished designation to competitors who earn place medals according to paragraph (b) of this section. Points will be awarded as follows:

(i) For any place medal in a National Trophy Individual Match, 10 points will be awarded. These points will be awarded to civilians only.

(ii) For place medals in other EIC matches listed in paragraph (a)(1) of this section, 10 points will be awarded for gold medals, 8 points will be awarded for silver medals, and 6 points will be awarded for bronze medals.

(3) The DCM will award the Distinguished Badge when a competitor has earned 30 or more credit points with the arm concerned.

(d) Competitors in the Regular Service, Reserve, National Guard, and Service Academy categories can earn credits toward the Distinguished designation and will be awarded the appropriate badges according to the regulations of their Service.

§ 544.95 EIC badges.

(a) The DCM will award a bronze EIC badge to Civilian competitors when they first earn credit points toward the Distinguished designation. They must earn their points according to § 544.94. The DCM will award a silver EIC badge to these competitors when they have earned a total of 20 or more credit points.

(b) Competitors in the Regular Service, Reserve, National Guard, and Service Academy categories will be awarded EIC badges according to the regulations of their Service.

§ 544.96 Marksmanship qualification awards.

(a) The DCM will award the Basic Marksmanship Qualification Badge to ROTC, Police, Civilian, Junior and Woman competitors who fire qualifying scores in the National Trophy Individual Pistol or Rifle Matches. The badge will show qualification as Expert, Sharpshooter, or Marksman. The DCM may also award, separately or along with the badge, a bar that will show whether a rifle or pistol was used. Qualifying scores for these awards are listed below:

(1) Pistol awards—possible 300 points.

(i) Pistol Expert—270 points.

(ii) Pistol Sharpshooter—240 points.

(iii) Pistol Marksman—210 points.

(2) Rifle awards—possible 500 points.

(i) Expert Rifleman—450 points.

(ii) Rifle Sharpshooter—400 points.

(iii) Rifle Marksman—350 points.

(b) The DCM will present these awards after the close of the matches.

§ 544.97 Scores allowed for club qualification firing.

To meet the requirements in AR 920–20 on clubs' yearly qualification firing, clubs enrolled by the DCM may count their members' scores from the National Matches and/or EIC matches [§ 544.95].

Appendix A—Related Publications

Approved courses of fire for civilian marksmanship training for clubs and schools enrolled with the DCM (These courses are available from HQDA(SADM), WASH DC 20314.)

AR 5–9 (Intraservice Support Installation Area Coordination)
AR 140–125 (Marksmanship Training and Competitive Program)
AR 145–1 (Senior ROTC Program: Organization, Administration, and Training)
AR145–2 (Junior Program and National Defense Cadet Corps: Organization, Administration, Operations, and Support)
AR 340–21 (The Army Privacy Program)
AR 350–6 (Army-Wide Small Arms Competitive Marksmanship)
AR 600–20 (Army Command Policy and Procedures)
AR 600–23 (Nondiscrimination in Federally Assisted Programs)
AR 622–10 (Competition in Small Arms)
AR 672–5–1 (Military Awards)
AR 700–131 (Loan of Army Materiel)
AR 725–1 (Special Authorization and Procedures for Issues, Sales and Loans)
AR 735–5 (Basic Policy and Procedures for Policy Accounting)
AR 735–11 (Accounting for Lost, Damaged and Destroyed Property)
AR 920–15 (National Board for the Promotion of Rifle Practice and Office of Director of Civilian Marksmanship)
AR 920–20 (Promotion of Practice with Rifled Arms)
AR 920–25 (Rifles M14M and M14NM, for Civilian Marksmanship Use)
AR 900–35 (National Match Fund) DODD 1025.1 (DOD Civilian Rifle and Pistol Marksmanship Training Program) (This DODD can be obtained from HQDA (SADM), WASH DC 20314 0100)

NRA Official Rule Books for Pistol and Highpower Rifle (These books can be obtained from the National Rifle Association, 1600 Rhode Island Avenue, NW., Washington, DC 20036).

Appendix B—Trophies of the National Board for the Promotion of Rifle Practice B-1. The President's Pistol Trophy

This trophy was purchased by the NBPRP in 1981. It consists of a disc of white New England marble on a hardwood base. The Presidential Seal is carved, gilded, and mounted on the disc. This trophy is awarded to the winner of the President's Pistol Match.

B-2. The General Custer Trophy

The General Custer Trophy was purchased by the NBPRP in 1926. It is a bronze statuette of General George Armstrong Custer (1828–1876) firing a pistol Match. The trophy is awarded to the winner of the National Trophy Individual Pistol Match.

B–3. The US Army Reserve Memorial Trophy

The US Army Reserve Memorial Trophy was donated to the NBPRP by the US Army Reserve in 1969. The trophy depicts the citizen soldier leaving his civilian occupation to take up arms in defense of his country, and is in memory of those who have given their lives in this duty. It is awarded to the highest scoring Reserve competitor in the National Trophy Individual Pistol Match.

B–4. The National Guard Association Trophy (Pistol)

The National Guard Association Trophy (Pistol) was presented to the NBPRP in 1983, replacing the original trophy that was established in 1979. The trophy depicts a helmeted Guardsman in bronze, mounted on a two-tiered walnut base. This trophy is awarded to the highest scoring National Guard competitor in the National Trophy Individual Pistol Match.

B–5. The Intercollegiate Trophy

The Intercollegiate Trophy was purchased by the NBPRP in 1958. The trophy is a sterling siver urn, depicting a battle scene in what is believed to be the war between the Romans and Celts in A.D. 43–44. It is awarded to the highest scoring Service Academy or ROTC competitor in the National Trophy Individual Pistol Match.

B–6. The Ancient Archer Trophy

The Ancient Archer Trophy was purchased by the NBPRP in 1962. The trophy is made of bronze and depicts an ancient archer stringing his bow. It is awarded to the highest scoring Police competitor in the National Trophy Individual Pistol Match.

B–7. The Silver Bowl Trophy

The Silver Bowl Trophy was designed and purchased by the NRA in 1956 and presented to the NBPRP for award that year. It is a large, sterling silver bowl, embossed on the rim and pedestal with floral leaf design. It is awarded to the highest scoring Civilian competitor in the National Trophy Individual Pistol Match.

B–8. The Gold Cup Trophy

The Gold Cup Trophy was presented to General Jonh J. Pershing by the minister of War of the Republic of China as the award for first place in the pistol shooting match among the Allies at Le Mans, France in 1919. It was won by the American Expeditionary Force (AEF) Pistol Team. The team then presented it for annual competition in the National Trophy Pistol Team Match. The trophy is a helment-shaped gold cup, engraved and mounted on an ebony base. The Gold Cup Trophy is awarded to the winning team in the National Trophy Pistol Team Match.

B–9. The US Coast Guard Memorial Trophy

The U.S. Coast Guard Memorial Trophy was presented to the NBPRP in 1957 by the Coast Guard. This trophy commemorates Coast Guard personnel who lost their lives while in that Service. It is a replica of the Coast Guard Memorial located in Arlington Cemetery, with statuettes of Coast Guard personnel holding service pistols on either side of the central pyramid. The central pyramid is cast in bronze and heavily plated in silver with an oxidized finish. It is awarded to the highest scoring Reserve Component team in the National Trophy Pistol Team Match.

B–10. The Alden Partridge Trophy

The Alden Partridge Trophy was presented to the NBPRP in 1971 by the president of Norwich University, Northfield, Vermont. The trophy is a bronze bust of General Alden Partridge, founder and first president of Norwich University. This university was the first institution of higher learning to include military training as a part of its curriculum and is credited as the founding school of what is now known as the ROTC program. This trophy is awarded to the highest scoring Service Academy or ROTC team in the National Trophy Pistol Team Match.

B–11. The American Indian Trophy

The trophy was donated to the NBPRP in 1962 by the YMCA of Greenwich, Connecticut. It is a bronze of Sinte Maza, "Iron Tail," an Oglala Sioux Indian. It is awarded to the highest scoring Police team in the National Pistol Team Match.

B–12. The Oglethorpe Trophy

The Oglethorpe Trophy was presented to the NBPRP in 1962 by the River Bend Rifle and Gun Club of Atlanta. The trophy is a sterling silver bowl mounted on a walnut base and was named in honor of the founder and first Governor of Georgia, James Oglethorpe. The trophy is awarded to the highest scoring Civilian team in the National Trophy Pistol Team Match.

B–13. The Military Police Corps Pistol Trophy

The Military Police Corps Trophy was presented to the NBPRP in 1956 through private subscription among the officers and enlisted members of the Military Police Corps. This trophy is a specially designed bronze relief depicting the worldwide mission of the Military Police Corps. Crossed pistols are mounted at the apex of the trophy and are exact duplicates of the original pistols used in the design of the Corps insignia. The trophy is awarded to the highest scoring competitor in the National Trophy Pistol Team Match.

B–14. The General Mellon Trophy

The General Mellon Trophy was presented to the NBPRP in 1958 by General Richard K. Mellon, Deputy Adjutant General, Commonwealth of Pennsylvania. The Mellon Trophy is a miniature of a giant Kodiak bear in an upright and alert pose. This trophy is awarded to the highest scoring Army Competitor (Regular or Reserve) in the National Trophy Pistol Team Match.

B–15. The General Carl Spaatz Trophy

This trophy was presented to the NBPRP in 1961 by the US Air Force in honor of General Carl Spaatz, Chief of Staff of the Air Force from 1947 to 1948. It is a large silver globe mounted on an ebony base and surrounded by four silver eagles. This trophy is awarded to the highest scoring Air Force competitor

(Regular, Reserve, or Air National Guard) in the National Trophy Pistol Team Match.

B–16. The US Army Forces Command Pistol Trophy

The US Army Forces Command Pistol Trophy was presented to the NBPRP by the Commanding General, US Army Forces Command. The mounted brace of pistols are circa 1900 Colt Army special caliber .38 revolvers. The trophy was designed and constructed by artisans of Rock Island Arsenal and is awarded to the Regular Army competitor making the highest aggregate score in the National Individual Pistol Match and National Trophy Pistol Team Match.

B–17. The Fleet Admiral Nimitz Trophy

The Fleet Admiral Nimitz Trophy was presented to the NBPRP in 1978 by the US Navy through private subscription among the officers and enlisted members of the Navy and Naval Reserve. The trophy is the pistol presented to Fleet Admiral Chester W. Nimitz in 1921 by his classmates at the US Naval Academy. It is awarded to the Navy competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Pistol Match and National Trophy Pistol Team Match.

B–18. The McMillan Trophy

The McMillan Trophy was presented by the US Marine Corps to the NBPRP in 1978 for award in the Service pistol competitions sponsored by the NBPRP. The trophy honors Lieutenant Colonel William W. McMillan, an outstanding Marine Corps shooter for over 20 years. It is awarded to the Marine competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Pistol Match and National Trophy Pistol Team Match.

B–19. The Anheuser-Busch Trophy

This trophy is a sterling silver bowl, emblazoned with the Anheuser-Busch eagle and mounted on a hardwood base. It is awarded to the Civilian competitor making the highest aggregate score in the National Trophy Individual Pistol Match and the National Trophy Pistol Team Match.

B–20. The President's Rifle Trophy

This trophy was purchased by the NBPRP in 1977. It consists of a disc of black New England slate mounted on a hardwood base. On the disc, the Presidential Seal is carved and gilded. The President's Trophy is awarded to the winner of the President's Rifle Match.

B–21. The Daniel Boone Trophy

The Daniel Boone Trophy was purchased by the NBPRP in 1925. The trophy is a bronze statue of the marksman Daniel Boone, American Pioneer in Kentucky and Missouri (1734–1820), with his rifle. The trophy is awarded to the winner of the National Trophy Individual Rifle Match.

B–22. The Citizen Soldier Trophy

The Citizen Soldier Trophy was presented to the NBPRP in 1964 by the Reserve Officers' Association of the United States. The trophy is flanked by miniature replicas of the Liberty Bell. Affixed to the front of the trophy, encompassing a large Reserve Officers' Association seal, are the five insignia of the Armed Services. The trophy is awarded to the highest scoring Reserve competitor in the National Trophy Individual Rifle Match.

B–23. The Hearst Rifle Trophy

The present Hearst Rifle Trophy was donated by William Randolph Hearst to the National Matches in 1940. The Hearst Rifle Trophy is a 17 century Spanish flintlock carbine in blunderbuss style, inlaid with ivory and mother of pearl and having a chased lock. This trophy is awarded to the highest scoring Service Academy or ROTC competitor in the National Trophy Individual Rifle Match.

B–24. The Nathan Hale Trophy

The Nathan Hale Trophy was presented to the NBPRP by the NRA in 1956. It is a bronze figure created in 1890, of the Revolutionary War hero, Captain Nathan Hale. It is awarded to the highest scoring Civilian in the National Trophy Individual Rifle Match.

B–25. The Golder Eagle Trophy

The Golder Eagle Trophy was purchased by the NBPRP in 1963. The trophy is a golden eagle, ascending, with wings elevated and displayed. The eagle is mounted on a walnut base. The trophy is awarded to the highest scoring Junior competitor in the National Trophy Individual Rifle Match.

B–26. The Association of the United States Army Trophy

The Association of the US Army Trophy was presented to the NBPRP in 1962 by the Association of the United States Army. The trophy is a 16-inch bronze statuette of a US Army soldier mounted on a wooden base. The trophy is awarded to the highest scoring Army competitor (Regular, Reserve, or National Guard) in the National Trophy Individual Rifle Match.

B–27. The Coast Artillery Trophy

The Coast Artillery Trophy was presented to the NBPRP by the Commandant, United States Marine Corps, in 1961. The trophy is a sterling silver cup with figures of Marines in standing and kneeling positions firing a rifle. In 1923, officers and enlisted members of the Coast Artillery Corps presented the trophy to the Marine Corps in appreciation of the Marine Corps Team training the Coast Artillery Team for the National Matches. (This training was from 1910 to 1922.) This trophy is awarded to the highest scoring Marine competitor (Regular or Reserve) in the National Trophy Individual Rifle Match.

B–28. The Lieutenant Paul J. Roberts, Jr., Memorial Trophy

The Lieutenant Paul J. Roberts, Jr., Memorial Trophy was presented to the NBPRP in 1958. It is a sterling silver globe, designated by the US Air Forces as a memorial to Lieutenant Paul J. Roberts, Jr., a fighter pilot who was killed during combat in World War II in Germany. The trophy was presented to the NBPRP by his father. It is awarded to the highest scoring Air Force competitor (Regular, Reserve, or National Guard) in the National Trophy Individual Rifle Match.

B–29. The 25th Infantry Division Trophy

The 25th Infantry Division Trophy was presented to the NBPRP in 1955 by the 25th Infantry Division Association. It illustrates the World War II area in which the division saw combat and lists the campaigns in which the division participated. This trophy is awarded to the highest scoring Infantry competitor (Regular Army, Army Reserve, or Army National Guard) in the National Trophy Individual Rifle Match.

B–30. The National Trophy

The National Trophy was provided by Congress in 1903 in the law that established the National Matches. Commonly referred to as the "Dogs of War Trophy," it is a bronze plaque depicting a warrior of ancient times with four dogs of war on a leash. The trophy is awarded to the winning team in the National Trophy Rifle Team Match.

B–31. The Hilton Trophy

The Hilton Trophy was presented to the NRA by the Honorable Henry Hilton of New York in 1878, and the NRA presented the trophy to the NBPRP in 1903. The silver-plated bronze plaque depicts an Indian buffalo hunt. Also on the plaque are figures of eagles, oak boughs, and war trophies. It is awarded to the highest scoring Reserve Component team in the National Trophy Rifle Team Match.

B–32. The Soldier of Marathon Trophy

The Soldier of Marathon Trophy is the oldest NBPRP trophy. It has been in shooting competitions since 1875. The NRA presented the trophy to the US Government for competition in the National Trophy Rifle Team Match in 1903. The trophy is a bronze figure of the runner, Pheidippides who, though exhausted and fallen to a reclining position, still holds high the torch he is carrying to announce the Greek victory at Marathon. The trophy is now awarded to the highest scoring Civilian team in the National Trophy Rifle Team Match.

B–33. The Minuteman Trophy

The Minuteman Trophy was placed in competition in 1925. The trophy is a bronze statuette of the "Minuteman of Concord." (The original life-sized monument stands in Concord, Massachusetts.) The trophy is awarded to the highest scoring Junior team in the National Trophy Rifle Team Match.

B–34. The Pershing Trophy

The Pershing Trophy was presented by General John J. Pershing (1860–1948), Commander of the AEF of World War I, for team competition at the Inter-Allied Games in Paris in 1919. Won by the AEF, it was brought to the United States and placed in the custody of the NBPRP with General Pershing's concurrence. The trophy is a bronze figure of a World War I soldier firing the service pistol. It is awarded to the highest scoring individual competitor in the National Trophy Rifle Team Match.

B–35. The Rattlesnake Trophy

The Rattlesnake Trophy was purchased by the NBPRP in 1938. This statuette depicts a cowboy and his horse at the moment a

rattlesnake strikes at the horse's front feet. It is awarded to the highest scoring Army competitor (Regular, Reserve, or National Guard) in the National Trophy Rifle Team Match.

B-36. The General Thomas D. White Trophy

The General Thomas D. White Trophy was presented to the NBPRP in 1960 by the US Air Force in honor of General Thomas D. White, Chief of Staff of the Air Force from 1957 to 1961. The trophy is a large silver bowl mounted on an ebony base. It is awarded to the highest scoring Air Force competitor (Regular, Reserve, or National Guard) in the National Trophy Rifle Team Match.

B-37. The US Army Forces Command Rifle Trophy

The US Army Forces Command Rifle Trophy was presented to the NBPRP by the Commanding General, US Army Forces Command. The mounted rifles are circa 1900 Winchester low wall muskets, caliber .22 short, with consecutive serial numbers, the highest of which was the last musket chambered for the .22 short cartridge. The trophy was designed and constructed by artisans of Rock Island for award to the Regular Army competitor making the highest aggregate score in the National Trophy Individual Rifle Match and National Trophy Rifle Team Match.

B-38. The Admiral Arleigh A. Burke Trophy

The Admiral Arleigh A. Burke Trophy was presented to the NBPRP by the US Navy through private subscription among the officers and enlisted members of the Navy and Navy Reserve. The trophy is the steel helmet worn by Admiral Burke through the entire Atlantic Campaign of World War II. The trophy is awarded to the Navy competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match.

B-39. The General Shepherd Trophy

The General Shepherd Trophy was presented to the NBPRP in 1956 by General Lemuel C. Shepherd, Jr., Commandant of the Marine Corps from 1952 to 1956. The trophy is a bronze replica of the Marine Corps War Memorial depicting the flag-raising on Mount Suribachi during the battle of Iwo Jima in World War II. This trophy is awarded to the Marine competitor (Regular or Reserve) making the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match.

B-40. The Pietroforte Trophy

The Pietroforte Trophy was donated to the NBPRP by private subscription among members of the US Marine Corps Distinguished Shooters' Association. This trophy honors Warrant Officer Michael Pietroforte, who distinguished himself as one of the finest marksmen in Marine Corps history during his 30 years of service. It is awarded to the Civilian competitor making the highest aggregate score in the National Trophy Individual Rifle Match and the National Trophy Rifle Team Match.

B-41. The Infantry Trophy

The Infantry Trophy was presented to the NRA in 1922 by the US Army Infantry through private subscription among its members (officer and enlisted and Regular, Reserve, and National Guard). The NRA placed the trophy in the custody of the NBPRP in 1936. This trophy depicts the combat Infantryman in action and is awarded to the winning team in the National Trophy Infantry Team Match.

B-42. The Celtic Chieftain Trophy

The Celtic Chieftain Trophy was purchased by the NBPRP in 1958. The statue represents a bronze figure of Caractacus, British chieftain of the tribe of Cateveillauni, who led the native resistance against the Roman, Aulus Plautus (A.D. 43-47). This trophy is awarded to the highest scoring Reserve Component team in the National Trophy Infantry Team Match.

B-43. The Leatherneck Trophy

In 1957, the Marine Corps presented this trophy to the NBPRP in the name of the officers and enlisted members of the Marine Corps. The Leatherneck Trophy is a replica of the life-size "Iron Mike" statue that has stood at the Quantico Marine Corps Base, Virginia, since 1921. It is awarded to the highest scoring Civilian team in the National Trophy Infantry Team Match.

B-44. The Woman's Rifle Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of a pair of Winchester Low Wall, single shot, caliber .22 muskets mounted on a polished hardwood base. This trophy is awarded to the highest scoring Woman competitor in the National Trophy Individual Rifle Match.

B-45. The Woman's Pistol Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of two Colt Army Special caliber .38 revolvers mounted on a polished hardwood base. This trophy is awarded to the highest scoring Woman competitor in the National Trophy Individual Pistol Match.

B-46. The Police Rifle Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of three Springfield M1903 rifles mounted on a polished hardwood base. This trophy is awarded to the highest scoring Police competitor in the National Trophy Individual Rifle Match.

B-47. The Junior Pistol Team Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of four caliber .45 pistol facsimiles mounted on a polished hardwood base. This trophy is awarded to the highest scoring Junior team in the National Trophy Pistol Team Match.

B-48. The Junior Pistol Trophy

This trophy was authorized by the NBPRP in 1983 and first presented in 1984. It consists of two Colt Ace caliber .22 pistols mounted on a polished hardwood base. The trophy is awarded to the highest scoring Junior competitor in the National Trophy Individual Pistol Match.

B-49. The Junior Infantry Team Trophy

This trophy was recommended by the NBPRP in 1983 and first presented in 1984. It consists of three Springfield M1903 rifles mounted on a polished hardwood base. The Springfield rifles were used in the design because of their prominence in the Infantry Trophy; the fact that a distinctive award has been established to promote junior participation in a singularly military type of marksmanship competition is considered most appropriate. The trophy is awarded to the highest scoring Junior team in the National Infantry Trophy Team match.

B-50. The National Guard Association Trophy (Rifle)

The National Guard Association Trophy (Rifle) was presented to the NBPRP in 1983, replacing the original trophy that was established in 1979. The trophy depicts a helmeted Guardsman in bronze, mounted on a two-tiered walnut base. This trophy is awarded to the highest scoring National Guard competitor in the National Trophy Individual Rifle Match.

Appendix C—Glossary

Section I—Abbreviations

AEF—American Expeditionary Forces
AG—adjutant general
AMC—US Army Material Command
CECOM—US Army Communications-Electronics Command
CG—commanding general
CMP—Civilian Marksmanship Program
CONUS—continential United States
DARCOM—US Army Material Development and Readiness Command
DCM—Director of Civilian Marksmanship
DNMIC (Ops/Svcs)—Deputy National Matches Installation Commander (Operations and Services)
EIC—excellence-in-competition
FORSCOM—US Army Forces Command
LNO—Liaison officer
MR—midrange
NBPRP—National Board of the Promotion of Rifle Practice
NGB—National Guard Bureau
NMIC—National Matches Installation Commander
NMPAO—National Matches Public Affairs Officer
NMSC—National Matches Support Coordinator
NMSD—National Matches Support Detachment
NRA—National Rifle Association
OHARNG—Ohio Army National Guard
OSO—Ordnance Safety Officer
ROTC—Reserve Officers' Training Corps
SA—Secretary of the Army
SAFS—Small Arms Firing Schools
SPT—Support
SR—short range
TRADOC—US Army Training and Doctrine Command
USC—US Code
XO, NM—Executive Officer, National Matches
OX, CMP (SPT)—Executive Officer, Civilian Marksmanship Program (Support)

Section II—Terms

Complete the Match

To fire recorded shots in all stages of a match. For team matches, this term means that all firing members fire recorded shots in all stages of the match.

Completed Match

A match in which all competitors have had the opportunity to fire in all stages of the match.

Distinguished Designation

Award of the Distinguished Pistol Shot or Distinguished Rifleman Badge. These awards are made to individuals who have earned the required number of credit points.

Excellence-in-Competition (EIC) Matches

Matches in which credit toward the Distinguished designation may be earned and EIC badges awarded.

Fire in the Match

To fire one or more recorded shots in any stage of the match. For team matches, this term means that one or more team members fire one or more recorded shots in any stage of the match.

Appendix D—Tables 5-1 through 5-6

TABLE 5-1.—COURSE OF FIRE—THE PRESIDENT'S PISTOL MATCH

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time limit	Scoring
First	50	Slow	Standing	2 strings of 10 shots each	10 minutes per string	After each string.
Second	25	Timed	do	2 strings of 5 shots each	20 seconds per string	After 1 or 2 strings as announced by the Match Director.
Third	25	Rapid	do	do	10 seconds per string	After 1 or 2 strings as announced by the Match Director.

TABLE 5-2.—COURSE OF FIRE—NATIONAL MATCH PISTOL COURSE

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time limit	Scoring
First	50	Slow	Standing	10	10 minutes	After 10 shots.
Second	25	Timed	do	2 strings, 5 shots each	20 second per string	After 1 or 2 strings as announced by the Match Director.
Third	25	Rapid	do	do	10 seconds per string	After 1 or 2 strings as announced by the Match Director.

TABLE 5-3.—COURSE OF FIRE—THE PRESIDENT'S RIFLE MATCH

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time shot
First	200	Slow	Standing	10	10 minutes.
Second	300	Rapid	Prone from standing	10	70 seconds.
Third	600	Slow	Prone	10	10 minutes.

TABLE 5-4.—COURSE OF FIRE, COURSE A—NATIONAL RIFLE MATCH COURSE

Stage	Distance (yards)	Type of fire	Firing position	Number of shots	Time limit
First	200	Slow	Standing	10	10 minutes.
Second	200	Rapid	Sitting or kneeling from standing	10	60 seconds.
Third	300	do	Prone form standing	10	70 seconds.
Fourth [1]	600	Slow	Prone	20	20 minutes.

[1] The DCM may authorize the fourth stage to be fired at 500 yards for EIC matches other than the National Trophy Matches.

TABLE 5-5.—Course of Fire, Course B—Competitive Rifle Course, M-16 RIFLE ONLY

Stage	Distance (yards or meters)	Type of fire	Firing position	Number of shots	Time limit
First	200	Rapid fire	Rapid fire—sitting from standing	Rapid fire—10 shots	Rapid fire—50 seconds.
Second	200	Rapid	Kneeling from standing	do	50 seconds.
Third	200	Slow	Standing	do	10 minutes.
Fourth	300	do	Prone	do	Do.
Fifth	300	Rapid	Prone from standing	do	50 seconds.

TABLE 5-6.—COURSE OF FIRE—NATIONAL TROPHY INFANTRY TEAM MATCH

Stage	Distance (yards)	Firing position	Time limit (seconds)
First	600	Prone	50
Second	500	Prone, sitting, or kneeling	50
Third	300	Sitting or kneeling	50
Fourth	200	Standing	50

John O. Roach II

Army Liaison Officer with the Federal Register.

[FR Doc. 85-7945 Filed 4-5-85; 8:45 am]

BILLING CODE 3710-08-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 20403; FCC 85-153]

Use of Automatic Transmission Systems at AM, FM, and TV Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proceeding Termination.

SUMMARY: The Commission terminates the proceeding concerning the use of Automatic Transmission Systems at AM, FM, and TV Broadcast Stations. The *First Report and Order* in this proceeding was published at 42 FR 1233, on January 6, 1977. This action is based on the advancement of technology (particularly data processing and computer technology) rendering the remaining issues and comments in this proceeding outdated.

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

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau, Technical and International Branch, Washington, D.C. 20554, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast services.

Memorandum Opinion and Order

In the matter of Use of Automatic Transmission Systems at AM, FM, and TV Broadcast Stations, MM Docket No. 20403.

Adopted: March 28, 1985.
Released: April 2, 1985.

By the Commission:

1. In December 1976, the Commission adopted the *First Report and Order* in this Docket. Since that time, technology, particularly data processing and computer technology, has advanced to the point that the remaining issues and comments in this Docket are now outdated. In view of the passage of time, this proceeding terminates Docket 20403, Use of Automatic Transmission Systems at AM, FM, and TV Broadcast Stations. A new proceeding will be concurrently opened to receive fresh information in this area, looking toward deregulation of the Automatic Transmission System rules.

2. Accordingly, it is ordered that Docket No. 20403 is terminated.

3. This action is taken pursuant to authority contained in sections 4(i), 4(j), and 303 of the Communications Act of 1934, as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-8345 Filed 4-5-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-792; RM-4634]

FM Broadcast Stations in Atlantic City, NJ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein deletes FM Channel 240A from Atlantic City, New Jersey, in response to a request filed by Franklin Broadcasting Company, for failure of any applicant to specify a transmitter site in accordance with the Commission's mileage separation requirements.

EFFECTIVE DATE: May 6, 1985.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Atlantic City, New Jersey), MM Docket No. 84-792, RM-4634.

Adopted: March 13, 1985.
Released: March 28, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 49 FR 33462, published August 23, 1984, issued in response to a petition filed by Franklin Broadcasting Company ("Franklin"), proposing the deletion of FM Channel 240A from Atlantic City, New Jersey. Comments in support of the *Notice* were filed by Franklin and by Pleasant Broadcasters, Inc. ("Pleasant"). Dean Lewis ("Lewis")[1] filed an opposition. Both Franklin and Pleasant filed reply comments,[2] as did Lewis.

2. Channel 240A was allocated to Atlantic City, New Jersey by a *Report and Order* in BC Docket 81-725, 47 FR 43385, published October 1, 1982, in response to a petition filed by Doctor R. Crants, Jr. ("Crants"). Crants had requested a waiver of the Commission's minimum distance separation requirements with respect to Station WFLN-FM, to permit placing his transmitter at a site on the southwest tip of Atlantic City. Alternatively, Crants proposed the use of a site one mile offshore to overcome the mileage separation deficiency. The Commission denied the waiver request, but acknowledged that the offshore proposal could solve the mileage separation conflict. In the *Notice* the petitioner was requested to indicate in his comments, to what extent he had investigated Federal, State and local requirements, if any, which would have to be complied with in order to obtain approval for an offshore site. Petitioner submitted comments, based upon his investigation, that he should be able to obtain an offshore site. The state of New Jersey required a Waterfront Development permit prior to construction and an application for Grant in Conveyance to occupy the site. Petitioner indicated no unusual problems involved after consultation with the state agencies. The U.S. Army Corps of Engineers, concerned with the navigational issue, required a formal application for a construction permit. After a review of the form, petitioner anticipated no difficulty in meeting the requirements. After a review of the U.S. Coast Guard regulations pertaining to marking and lighting of the proposed antenna structure, petitioner concluded that he could satisfy those requirements. Petitioner added that he was aware of the Federal Aviation Administration's requirements for marking and lighting the structure and would apply for an FAA No Hazard determination before construction. The petitioner also submitted an engineering affidavit showing the required 3.16 mV/m contour would cover the entire developed and inhabited portion of the city and would fail only by "a few tenths of a mile" to include the southernmost tip of the area (uninhabited) within the city limits. Channel 240A was assigned to Atlantic City based upon the above statements submitted by Crants.

3. Franklin, licensee of Station WFLN-FM, Channel 239, Philadelphia, Pennsylvania, filed comments

[1] Lewis is one of the four applicants for Channel 240A at Atlantic City.

[2] Franklin and Pleasant filed a Joint Motion to Strike Lewis' Reply Comments and Lewis filed an Opposition to the Joint Motion. In its reply Lewis challenged the acceptability of the initial comments of Franklin and Pleasant on the grounds that he was not served. The Commission's Rules do not require service of initial comments except to the petitioner. Thus, we have considered the reply comment filed by Lewis as to this procedural matter and find that the initial comments in question are acceptable. See § 1.420(a) of the Commission's Rules.

supporting its petition to delete Channel 240A, as all applications which have been filed propose sites onshore which do not meet the spacing requirements. It further states that no site on land can meet the spacing requirements and that an offshore site would be prohibitively expensive and would not provide the required city grade signal.

4. Pleasant, licensee of Station WADB (FM), Channel 240A, Point Pleasant, New Jersey, also filed supporting comments. They state that the Commission expressly conditioned the allocation of Channel 240A to Atlantic City on the use of a site that would give full protection to WADB and so far, the applications for that channel have been for sites short spaced to WADB. The state of New Jersey has selected WADB as its means of alerting the population within a ten-mile radius of the Oyster Creek Nuclear Generating Station of any type of nuclear emergency. The importance of preserving WADB's current signal on a non-interference basis should not be underestimated. Since the allocation of Channel 240A to Atlantic City, Station WADB has increased its antenna height to a full 300 feet to assure good coverage of the area surrounding the Oyster Creek Nuclear Generating Station.

5. Lewis filed opposing comments, stating that the original assignment was unrealistic if it is assumed that the siting would be offshore. Lewis argues that additional service is needed for year-round residents and also for the traveling public visiting Atlantic City. He further states that the short spacing would be less than a mile to both WFLN and WADB.

6. Reply comments were filed by Franklin and Pleasant restating that assignment of Channel 240A was made with the understanding that the site location would be one mile offshore, in compliance with the Commission's spacing requirements. Since the applications filed for Channel 240A have not complied with Section 73.207 of the Rules, the channel should be deleted. Franklin points out that the Commission has allocated FM Channel 297B1 to Atlantic City in MM Docket 84-231. Although channel 240A would be deleted, the citizens of Atlantic City would still have an additional FM service available, serving a larger area.

7. Lewis, in reply comments, urges that this proceeding be terminated and the four applications pending for Channel 240A at Atlantic City be designated for hearing in a consolidated proceeding with the renewal applications for WFLN (FM) and WADB (FM).

8. After consideration of the above, the Commission has determined that the public interest would best be served by deleting FM Channel 240A from Atlantic City. The channel was assigned to Atlantic City at the request of Doctor R. Crants, who provided extensive information to the Commission showing that he should be able to obtain an offshore site and that he would apply for the channel, if assigned. The Commission records indicate that Doctor Crants has failed to file an application for the channel and did not file comments in this proceeding. Doctor Crants has been the only party to express interest in an offshore site for Channel 240A at Atlantic City. There has been more than adequate time for Crants to either file his application or to file comments in this proceeding. Four applications are on file at the Commission for the channel at land based sites.[3] A land based site for Channel 240A is not available that meets the Commission spacing requirements and it was not our intention to allot this channel with a short spacing, particularly now that an alternative channel is available for use at Atlantic City. Interest in additional radio service for the community can be satisfied by the recent allocation of Channel 297B1 in MM Docket 84-231, 50 FR 3514, published January 25, 1985.

9. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective May 6, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Atlantic City, NJ	236, 245, 279, and 297B1

10. It is further ordered, that this proceeding is terminated.

11. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-8348 Filed 4-5-85; 8:45 am]

BILLING CODE 6712-01-M

[3] The applicants are High Tech Industries, Inc. (BPH830825AF), Dean Lewis (BPH830823AF), Starlight Broadcasting Corp. (BPH831003AD) and Star Broadcasting (841001ID).

47 CFR Part 97

Change in Format of Frequency and Emission Tables in the Amateur Radio Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action arranges the complex frequency and emission tables in more usable formats in Part 97 of the rules. This action is necessary to make these rules easier to read.

EFFECTIVE DATE: April 8, 1985.

FOR FURTHER INFORMATION CONTACT: John Small, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Order

In the matter of Amendment of Part 97, Amateur Radio Service Rules to Change the Frequency and Emission Tables to More Usable Formats.

Adopted: March 25, 1985.
Released: March 29, 1985.

1. This Order amends Part 97 by arranging the frequency and emission tables in more usable formats.

2. Since these amendments clarify our rules and are non-substantive, the notice and comment provisions and the effective date requirements of the Administrative Procedure Act are not applicable.

3. In the Commission's *Report and Order* in PR Docket No. 82-726, FCC 83-249 (June 6, 1983) logging requirements for amateur radio operators were eliminated from Part 97 of the Commission's Rules. However, § 97.69(a)(3) still references this obsolete logging requirement. We are taking this opportunity to delete that reference.

4. Authority for this action is 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)), and § 0.231(d) of the Commission's Rules (47 CFR 0.231(d)).

5. Accordingly, it is ordered, that Part 97 of the Commission's Rules (47 CFR Part 97) is amended as set forth in the attached Appendix.

6. These rule amendments shall become effective upon publication in the **Federal Register.**

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

Federal Communications Commission
Edward J. Minkel,
Managing Director.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. In the Table of Contents, change the entry for § 97.7 to read:

Sec.
97.7 Control operator frequency privileges.

2. Section 97.7 is revised to read as follows:

§ 97.7 Control operator frequency privileges.

(a) The following transmitting frequency bands are available to amateur radio stations having a control operator of the license class designated, subject to the limitations of paragraph (b) of this section:

Control operator license class	Meter band	Terrestrial location of the amateur radio station			Limitations (see paragraph (b))
		ITU region 1	ITU region 2	ITU region 3	
		Kilohertz			
Novice	80	3700-3750	3700-3750	3700-3750	2
			5167.5		9
	40	7050-7075	7100-7150	7050-7075	1, 2
	15	21100-21200	21100-21200	21100-21200	2
	10	28100-28200	28100-28200	28100-28200	2
		Kilohertz			
Technician	80	3700-3750	3700-3750	3700-3750	2
			5167.5		9
	40	7050-7075	7100-7150	7050-7075	1, 2
	15	21100-21200	21100-21200	21100-21200	2
	10	28100-28200	28100-28200	28100-28200	2
		Megahertz			
	6		50-54	50-54	
	2	144-146	144-148	144-148	
	1.25		220-225		3
	0.70	430-440	420-450	420-450	3, 4
	0.23	1215-1300	1215-1300	1215-1300	3
		2300-2310	2300-2310	2300-2310	3
		2390-2450	2390-2450	2390-2450	3, 5
		Gigahertz			
			3.300-3.500		3, 8, 10
			5.650-5.925		3, 6, 10
			10.00-10.50		3, 10
			24.00-24.25		3, 7, 10
			48-50		10
			71-76		10
			165-170		10
			240-250		10
			above 300		10
		Kilohertz			
General	160		1800-2000	1800-2000	
	80	3525-3750	3525-3750	3525-3750	
	75		3850-4000	3850-3900	
			5167.5		9
	40	7025-7100	7025-7150	7025-7100	1
	40		7225-7300		1
	20	14025-14150	14025-14150	14025-14150	
	20	14225-14350	14225-14350	14225-14350	
	15	21025-21200	21025-21200	21025-21200	
	15	21300-21450	21300-21450	21300-21450	
	10	28000-29700	28000-29700	28000-29700	
		Megahertz			
	6		50-54	50-54	
	2	144-146	144-148	144-148	
	1.25		220-225		3
	0.70	430-440	420-450	420-450	3, 4
	0.23	1215-1300	1215-1300	1215-1300	3
		2300-2310	2300-2310	2300-2310	3
		2390-2450	2390-2450	2390-2450	3, 5
		Gigahertz			
			3.300-3.500		3, 8, 10
			5.650-5.925		3, 6, 10
			10.00-10.50		3, 10
			24.00-24.25		3, 7, 10
			48-50		10
			71-76		10
			165-170		10
			240-250		10
			above 300		10

Control operator license class	Meter band	Terrestrial location of the amateur radio station			Limitations (see paragraph (b))
		ITU region 1	ITU region 2	ITU region 3	
		Kilohertz			
Advanced	160		1800-2000	1800-2000	
	80	3525-3750	3525-3750	3525-3750	
	75	3775-3800	3775-4000	3775-3900	
			5167.5		9
	40	7025-7100	7025-7300	7025-7100	1
	20	14025-14150	14025-14150	14025-14150	
	20	14175-14350	14175-14350	14175-14350	
	15	21025-21200	21025-21200	21025-21200	
	15	21225-21450	21225-21450	21225-21450	
	10	28000-29700	28000-29700	28000-29700	
		Megahertz			
	6		50-54	50-54	
	2	144-146	144-148	144-148	
	1.25		220-225		3
	0.70	430-440	420-450	420-450	3, 4
	0.23	1215-1300	1215-1300	1215-1300	3
		2300-2310	2300-2310	2300-2310	3
		2390-2450	2390-2450	2390-2450	3, 5
		Gigahertz			
			3.300-3.500		3, 8, 10
			5.650-5.925		3, 6, 10
			10.00-10.50		3, 10
			24.00-24.25		3, 7, 10
			48-50		10
			71-76		10
			165-170		10
			240-250		10
			above 300		10
		Kilohertz			
Amateur Extra	160		1800-2000	1800-2000	
	80/75	3500-3800	3500-4000	3500-3900	
			5167.5		9
	40	7000-7100	7000-7300	7000-7100	1
	20	14000-14350	14000-14350	14000-14350	
	15	21000-21450	21000-21450	21000-21450	
	10	28000-29700	28000-29700	28000-29700	
		Megahertz			
	6		50-54	50-54	
	2	144-146	144-148	144-148	
	1.25		220-225		3
	0.70	430-440	420-450	420-450	3, 4
	0.23	1215-1300	1215-1300	1215-1300	3
		2300-2310	2300-2310	2300-2310	3
		2390-2450	2390-2450	2390-2450	3, 5
		Gigahertz			
			3.300-3.500		3, 8, 10
			5.650-5.925		3, 6, 10
			10.00-10.50		3, 10
			24.00-24.25		3, 7, 10
			48-50		10
			71-76		10
			165-170		10
			240-250		10
			above 300		10

(b) Limitations:

(1) Where, in adjacent regions or subregions, a band of frequencies is allocated to different services of the same category, the basic principle is the equality of right to operate. Accordingly, the stations of each service in one region or subregion must operate so as not to cause harmful interference to services in the other regions or subregions (No. 346, the Radio Regulations, Geneva, 1979).

(2) Novice and Technician class radio operators are required to use international Morse code when communicating in this band.

(3) Amateur stations shall not cause interference to the Government radiolocation service.

(4) In the following areas, the peak envelope power output of a transmitter used in the Amateur Radio Service shall not exceed 50 watts, except when authorized by the appropriate Commission Engineer-in-Charge and the appropriate Military Area Frequency Coordinator:

(i) Those portions of Texas and New Mexico bounded by latitudes 33°24′ N. and 31°53′ N., and longitudes 105°40′ W. and 106°40′ W.

(ii) The State of Florida, including the Key West area and the areas enclosed within circles of 200-mile radius centered at 28°21′ N., 80°43′ W. and 30°30′ N., 86°30′ W.

(iii) The State of Arizona.

(iv) Those portions of California and Nevada south of latitude 37°10′ N. and the area within a 200-mile radius of 34°09′ N., 119°11′ W.

(v) In the State of Massachusetts within a 160-kilometer (100 mile) radius of 41°45′ N., 70°32′ W.

(vi) In the State of California within a 240-kilometer (150 mile) radius of 39°08' N., 121°26' W.

(vii) In the State of Alaska within a 160 kilometer (100 mile) radius of 64°17' N., 149°10' W. (The Military Area Frequency Coordinator for this area is located at Elmendorf Air Force Base, Alaska.)

(viii) In the State of North Dakota within a 160-kilometer (100 mile) radius of 48°43' N., 97°54' W. (The Military Area Frequency Coordinator for this area can be contacted at: HQ SAC/SXOE, Offutt Air Force Base, Nebraska 68113.)

(ix) In the States of Alabama, Florida, Georgia and South Carolina within a 200 kilometer (124 mile) radius of Warner Robins Air Force Base, Georgia (latitude 32°38' N., longitude 83°35' W.).

(x) In the State of Texas within a 200 kilometer (124 mile) radius of Goodfellow Air Force Base, Texas (latitude 31°25' N., longitude 100°24' W.).

(5) No protection in the band 2400–2500 MHz is afforded from interference due to the operation of industrial, scientific and medical devices on 2450 MHz.

(6) No protection in the band 5725–5875 MHz is afforded from interference due to the operation of industrial, scientific and medical devices on 5800 MHz.

(7) No protection in the band 24.00–24.25 GHz is afforded from industrial, scientific and medical devices on 24.125 GHz.

(8) Amateur stations shall not cause interference to the Fixed-Satellite Service operating in the band 3.4–3.5 GHz.

(9) The frequency 5167.5 kHz, maximum power 150 watts, may be used by any station authorized under this part to communicate with any other station authorized in the State of Alaska for emergency communications. All stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska. The frequency 5167.5 kHz may be used by licensees in the Alaska-private fixed service for calling and listening, but only for establishing communication before switching to another frequency.

(10) In International Telecommunication Union Regions 1 and 3, operations on frequency bands above 2450 MHz may be conducted subject to the limitations and provisions of Section IV of Article 8 of the Radio Regulations of the ITU.

3. Section 97.61 is revised to read as follows:

§ 97.61 Authorized emissions.

Frequency band	Emissions	Limitations (see paragraph (b))
Kilohertz		
1800-2000	A1A, A3E	3
3500-4000	A1A	
3500-3750	F1B	4
3750-4000	A3E, F3E, G3E, A3C, A3F, F3C, F3F	3
5167.5	R3E, J3E	
7000-7300	A1A	
7000-7150	F1B	4
7075-7100	A3E, F3E, G3E	1, 3
7150-7300	A3E, F3E, G3E, A3C, F3C, A3F, F3F	3
14000-14350	A1A	
14000-14150	F1B	
14150-14350	A3E, F3E, A3C, F3C, A3F, F3F	3
21000-21450	A1A	
21000-21200	F1B	4
21200-21450	A3E, F3E, A3C, F3C, A3F, F3F	3
28000-29700	A1A	
28000-28300	F1B	4
28300-29700	A3E, F3E, G3E, A3C, F3C, A3F, F3F	3
Megahertz		
50.0-54.0	A1A	
50.1-54.0	A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F	3
51.0-54.0	N0N	
144.0-148.0	A1A	
144.1-148.0	N0N, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F	3
220-225	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F	3
420-450	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F	3
1215-1300	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F	3
2300-2310	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
2390-2450	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
Gigahertz		
3.300-3.500	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
5.650-5.925	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
10.000-10.500	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F	3
24.000-24.250	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, G3E, F3C, F3F, P0N	2, 3
48.000-50.000	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
71.000-76.000	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
165.000-170.000	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
240.000-250.000	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3
Above 300.000	N0N, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, P0N	2, 3

(b) Limitations:

(1) The use of emissions A3E, F3E, and G3E in this band is limited to amateur radio stations located in Regions 1 and 3, and amateur radio stations located within Region 2 which are west of 130 degrees West longitude.

(2) The emission letters "K, L, M, Q, V, W and X" may also be used in place of the letter "p" for pulsed radars.

(3) The use of J3E, R3E, and H3E may also be used.

(4) Novice and Technician class radio operators may not use F1B emissions in this band.

§ 97.69 [Amended]

4. Paragraph (3) of paragraph (c) of § 97.69 is removed and reserved.

5. Section 97.85 is amended to add a new paragraph (h), as follows:

§ 97.85 Repeater operation.

* * * * *

(h) All amateur frequency bands above 29.5 MHz are available for repeater operation, except 50.0–52.0 MHz, 144.0–144.5 MHz, 145.5–146.0 Mhz, 220.0–220.5 MHz, 431.0–433.0 MHz, and 435.0–438.0 MHz. Both the input (receiving) and output (transmitting) frequency of a station in repeater operation shall be frequencies available for repeater operation.

6. Section 97.86 is amended to add a new paragraph (d) as follows:

§ 97.86 Auxiliary operation.

* * * * *

(d) All amateur frequency bands above 220.5 MHz, except 431–433 MHz and 435–438 MHz, are available for auxiliary operation.

7. Section 97.87 is amended to add a new paragraph (e) as follows:

§ 97.87 Beacon operation.

* * * * *

(e) The following amateur frequency bands and emissions are available for automatically-controlled beacon operation: 28.20–28.30 MHz, 50.06–50.08 MHz, 144.05–144.06 MHz, 220.05–220.06 MHz, 222.05–222.06 MHz, and 432.07–432.08 MHz using type N0N, A1A, F1B or J2A emissions (when type F1B or J2A emissions are employed in these bands, the radio or audio frequency shift, as appropriate, shall not exceed 1000 Hz). Additionally, all amateur frequency bands above 450 MHz are available for automatically-controlled beacon operation using emission types authorized under §97.61, provided that the licensee is authorized to operate on the frequency under § 97.7.

§ 97.95 [Amended]

8. Paragraphs (b) (2) and (3) of § 97.95 are removed and reserved.

[FR Doc. 85-8347 Filed 4-5-85; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 296

[Docket No. 50334-5034]

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: These rules revise the Fishermen's Contingency Fund Program regulations by (1) extending the period for filing claims from 60 days to 90 days and (2) increasing compensation for economic loss from 25 percent to 50 percent. These revisions were authorized by Pub. L. 98-498, a recent amendment to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978.

EFFECTIVE DATE: April 5, 1985.

ADDRESS: Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Page Building 2, Room 309, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Charles L. Cooper (Program Leader, NMFS), 202-634-4688.

SUPPLEMENTARY INFORMATION: Title IV of the Outer Continental Shelf Lands Act Amendments (43 U.S.C. 1841 *et seq.*) established the Fishermen's Contingency Fund (the Fund) to compensate commercial fishermen for property or economic loss caused by oil and gas obstructions on the U.S Outer Continental Shelf (OCS). The Fund is comprised of assessments collected from offshore energy interests.

Title IV was amended by the Marine Sanctuaries Act (Pub. L. 98-498, enacted October 19, 1984). The amendment (1) extends the period for filing claims from 60 days to 90 days; (2) increases compensation for economic loss from 25 percent to 50 percent; and (3) allows the Secretary to specify the time, form, and manner in which claims must be filed. This final rulemaking implements this amendment of Title IV.

Classification

The NOAA Administrator determined that this final rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. It is not major within that context because it does not significantly affect the economy, costs or prices, competition, employment, investment or productivity.

This rule is not subject to the notice and comment requirements, or the 30-day delayed effectiveness requirement, of the Administrative Procedure Act (APA), because it relates to benefits or contracts. Matters "relating to . . . benefits, or contracts" are exempted from the APA [5 U.S.C. 553, (a)(2)].

The Regulatory Flexibility Act does not apply to this rule because the rule was not required to be promulgated as a proposed rule before issuance as a final rule by section 553 of the Administrative Procedure Act or by any other law. Neither an initial nor final Regulatory Flexibility Analysis was prepared.

This revised rule contains no new information collection requirements. The existing information collection requirements contained in this rule were approved by Office of Management and Budget under control number 0648-0082.

This action does not require an environmental impact analysis because it is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

The Agency has determined that this rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

(The Catalog of Federal Domestic Assistance number is 11.406)

List of Subjects in 50 CFR Part 296

Claims, Outer continental shelf, Fisheries, Fishing vessels, Oil and gas production.

Dated: April 3, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 296—[AMENDED]

For the reasons stated in the preamble, 50 CFR Part 296 is amended as follows:

1. The Authority citation for Part 296 reads as follows:

Authority: 43 U.S.C. 1841 *et seq.*

2. In § 296.4, paragraph (e)(5) is revised to read as follows:

§ 296.4 Claims eligible for compensation.

* * * * *

(e) * * *

(5) If the claim is not filed within 90 calendar days of the date the claimant or the claimant's agent first became aware of the damage or loss (or such longer period as the Secretary may allow under unusual and extenuating circumstances); or

* * * * *

3. In § 296.5, paragraph (c) is revised to read as follows:

§ 296.5 Instructions for filing claims.

* * * * *

(c) *Who must file and when and where to file claims.* All claimants (including those who filed 15-day reports to gain the presumption of causation) must submit a claim application to the Chief, Financial Services Division, within 90 calendar days of the date the claimant or the claimant's agent first became aware of the damage or loss. The Chief, FSD, may allow a longer period for filing claims if, in his discretion, unusual and extenuating circumstances justify a longer period. The term "filed" means delivered in person, or mailed (as determined by the date of the postmark) to the Chief, Financial Services Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235. The Chief, FSD, suggests that mailed claims be sent by registered or certified mail, return receipt requested, so the claimant will have a record that the claim was received by the Chief, FSD.

4. In § 296.8, paragraph (c) is revised to read as follows:

§ 296.8 Amount of award.

* * * * *

(c) *Resulting economic loss.* An award may also include 50 percent of the resulting economic loss from damage to or loss of fishing vessels and gear.

* * * * *

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Proposed Rules

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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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19, 20, 21, 30, 39, 40, 51, 70, 71, and 150

Licenses and Radiation Safety Requirements for Well-Logging Operations

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing a regulation that would specify radiation safety requirements for the use of licensed material in well-logging operations. The proposed regulation would provide: (1) Comprehensive and consistent regulations applicable to well-logging operations by consolidating essential radiation safety requirements in a new Part 39, (2) uniform safety requirements in NRC and Agreement States regulations, and (3) safety requirements designed to reduce the risks of accidents involving the rupture of radioactive sources in well-logging operations.

DATE: Submit comments by July 8, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received on the proposed rule may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the technical documents referred to in this document may be obtained from Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301–443–7901).

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 443–7901.

SUPPLEMENTARY INFORMATION:

1. Introduction

Uses of Licensed Material in Well-Logging Operations

The oil and gas industry often needs to determine the types and characteristics of the underground formations in a new or existing well. Licensed materials are used to obtain information on certain properties of an underground formation, such as type of rocks, porosity, hydrocarbon content, and density. Licensed materials are also used for similar purposes in coal or mineral exploration.

In well-logging, sealed radioactive sources with associated radiation detectors, known as logging tools, are lowered into a well on a wireline. The depth of the well could range from several hundred feet to greater than 30,000 feet. Information collected by the detectors is sent to the surface through the wireline and plotted on a chart as the logging tool is slowly raised from the bottom of the well. Americium-241 (typically 0.25 curie to 20 curies) and cesium-137 (typically 2 to 3 curies) are the radioactive materials most frequently used for this purpose.

In subsurface tracer studies, a small amount of radioactive material in liquid or gaseous form is used. After the liquid of gas tracer is injected into the well, a detector is used in the well to monitor the dispersion of the tracer material. This information will help determine certain underground characteristics such as fluid flow rate and the channeling effect. Iodine-131 (typically 5 to 20 millicuries) is the material most frequently used in subsurface tracer studies.

Other licensed materials used in well-logging operations include cobalt-60 used in collar markers, radioactive iron used in nails, depleted uranium used in sinker bars, and iridium-192 used in sands. Collar markers use Co-60 wire (about 1 to 5 microcuries) to mark collars between two sections of casing and provide positive depth measurement. Radioactive iron nails are used to indicate locations of perforations. Sinker bars are constructed of solid depleted uranium (usually weighing 50 to 100 pounds) and are used to provide additional weight to help push a light weight logging tool through the drilling fluid, called mud by the drilling industry, down to the bottom of the well. Sands mixed with small amount of iridium-192 are used to determine the extent of underground hydraulic fracturing.

NRC and Agreement States' Roles

Twenty-seven Agreement States, including most major oil producing States, have assumed responsibility for regulating certain activities, including the use of radioactive materials in well-logging operations, by agreements with the NRC. Each Agreement State issues licenses to persons who use radioactive material in well-logging operations in the State.

The NRC issues licenses to persons using radioactive materials in well-logging operations in non-Agreement States. These licenses specify the radiation safety requirements applicable to well-logging operations that the licensee must follow. The NRC has, as of November 1984, 173 licensees authorized to use radioactive materials in well-logging operations. The Agreement States have approximately 400 licensees involved in well-logging operations.

Well-logging licensees from one State frequently perform well-logging jobs in other States. To avoid duplication of licensing effort, NRC permits, under reciprocity, Agreement States licensees to operate in non-Agreement States according to the conditions of the license issued by their home State. Reciprocity also applies to licensees of the NRC that wish to operate in Agreement States as well as between the different Agreement States. Therefore, compatibility between NRC regulations and Agreement State regulations is essential to permit licensees to conduct well-logging operations in various States while maintaining a consistent and effective level of protection necessary to ensure public health and safety.

NRC's Current Regulatory Practices

Except for requirements concerning the abandonment of irretrievable well-logging sources set forth in 10 CFR 30.56 and 70.60, current NRC regulations, do not provide radiation safety requirements specific to the use of licensed material in well-logging operations. General safety requirements, however, are contained in 10 CFR Parts

20, 30, 40, and 70. At present, NRC reviews a licensee's specific safety program as part of the license application, and incorporates the safety program into the license as license conditions.

Problems with the Current Practice

A major problem with the current practice is that radiation safety requirements applicable to the industry are specified as license conditions on a case-by-case basis rather than spelled out in uniform regulations that are applicable to all licensees. This requires duplication of effort and allows for discrepancies in requirements among specific licenses issued by NRC and the Agreement States. Problems in the consistent and uniform application of these requirements could become a greater concern because, under the NRC's program for the decentralization of material licensing actions, well-logging licenses are issued by the five NRC Regional Offices instead of NRC Headquarters.

Though there are about 50,000 well-logging operations each year, the probability of an accident is small. Nonetheless, accidents have occurred and additional safety requirements are needed to reduce even further the risk of an accident.

There were five incidents which occurred between August 1982 and September 1983 involving radioactive sources used in well-logging operations. Three incidents involved the reputure of sources in uncontrolled workshop environments by workers performing machining or drilling operations. Two incidents involved the rupture of sources in well holes during logging-tool recovery operations. The cost associated with the Cleanup of radioactive contamination from these incidents is estimated to be in excess of $1.5 million

Actions taken by Agreement States

Recognizing the need for comprehensive and consistent radiation safety standards, the Conference of Radiation Control Program Directors established a task force in 1974 to develop necessary standards for well-logging operations. The task force was composed of representatives from States, industry, and Federal agencies, including NRC. By 1981, a set of model regulations was proposed to the Conference by the task force. In keeping with previous practices of the organization, the Conference adopted the well-logging requirements as Part W of the "Suggested State Regulations for Control of Radiation." Four Agreement States (Arkansas, Kentucky, Oregon, and Texas) have already adopted Part W requirements as State regulations without significant changes. Several other Agreement States are considering adopting Part W requirements.

NRC's Proposed Approach

The NRC is proposing to amend its regulations to include specific radiation safety requirements for well-logging operations. These requirements are included in the proposed 10 CFR Part 39, a new part exclusively dedicated to well-logging operations.

The proposed rule is needed for the following reasons:

(1) The proposed rule would provide comprehensive and consistent regulations applicable to well-logging operations. Current NRC regulations do not provide specific requirements. Specific requirements pertaining to well-logging operations are imposed as licensing conditions.

(2) The proposed rule would incorporate requirements similar to Part W of the Suggested State Regulations. Four Agreement States have adopted Part W as State regulations and others are considering its adoption. Consistency between NRC and Agreement State regulations is essential for well-logging operations because many companies operate in both Agreement and Non-Agreement States.

(3) The proposed rule includes safety requirements designed to reduce the risks of accidents involving the rupture of radioactive sources and the spread of radioactive contamination. These incidents may result from operations conducted to remove a stuck source from a well-logging device or to retrieve a well-logging device lodged in a well.

(4) The proposed rule also includes safety requirements involving the use of radioactive collar markers, uranium sinker bars, and of a sealed source in a well without surface casing.

If these requirements are adopted as final regulations, NRC would encourage the Conference of Radiation Control Program Directors and the Agreement States to adopt similar requirements in order to achieve compatible regulations.

A new part (10 CFR Part 39), dedicated exclusively to well-logging operations, is proposed to specify the various safety requirements. The proposed new part parallels the existing Part 34 which is dedicated exclusively to radiographic operations. A new part is needed because these operations use byproduct material, source material, and special nuclear material. If these safety requirements were not included in one part, they would have to be repeated in Parts 30 (byproduct material), 40 (source material) and 70 (special nuclear material). For instance, the existing regulation on irretrievable well-logging sources is repeated in Parts 30 and 70 for sources containing byproduct material and special nuclear material, respectively. Furthermore, if the safety requirements were fragmented throughout Parts 30, 40, and 70, licensees, NRC licensing reviewers, and NRC inspectors could have difficulty in determining the regulations applicable to a specific situation.

2. Discussion of the Proposed Rule

The proposed Part 39 would prescribe specific safety requirements for well-logging operations that use licensed materials. General provisions in Parts 30, 40 and 70, such as renewal, amendment or termination of licenses, would also be applicable to well-logging licensees. The following sections provide a discussion of the major provisions of the proposed Part 39.

A. Agreement With Well Owner or Operator

The proposed rule (§ 39.15) would require that a license (a well-logging company) enter into a written agreement with a well owner or operator, whichever engaged the licensee to perform the well-logging operations, before the licensee could use sealed sources in well-logging. The requirement to enter into a written agreement on abandonment procedures for irretrievable well-logging sources was published as a final rule in the **Federal Register** (10 CFR 30.56, 70.60, and 150.20) on August 29, 1983 (48 FR 39036). The proposed Part 39 has incorporated the existing requirement for an agreement and proposes to remove §§ 30.56 and 70.60 and to modify § 150.20.

The proposed rule specifies the terms of this agreement. The well owner or operator would agree, if a sealed source is lodged in the well, to: (1) Make a reasonable effort to recover the sealed source; (2) not permit specific types of recovery operations that could endanger the integrity of the sealed source; (3) not release contaminated equipment or areas, such as areas surrounding the well, for unrestricted use unless the equipment or the area has been decontaminated (Guidance on release of equipment or areas for unrestricted use is available on a case-by-case basis from the NRC staff. In general, limits for equipment are similar to those in Regulatory Guide 1.86, "Termination of Operating Licenses for Nuclear Reactors."); and (4) implement specified abandonment procedures when a sealed source is deemed irretrievable. The sealed source lodged in the well must be

retrieved or properly abandoned to avoid possible source rupture by subsequent re-entry into the well.

This requirement is needed because the licensee (the well-logging company) may not have the legal authority or resources to recover a tool and its sealed source if it becomes lost in a well. The well owner or operator controls the activities at the well. When a tool containing sealed source is lost in the well, the well owner or operator could engage a "fishing company" to recover it. The fishing company is usually responsible directly to the well owner or operator. The licensed well-logging company has no legal right to direct or control the activity of the fishing compay. Therefore, the contractual agreement between the licensee and the well owner or operator is necessary to obligate the well owner or operator to (1) recover the sealed source in a safe manner, (2) properly abandon an irretrievable source, and (3) prevent release of contaminated equipment or areas until they have been decontaminated.

It should be noted that the NRC is making the licensee responsible for the sealed source during well-logging until the sealed source is removed from the temporary jobsite or the completion of the abandonment procedures, if the source is determined to be irretrievable. Thus, NRC is making the licensee responsible for ensuring compliance with the regulations or for pursuing every legal avenue, based on the written agreement, to achieve compliance. The written agreement could assign to the well owner or operator, under the supervision of the licensee in areas of radiation safety, the responsibility for carrying out the recovery operations or abandonment procedures. However, the written agreement could not transfer the possession of the sealed source from one pary to another without specific NRC approval.

The Commission considered another approach to allocate responsibility among the various parties involved in the well-logging operations. It would have provided a general license to the well owner or operator, whichever engaged the well-logging company. Under this approach, NRC would have imposed the same safety requirements as would be contained in the written agreement directly on the party that had the authority to fulfill these requirements. This alternative was not pursued for the following reasons:

(1) Current industry practice, of having written agreements between licensees and well owners or operators, has worked satisfactorily for the last 20 years;

(2) The well-logging company is in a better position to handle radiological problems than the well owner or operator, unless the latter's personnel are also properly trained, which would be duplicative and costly;

(3) Licensing well owners or operators as well as well-loggers may create confusion about who is responsible for radiological safety when the sealed source enters or leaves the well.

The Commission is interested in comments on the costs, advantages, and disavantages of the proposed approach and on the alternative.

B. Radiation Detection Instruments

The proposed rule (§ 39.33(a)) would require that a licensee have a radiation survey instrument at each field station and at each temporary jobsite. These survey instruments are needed to perform routine radiation surveys and to measure for any potential radioactive contamination. Each survey instrument would have to be capable of measuring 0.1 milliroentgen per hour through at least 100 milliroentgens per hour. The requirement of 10 milliroentgens per hour is proposed because a licensee occasionally needs to define the boundaries of a high radiation area as required by 10 CFR 20.203(c)(2). A grandfather clause (for a period of 5 years) is provided for existing survey instruments capable of measuring 0.1 milliroentgen per hour through at least 20 milliroentgens per hour to reduce the economic impact on licensees. A 5-year period is proposed because the average life of a field-use survey intrument is estimated to be 5 years.

Although the required radiation survey instruments are adequate for routine radiation surveys, they are not designed to handle unlikely events such as the rupture of a sealed source resulting in low-level contamination of americium–241 in the drilling fluid or mud. Therefore, the proposed rule would also require that a licensee have available, when needed, radiation detection instruments (for example, a high range survey meter or a sodium iodide crystal detector) that are capable of measuring radiation levels or contamination levels which could be encountered during an acccident. For example, before the initiation of recovery of an americium–241 source from a well, the licensee would have to have an instrument present at the jobsite that is sensitive enough to detect americium–241 contamination. Other types of accidents could also result in high radiation levels; thus, a high range survey meter may be needed. The licensee could own the instrument or use a consulting service that has such an instrument.

A 6-month calibration interval would be specified for each survey instrument. This interval is adequate, based on licensing experience, to ensure the proper operation of the instrument and is consistent with practices presently required in well-logging licenses.

C. Leak Testing of Sealed Sources

The proposed rule (§ 39.35) would require that sealed sources be leak tested at least every 6 months. Because these sources are subjected to rough handling and servere environmental conditions in a well, it is necessary that they maintain their integrity. A leaking sealed source, if undetected, could cause extensive radioactive contamination to the well, equipment, personnel, environment. The leak test requirement is consistent with the current requirement for well-loggers and many other types licensees.

Several exemptions are provided in the proposed rule to reduce the burden of leak testing on the industry. The sealed sources exempted from leak testing requirements are those that would present essentially no hazard to the public or the environment in the event of a leak because they contain either gaseous, short lived, or small quantities of radioactive materials.

D. Physical Inventory

The proposed rule (§ 39.37) would require that a semi-annual physical inventory be made to account for sources of licensed material. This requirement is needed because the source used in well-logging operations are frequently transported to and from temporary jobsites. An accurate account of each of the sources would ensure that no source has been lost. The 6-month period is proposed because a licensee could conduct a physical inventory and leak testing at the same time, thus, reducing its burdens.

E. Design and Performance Criteria for Sealed Sources

Design and performance criteria are proposed in § 39.41(a) for all sealed sources except those containing gaseous licensed material. These have been proposed as minimum requirements, and are the same (except for the pressure test) as the requirements for well-logging sources in industry standard ANSI N542, "Sealed Radioactive Sources, Classification," published by the National Bureau of Standards (NBS Handbook 126) in 1978.

However, sealed sources used in well-logging are subject to more severe

environmental conditions, such as high pressure and high temperature. Therefore, several additional requirements are proposed to provide further assurances that, under accident conditions, the source is unlikely to lose its integrity. These requirements would specify that each individual sealed source would have to (1) pass a pressure test; (2) be doubly encapsulated; and (3) contain licensed material in chemical and physical forms which are as insoluble and nondispersible as practical (for example, cesium chloride would not satisfy this requirement because it is soluble in water). A single encapsulated source has a greater change of causing radioactive contamination than a doubly encapsulated source, and soluble or dispersible material from a ruptured source could cause more radioactive contamination than less soluble, less dispersible material. These requirements would (1) phase out the use of substandard sources in well-logging, (2) result in lower probability of source rupture in the well, and (3) mitigate the consequence of contamination in the event of a rupture.

The proposed rule would require that a license not use a new sealed source manufactured after [1 year after the effective date of the final rule] unless it is designed and manufactured in accordance with proposed § 39.41(a). The 1-year grace period is proposed to provide sealed source manufacturers sufficient time to produce sources complying with NRC's requirements.

Sealed sources manufactured before [1 year after the effective date of the final rule] could be used by a licensee until [2 years after the effective date of the final rule]. After this 2-year period, however, these sources could no longer be used unless they were certified, by the manufacturer or other testing organization, as having satisfied the requirements specified in § 39.41(b).

Any source that could not meet the performance criteria proposed in § 39.41(b) would have to be phased out of well-logging. Most sealed sources manufactured after 1978 have complied with the ANSI Standard and there should not be a problem in their ability to comply with the requirements specified in § 39.41(b).

F. Inspection, Maintenance, and Opening of Source or Source Holder

The proposed rule (§ 39.43(a)) would require that each licensee inspect equipment and tools for obvious defects before the equipment is used each day. Furthermore, paragraph (b) would require that each licensee inspect and maintain equipment and tools at intervals not to exceed 6 months. The licensee would be required to check the equipment and tools for label legibility and for the absence of physical damage. If any equipment or tools critical to radiation safety were found to be worn or damaged, paragraph (c) would require that the licensee remove them from service until repairs were made.

Paragraph (d) of this section would prohibit the licensee from performing maintenance on a sealed source or a source holder containing a source, unless the licensee has a written instruction approved by NRC. This maintenance may include changing the O-ring on the source holder containing a source or changing the sealed source from one source holder to another source holder. This requirement is needed because the worker is very close to the sealed source during this maintenance, and thus, could receive a significant radiation dose.

This section would also prohibit a licensee from forcing a stuck sealed source out of the source holder or out of the logging tool by operations that could endanger its integrity unless specifically authorized by the NRC. Prohibited operations could include, but would not be limited to: drilling, cuttng, or chiseling. These operations would be prohibited because they could accidently rupture the sealed source and could cause radioactive contamination of the facility, personnel and environment. For similar reasons, a licensee would be prohibited from repairing, opening, or modifying a sealed source unless specifically authorized by NRC to perform these operations.

G. Subsurface Tracer Studies

Radioactive materials in liquid or gaseous forms and other materials, such as sand labeled with radionuclides, are used as tracer materials in subsurface tracer studies. These materials could accidently spill on clothing, contaminate hands, be ingested, or, in the case of gaseous or volatile material, be inhaled by personnel. The proposed rule (§ 39.45) would require that protective gloves, clothing, and other equipment be used by individuals who handle tracer materials. When volatile materials such as iodine are handled by employees of licensees who have bioassay requirements incorporated in their licenses in accordance with § 20.108, a bioassay could be required when those employees work in field operations with more than 50 millicuries of I–125 or I–131. A licensee would also be required to maintain the temporary jobsite and the field station free from contamination from licensed materials.

In addition, a licensee would not be allowed to inject any licensed material into a fresh water aquifer as part of a subsurface tracer study unless specifically authorized to do so by the Commission, because the water could be used for human or animal consumption or to irrigate crops.

H. Radioactive Markers

The proposed rule (§ 39.47) would prohibit the use of radioactive markers (used for determining the depth of a well), unless the radioactivity of each marker, at the time of installation, is less than the quantity specified in § 30.71, Schedule B. This limitation in the amount of radioactivity is necessary because it is impracticable for the licensee that installs the radioactive marker to recover the marker when the well owner or operator removes the well casings from the well at a later date.

I. Uranium Sinker Bars

The proposed rule (§ 39.49) would require that after [one year from effective data of the final rule] each uranium sinker bar (used as a weight to pull a logging tool toward the bottom of a well) bear a legend: "CAUTION–RADIOACTIVE–DEPLETED URANIUM" and "NOTIFY CIVIL AUTHORITIES (or COMPANY NAME) IF FOUND." This requirement is needed to ensure that, if a uranium sinker bar is lost, someone who finds the bar could identify it as radioactive and would return it to the company. (Because uranium is source material, the licensee must also comply, as necessary, with requirements in 10 CFR Part 40, "Domestic Licensing of Source Materials.")

J. Use of Sealed Source in a Well Without Surface Casing

The proposed rule (§ 39.51) would prohibit the use of a sealed source in a well without surface casing unless procedures for protecting fresh water aquifer zones are specifically approved by NRC. (A surface casing is a pipe or tube used as lining in the well to isolate the fresh water zone from the well). The purpose of this requirement is to minimize the possibility of contamination of fresh water aquifer zones by accidental rupture of a sealed source. In general, most wells have surface casings to prevent oil or other particulates from entering these zones. However, if surface casings cannot be placed, a licensee may not use a sealed source in an uncased well, uless NRC has specifically approved the licensee's procedures for providing adequate

protection of the fresh water aquifer from radioactive contamination.

Because most uncased wells are primarily encountered in mineral logging, licensees performing mineral logging operations may want to provide specific comments on this requirement, especially on the feasiblity of protective alternatives.

K. Training

Although general requirements on instruction and training are specified in 10 CFR 19.12 and 30.33(a)(3), the proposed rule (§ 39.61) would establish specific training requirements for logging supervisors and logging assistants. Licensees would be prohibited from permitting an individual to perform well-logging operations unless the individual has been properly trained in accordance with the requirements specified in this section. Training is needed to provide radiation workers with sufficient knowledge and practical experience on radiation safety to ensure safe use of licensed materials. The level of knowledge they would need would depend, of course, on their responsibilities.

For logging supervisors, the proposed rule would require, at a minimum, 40 hours of formal classroom training in the subjects listed under § 39.61(e). Furthermore, it would require that an individual must have, at a minimum , 3 months of on-the-job training. This requirement is needed to ensure that a logging supervisor has sufficient practical experience on radiation safety procedures to handle routine operations and unanticipated emergencies in a safe manner.

Because logging assistants work under the personal supervision of a logging supervisor, their training requirements can be less stringent than those for the logging supervisors. The proposed rule would require that an assistant be instructed on applicable sections of Parts 19, 20, and 21, and on the licensee's operating and emergency procedures. It would also require that the individual be able to use remote tools, survey instruments, etc., to perform work properly under the supervision of the logging supervisor.

The proposed rule would also require that logging supervisors and logging assistants be retained annually after their initial training. This periodic retraining is needed to: (1) Refresh their understanding of basic radiation safety practices, (2) instruct them on any new procedures or on the use of new radiation detection instruments and new tools, and (3) review regulatory requirements or new regulations which may affect their work.

L. Operating and Emergency Procedures

The proposed rule (§ 39.63) would require that each licensee develop and follow written procedures for well-logging operations and for dealing with emergencies. These written procedures would also be used as: (1) training materials for instructing logging supervisors and logging assistants, (2) reference materials at a field station and at a temporary jobsite, and (3) supporting documents in licensing applications.

M. Personnel Monitoring and Radiation Surveys

The proposed rule (§ 39.65) would require that logging supervisors and logging assistants wear personnel monitoring equipment at all times during the well-logging operation. The requirements in § 39.65 (a), (b), and (c) are specific applications of the existing broader requirements in §§ 20.108, 20.202, and 20.401, respectively. These requirements are repeated in this part because they constitute key features of a radiation protection program.

Similarly, the proposed rule (§ 39.67) would also require that the licensee conduct radiation surveys. This requirement is a specific application of the existing broader requirement in § 20.201, "Surveys." Instead of the 2 years retention for survey records as specified in § 20.401, a 3-year retention period is proposed because the NRC inspection period is every 3 years for well-logging licensees.

If gaseous or volatile tracer materials are used, the licensee may be required to provide bioassay service to individuals handling the tracer materials (§ 39.65(b)). Whether a bioassay is needed depends on the type of radioactive materials and quantity used. For example, Regulatory Guide 8.20, "Applications of Bioassay for I–125 and I–131," states that bioassays should be performed when individuals work in field operations with more than 50 millicuries of I–125 or I–131.

N. Contamination Control

The proposed rule (§ 39.69) would require that licensees monitor for radioactive contamination during fishing or source recovery operations, initiate emergency procedures if a sealed source ruptures, and decontaminate any equipment, personnel, or environment that is contaminated. This requirement is needed to assure that any rupture of a sealed source in a well during a fishing operation is detected and reported and that emergency procedures are initiated. Also, paragraph (c) would require that the licensee decontaminate any contaminated equipment, areas, or personnel. Guidance on release of equipment or areas for unrestricted use is available case-by-case from the NRC. In general, limits similar to those in Regulatory Guide 1.86 should be met. The licensee may perform the decontamination or use a contracting or consulting service to perform it. These requirements are important to avoid the possibility of unnecessary wide-spread contamination if a sealed source is ruptured. The monitoring would detect contamination from a source rupture and the initiation of emergency procedures would limit the spread of contamination. Furthermore, decontamination would prevent contaminated objects from leaving the site and thus further prevent wide-spread contamination to public areas.

O. Security

The proposed rule (§ 39.71) would require that the licensee maintain surveillance and control of the jobsite's restricted areas (as defined in Part 20) and prevent unauthorized personnel, such as employees of an oil company or drilling company, from entering a restricted area. This requirement is needed to avoid the inadvertent exposure of these personnel to radiation.

P. Documents and Records Required at Field Stations and Temporary Jobsites

The proposed rule (§§ 39.73 and 39.75) would require that certain documents and records be kept at a field station or a temporary jobsite. These records are needed so that operating personnel can have easy access to the documents they need to perform the job, to follow any operational restrictions, or to use emergency procedures if an accident occurs. Records of radiation surveys, instrument calibrations, sealed source leak tests, etc., are needed for the licensee to make safety checks or to check schedules for maintenance. The recordkeeping requirement would also enable NRC inspectors to determine whether the requirements have been met.

Q. Notification of Incidents and Lost Sources and Abandonment Procedures for Irretrievable Sources

The proposed rule (§ 39.77(a)) would require, in addition to general reporting requirements in Part 20, immediate notification if (1) licensed material has been lost in or near freshwater aquifers or (2) a sealed source has been ruptured at the licensee's facility or temporary jobsite. This requirement is needed

because these conditions could cause radioactive contamination.

Paragraph (b) would also require that the licensee notify NRC of incidents and lost sources. (This does not include loss of a sealed source lodged in a well because it is covered by paragraph (c) of this section.) The requirements are presently contained in a more general form in §§ 20.402, 20.403, and 20.405 and are repeated in specific form for the sake of completeness.

Paragraphs (c) and (d) consolidate the existing regulations, 10 CFR 30.56 and 70.60, on irretrievable well-logging sources into one section in Part 39. The consolidation would be beneficial because it would put all requirements for well-logging operations in a single part. The proposed text is essentially the same as the existing text under §§ 30.56 and 70.60, which would be deleted.

R. Application for Exemption

The proposed rule (§ 39.91) would permit a licensee to apply for an exemption from the requirements in this part. This section is needed to allow NRC to judge on a case-by-case basis whether certain requirements can be waived if it determines that the exemption will not result in undue hazard to life or property.

3. Summary

The Commission believes that the proposed rule, if adopted, would provide a comprehensive and consistent set of regulations that would help maintain compatibility between NRC's and Agreement States' regulations. Furthermore, the proposed rule would also establish additional requirements that would reduce the potential for and severity of an accident. The Commission also believes that the economic impact of the rule would be small. The economic impact is analyzed in detail in a draft regulatory analysis prepared on this proposed rule.

Interested persons are encouraged to comment on the proposed rule, on its impact on the public and the industry, and on the draft regulatory analysis.

Finding of No Significant Environmental Impact: Availability

The Commission has detemined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. This rule would not significantly affect the quality of the human environment because the proposed requirements are designed to control the use of licensed materials in well-logging operations. On the other hand, these requirements, if adopted, would reduce occupational radiation exposures and would also reduce the chances for and consequences of accidents involving licensed materials. Furthermore, most of these requirements are already being complied with by licensees as licensing conditions. Therefore, the proposed rule would have no measurable negative environmental impact. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301–443–7901).

Paperwork Reduction Act Statement

This proposed rule contains new information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). It has been submitted to the Office of Management and Budget for reveiw and approval of the paperwork requirements.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, D.C. Single copies of the analysis may be obtained from Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301–443–7901).

The Commission requests public comment on the draft analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certified that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. The proposed rule would provide radiation safety requirements, uniformity in the NRC and Agreement States regulations, and requirements that would reduce the risks of accidents involving radiation or radioactive materials. The proposed rule affects about 173 specific licensees of which approximately 60% are small entities based on the size standards of the Small Business Administration set out in 13 CFR Part 121 (February 9, 1984, 49 FR 5024). These licenses are issued to companies performing well-logging operations.

The Commission estimates that the total cost of compliance with the requirements contained in this proposed regulation would be approximately $7,400 a year for an average well-logging licensee. However, many well-logging licensees are already complying with most of these requirements because the requirements are currently imposed as conditions of the license under which they operate. Therefore, the acutal increases in the compliance cost to most licensees would be considerably smaller. The cost to an average well-logging licensee for those requirements not already imposed under a license condition would be approximately $2,000 a year.

The Commission does not believe that this regulation would impose a significant economic impact on most licensees. A detailed analysis of the cost of each individual requirement imposed by the regulation appears in the Regulatory Analysis prepared for this action. The Commission is particularly interested in receiving comment from well-logging licensees on the cost estimates contained in the Regulatory Analysis and on the assumptions on which these estimates are based. The Commission is also interested in receiving comment from small licensees about the potential impact of the proposed regulation and the resultant cost of these requirements on their operations.

Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this in a comment that indicates the following:

(a) The licensee's size in terms of annual income or revenue, number of employees, number of well-logging trucks, and average number of wells logged or serviced annually;

(b) How the proposed regulations would result in a significant economic burden upon the licensee as compared to that on a larger licensee; and

(c) How the proposed regulations could be modified to take into account the licensee's differing needs or capabilities.

List of Subjects

10 CFR Part 19

Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements, Sex discriminination.

10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 39

Byproduct material, Nuclear material, Oil and gas exploration—well logging, Penalty, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 70

Hazardous mateirials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 71

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Reporting and recordkeeping requirements.

10 CFR Part 150

Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt 10 CFR Part 39.

It is proposed to amend 10 CFR as follows:

1. Part 39 is added to 10 CFR Chapter I to read as follows:

PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL-LOGGING OPERATIONS

Subpart A—General Provisions

Sec.

39.1 Purpose and scope.
39.2 Definitions.
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Subpart B—Specific Licensing Requirements

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39.37 Physical inventory.
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39.45 Subsurface tracer studies.
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39.61 Training.
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39.71 Security.
39.73 Documents and records required at field stations.
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39.77 Notification of incidents and lost sources; abandonment procedures for irretrievable sources.

Subpart F—Exemptions

Sec.

39.91 Applications for exemptions.

Subpart G—Enforcement

39.101 Violations.

Authority: Sections 53, 57, 62, 63, 65, 69, 81, 82, 161, 182, 183, 186, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

For purposes of sec. 223, 68 Stat. 958 as amended (42 U.S.C. 2273): §§ 39.15, 39.31–39.51, 39.61–39.77 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 39.15, 39.33–39.43, 39.61–39.67, 39.73–39.77 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Subpart A—General Provisions

§ 39.1 Purpose and scope.

(a) This part prescribes requirements for the issuance of a license authorizing the use of licensed materials including sealed sources, radioactive tracers, radioactive markers, and uranium sinker bars in well-logging operations in a single well. This part also prescribes radiation safety requirements for persons using licensed materials in these operations. The provisions and requirements of this part are in addition to, and not in substitution for, other requirments of this chapter. In particular, the provisions of Parts 19, 20, 21, 30, 40, 70, 71, and 150 of this chapter apply to applicants and licensees subject to this part.

(b) The requirements set out in this part do not apply to the issuance of a license authorizing the use of licensed material in tracer studies involving multiple wells, e.g., field flooding studies.

§ 39.2 Definitions.

"Casing" means a metal pipe or tube used as a lining for oil or gas wells to prevent collapse of the well-bore.

"Field station" means a facility where licensed material may be stored or used and from which equipment is dispatched to temporary jobsites.

"Fresh water aquifer," for the purpose of this part, means a geological formation that is capable of yielding a significant amount of fresh water to a well or spring.

"Injection tool" means a device used for controlled subsurface injection of radioactive tracer material.

"Irretrievable well-logging source" means any sealed source containing licensed material that is pulled off or not connected to the wireline that suspends the source in the well and for which all

reasonable effort at recovery has been expended.

"Licensed material" means byproduct material, source material, or special nuclear material received, possessed, used, or transferred under a license issued by the Commission under the regulations in this chapter.

"Logging assistant" means an individual who assists the logging supervisor in performing the well-logging operations.

"Logging supervisor" means an individual who provides personal supervision of the use of licensed material at the temporary jobsite and who is responsible to the licensee for assuring compliance with the requirements of the Commission's regulations and the conditions of the license.

"Logging tool" means a device used subsurface to perform well-logging.

"Mineral logging" means any logging performed for the purpose of mineral exploration other than oil or gas.

"Personal supervision" means guidance and instruction by a logging supervisor who is physically present at the temporary jobsite and in such proximity that personal contact with the logging assistants is maintained and that immediate assistance can be given.

"Radioactive marker" means licensed material used for the purpose of depth determination or direction orientation. This term includes radioactive collar markers and radioactive iron nails.

"Sealed source" means any licensed material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

"Source holder" means a housing or assembly into which a sealed source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

"Subsurface tracer study" means, for the purpose of this part, the release of unsealed license material or a substance labeled with licensed material in a single well for the purpose of tracing the movement or position of the material or substance in the well-bore or adjacent formation (this term does not include the use of licensed material in field flooding studies).

"Surface casing" means a pipe or tube used as a lining in a well to isolate the fresh water zone from the well.

"Temporary jobsite" means a place to which licensed materials are dispatched to perform well-logging operations or subsurface tracer studies.

"Uranium sinker bar," for the purpose of this part, means a weight containing depleted uranium used for the purpose of providing additional force to pull a logging tool down toward the bottom of a well.

"Well-bore" means a drilled hole in which well-logging operations and subsurface tracer studies are performed.

"Well-logging" or "wireline service operation," for the purpose of this part, means the lowering and raising of measuring devices or tools which contain licensed material into well-bores or cavities for the purpose of obtaining information about the well or adjacent formations which may be used in oil, gas, mineral, or geological exploration.

"Well-logging operation" means any activity involving licensed material performed in a well, including well-logging, mineral logging, subsurface tracer studies, use of radioactive markets, radioactive iron nails, uranium sinker bars, and radioactive sands.

"Wireline" means a cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

§ 39.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 39.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150-____.

(b) The approved information collection requirements contained in this part appear in §§ 39.11, 39.13, 39.15, 39.31, 39.33, 39.35, 39.37, 39.39, 39.41, 39.43, 39.49, 39.61, 39.65, 39.67, 39.73, 39.75, and 39.77.

Subpart B—Specific Licensing Requirements

§ 39.11 Application for a specific license.

A person, as defined in § 30.4(k) of this chapter, shall file an application for a specific license authorizing the use of licensed material in well-logging operations on Form NRC 313, "Application for Material License." Each application for a license, other than a license exempted from Part 170 of this chapter, must be accompanied by the fee prescribed in § 170.31 of this chapter. The application must be sent to the appropriate NRC Regional Office listed in Appendix D of Part 20 of this chapter.

§ 39.13 Specific licenses for well-logging operations.

The Commission will approve an application for a specific license for the use of licensed material in well-logging operations if the applicant meets the following requirements:

(a) The applicant shall satisfy the general requirements specified in § 30.33 of this chapter for byproduct material, in § 40.32 of this chapter for source material, and in § 70.33 of this chapter for special nuclear material, as appropriate, and any special requirements contained in this part.

(b) The applicant shall develop a program for training logging supervisors and logging assistants and submit to the Commission a schedule or description of this program which specifies the—

(1) Initial training;

(2) Annual retraining;

(3) On-the-job training;

(4) Means the applicant will use, including a copy of the written test, to demonstrate the logging supervisor's knowledge and understanding of and ability to comply with the Commission's regulations and licensing requirements, and the applicant's operating and emergency procedures; and

(5) Means the applicant will use, including a copy of the written test or an outline of the oral test, to demonstrate the logging assistant's knowledge and understanding of and ability to comply with, the applicant's operating and emergency procedures.

(c) The applicant shall establish and submit to the Commission written operating and emergency procedures as described in § 39.63.

(d) The applicant shall establish and submit to the Commission a program for annual internal inspections of the performance of each logging supervisor and assistant to ensure that the Commission's regulations, license requirements, and the applicant's operating and emergency procedures are followed by these personnel. Inspection records must be retained for 3 years after each annual internal inspection.

(e) The applicant shall submit a description of its overall organizational structure pertaining to the well-logging operations, including specified delegations of authority and responsibility.

(f) (1) If the applicant wants to conduct and evaluate its own leak tests, it shall establish procedures to be followed in leak testing sealed sources

for possible leakage and contamination and submit a description of these procedures to the Commission. The description must include the—

(i) Instrumentation to be used;

(ii) Method of performing test; and

(iii) Pertinent experience of the person who will perform the test.

(2) If an applicant wants to use a leak test kit, it shall identify the manufacturer and the model number of the kit.

§ 39.15 Requirement for an agreement with well owner or operator.

(a) A licensee shall not perform well-logging with a sealed source unless it executes a written agreement with the well owner or operator, whichever engaged the licensee to perform the well-logging operation. The licensee shall retain a copy of the written agreement for 3 years after the completion of the well-logging operation.

(b) This written agreement must specify that:

(1) If a sealed source becomes lodged in the well, a reasonable effort will be made to recover it;

(2) A person may not attempt to recover a sealed source in a manner which, in the licensee's opinion, could result in its rupture;

(3) If the environment or if any equipment or personnel are contaminated with licensed material, they must be decontaminated before release from the site or release for unrestricted use; and

(4) If, after reasonable efforts at recovery have been expended, the sealed source is classified as irretrievable, the following requirements must be implemented within 30 days after a sealed source is classified as irretrievable:

(i) Each irretrievable well-logging source must be immobilized and sealed in place with a cement plug;

(ii) A whipstock or other deflection device must be set at some point in the well above the cement plug, unless the cement plug and source are not accessible to any subsequent drilling operations; and

(iii) A permanent identification plaque, constructed of long lasting material such as stainless steel, brass, bronze, or monel, must be mounted at the surface of the well, unless the mounting of the plaque is not practical. The size of the plaque must be at least 7-inches square and ⅛-inch thick. The plaque must contain—

(A) The word "CAUTION";

(B) The radiation symbol (the color requirement in § 20.203 of this chapter need not be met);

(C) The date the source was abandoned;

(D) The name of the well owner or well operator, as appropriate;

(E) The well name and well identification number(s) or other designation;

(F) An identification of the sealed source(s) by radionuclide and quantity;

(G) The depth of the source and depth to the top of the plug; and

(H) An appropriate warning such as "DO NOT RE-ENTER THIS WELL."

(c) A licensee may apply under § 39.91 for Commission case-by-case approval of proposed procedures to abandon an irretrievable well-logging source in a manner not otherwise authorized in paragraph (b)(4) of this section.

§ 39.17 Request for written statements.

Each license is deemed to contain the condition that the licensee will, at any time before expiration of the license, upon the Commission's request, submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

Subpart C—Equipment Control

§ 39.31 Labels, security and transportation precautions.

(a) *Labels.* (1) The licensee may not use a source, source holder, or logging tool containing licensed material unless it bears a durable, legible, and clearly visible marking or label. The label must contain the radiation symbol specified in § 20.203 of this chapter, without the conventional color requirements, and the wording "DANGER (or CAUTION) RADIOACTIVE MATERIAL." The label must be on the smallest component that contains the licensed material transported as a separate piece of equipment.

(2) The licensee may not use a storage or transport container to store or transport licensed material unless it has permanently attached to it a durable, legible, and clearly visible label. The label must contain the radiation symbol, in conventional colors, and the wording "CAUTION (or DANGER). RADIOACTIVE MATERIAL. NOTIFY CIVIL AUTHORITIES (or NAME OF COMPANY)."

(b) *Security precautions during storage and transportation.* (1) The licensee shall store each source containing licensed material in a storage container or transportation package. The container or package must be locked and physically secured to prevent tampering or removal of licensed material from storage by unauthorized personnel. The licensee shall store licensed material in a manner which will minimize danger from explosion or fire.

(2) The licensee shall lock and physically secure the transport package containing licensed material to the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

(c) *Transportation precautions.* The licensee shall comply with the applicable provisions of the transportation regulations prescribed in Part 71 of this chapter. (Transportation of radioactive material is also subject to the Department of Transportation's regulations in 49 CFR Parts 171 through 178 which include provisions for proper packaging, marking and labeling, placarding of the transport vehicle, monitoring, accident reporting and for shipping papers.)

§ 39.33 Radiation detection instruments.

(a) The licensee shall keep a calibrated and operable radiation survey instrument at each field station and temporary jobsite to make the radiation surveys that are required by this part and by Part 20 of this chapter. To satisfy this requirement, the radiation survey instrument must be capable of measuring 0.1 milliroentgen per hour through at least 100 milliroentgens per hour. Survey instruments acquired before [one year after the effective date] and capable of measuring 0.1 milliroentgen per hour through at least 20 milliroentgens per hour also satisfy this requirement until [5 years after the effective date].

(b) the licensee shall have available additional calibrated and operable radiation detection instruments capable of detecting radiation and contamination levels that could be encountered during well-logging operations or in the event of an accident. The licensee may own the instruments or may arrange to obtain them from a second party.

(c) The licensee shall have each radiation survey instrument required under paragraph (a) of this section calibrated—

(1) At intervals not to exceed 6 months and after instrument servicing;

(2) At two points located approximately 1/3 and 2/3 of full scale on each scale (for logarithmic scale, at mid range of each decade, and at two points of at least one decade); and

(3) So that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.

(d) The licensee shall maintain calibration records for a period of 3 years after the date of calibration for inspection by the Commission.

§ 39.35 Leak testing of sealed sources.

(a) *Testing and recordkeeping requirements.* Each licensee using a sealed source shall have the source tested for leakage. The licensee shall keep a record of the leak test result in units of microcuries and maintain the record for inspection by the Commission for 3 years after the leak test is performed.

(b) *Method of testing.* A test for leakage must be performed only by a person specifically authorized by the Commission or an Agreement State to perform the test. The test sample must be taken from the nearest accessible point to the sealed source where contamination might accumulate. The test sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample.

(c) *Test frequency.* Each sealed source must be tested for leakage at intervals not to exceed 6 months. In the absence of a certificate from a transferor that a test has been made within the 6 months before the transfer, the sealed source may not be used until tested.

(d) *Removal of leaking source from service.* (1) If the test conducted pursuant to paragraph (a) and (b) of this section reveals the presence of 0.005 microcurie or more of removable radioactive material, the licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed of by an NRC or Agreement State licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if contaminated, have it decontaminated or disposed of by an authorized licensee.

(2) The licensee shall file a report with the appropriate NRC Regional Office listed in Appendic D of Part 20 of this chapter, within 5 days of the test. The report must describe the equipment involved in the leakage, the test results, any contamination which resulted from the leaking source, and the corrective action taken.

(e) *Exemptions from testing requirements:* The following sealed sources are exempt from periodic leak test requirements in paragraphs (a) through (d) of this section:

(1) Hydrogen-3 sources;

(2) Sources containing licensed material with a half-life of 30 days or less;

(3) Sealed sources containing licensed material in gaseous form;

(4) Sources of beta- and/or gamma-emitting radioactive material with an activity of 100 microcuries or less; and

(5) Sources of alpha-emitting radioactive material with an activity of 10 microcuries or less.

§ 39.37 Physical inventory.

Each licensee shall conduct a semiannual physical inventory to account for all licensed material received and possessed under the license. The licensee shall maintain records of the inventory for 3 years from the date of the inventory for inspection by the Commission. The inventory must indicate the quantity and kind of licensed material, location of the licensed material, the date of the inventory, and the name of the individual conducting the inventory.

§ 39.39 Utilization records.

(a) Each licensee shall maintain a record showing the following information for each utilization of licensed material:

(1) The make, model number, and a serial number or a description of each sealed source used;

(2) In the case of a radioactive marker or unsealed licensed material used for subsurface tracer studies, the radionuclide and quantity of activity used in a particular well;

(3) The identity of the logging supervisor and logging assistants to whom the licensed material is assigned; and

(4) Location and date of use of the licensed material.

(b) The licensee shall maintain the records required by paragraph (a) of this section available for inspection by the Commission and shall retain the record for 3 years from the date of the recorded event.

§ 39.41 Design and performance criteria for sealed sources.

(a) A licensee may not use a sealed source, except one containing licensed material in gaseous form, manufactured after [one year after the affective date of the final rule] in well-logging unless the manufacturer certifies to licensee that the sealed source meets the following criteria:

(1) It is doubly encapsulated construction;

(2) It contains licensed material whose chemical and physical forms are as insoluble and non-dispersible as practical;

(3) It has individually passed pressure testing to 24,600 pounds per square inch absolute without leakage; and

(4) It meets the following performance requirements by prototype testing. Compliance with the tests is determined by the ability of the protoype to maintain its integrity after each of the following tests:

(i) *Temperature*—the test source must be held at −40°C for 20 minutes, 600°C for 1 hour, and then be subject to a thermal shock test with a temperature drop from 600°C to 20°C within 15 seconds;

(ii) *Impact test*—a 5 kg steel hammer, 2.5 cm in diameter, must be dropped from a height of 1 m onto the test source;

(iii) *Vibration test*—the test source must be subject to a vibration from 25 Hz to 500 Hz at 5 g amplitude for 30 minutes; and

(iv) *Puncture test*—a 1 gram hammer and pin, 0.3 cm pin diameter, must be dropped from a height of 1 m onto the test source.

(b) After [2 years after the effective date of this rule], a licensee may not use a sealed source manufactured before [one year after the effective date of this rule], except one containing licensed material in gaseous form, unless the manufacturer, or a qualified testing organization, certifies to the licensee that the sealed source meets:

(1) The criteria of paragraphs (a)(1), (a)(2), and (a)(3) of this section; or

(2) The criteria of paragraphs (a)(1), (a)(2), (a)(3) of this section by prototype test, and the performance requirement of paragraph (a)(4) of this section.

(c) The licensee shall keep the certification documents described by paragraphs (a) and (b) of this section for inspection by the Commission for 3 years after transfer or disposal of the source or its abandonment in a well.

§ 39.43 Inspection, maintenance, and opening of a source or source holder.

(a) Each licensee shall inspect the source holders, logging tools, and source handling tools for obvious defects before the equipment is used each day to ensure that the equipment is in good working condition.

(b) Each licensee shall conduct a program of visual inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, injection tools, and sinker bars to ensure that the required labeling is legible and that visual physical damage is absent. The licensee shall perform the visual inspection and maintenance at least every 6 months. The licensee shall maintain records of inspection and

maintenance for 3 years for inspection by the Commission.

(c) If the inspection conducted under paragraph (a) of this section reveals damage to the labeling or to components critical for radiation safety, the licensee shall remove the item from service until repairs are made.

(d) Removal of a sealed source from a source holder, and maintenance on sealed sources, holders or pressure housings in which sealed sources are placed, or on other equipment containing a sealed source may not be performed unless a written instruction has been approved by the Commission as part of the license application.

(e) If a sealed source is stuck in the source holder or logging tool, the licensee may not perform any operation, such as drilling, cutting, or chiseling, on the source holder or logging tool, unless it is specifically licensed by the Commission to perform this operation.

(f) The repair, opening, or modification of any sealed source must be performed only by persons specifically licensed to do so by the Commission.

§ 39.45 Subsurface tracer studies.

(a) The licensee shall require all personnel handling radioactive tracer material to use protective gloves and clothing and other appropriate equipment. The licensee shall take precautions to avoid ingestion or inhalation of radioactive trace material and to avoid contamination of field stations and temporary jobsites. (Bioassay services may be required by § 39.65(b).)

(b) A licensee may not inject licensed material into fresh water aquifers unless specifically authorized to do so by the Commission.

§ 39.47 Radioactive markers.

The licensee may not use a radioactive marker in wells, unless the individual marker contains quantities of licensed material not exceeding the specified quantities in § 30.71 of this chapter.

§ 39.49 Uranium sinker bars.

The licensee may not use a uranium sinker bar in well-logging operations after [one year from the effective date of the rule], unless it is legibly impressed with the words "CAUTION-RADIOACTIVE-DEPLETED URANIUM" and "NOTIFY CIVIL AUTHORITIES (or COMPANY NAME) IF FOUND."

§ 39.51 Use of a sealed source in a well without surface casing.

The licensee may not use a sealed source in a well without a surface casing designed to protect fresh water aquifer zones, unless procedures for protecting these zones are specifically approved by the Commission.

Subpart D—Radiation Safety Requirements

§ 39.61 Training.

(a) The licensee may not permit an individual to act as a logging supervisor until that person:

(1) Has completed at least 40 hours of formal training in the subjects outlined in paragraph (e) of this section;

(2) Has received copies of and instruction in:

(i) NRC regulations contained in this part and in the applicable section of Parts 19, 20, 21, 30, 40, 70, and 71 of this chapter;

(ii) The NRC license under which the logging supervisor will perform well-logging operations; and

(iii) The licensee's operating, recordkeeping, and emergency procedures;

(3) Has completed 3 months of on-the-job training and demonstrated competence in the use of licensed materials, remote handling tools, and radiation survey instruments by a field evaluation; and

(4) Has demonstrated understanding of the requirements in paragraphs (a) (1) and (2) of this section by successfully completing a written test.

(b) The licensee may not permit an individual to act as a logging assistant until that person:

(1) Has received instruction in applicable sections of Parts 19, 20, and 21 of this chapter;

(2) Has received copies of and instruction in the licensee's operating and emergency procedures;

(3) Has demonstrated uderstanding of the materials listed in paragraphs (b) (1) and (2) of this section by successfully completing a written or oral test; and

(4) Has received instruction in the use, under the personal supervision of the logging supervisor, of tracer material, sealed sources, remote handling tools, and radiation survey instruments.

(c) The licensee shall provide for the annual retraining of logging supervisors and logging assistants.

(d) The licensee shall maintain a record of each logging supervisor's and logging assistant's training, including copies of written tests and dates of oral tests, for 3 years following the termination of employment.

(e) The licensee shall include the following subjects in the formal training required in paragraph (a)(1) of this section:

(1) Fundamentals of radiation safety:

(i) Characteristics of radiation;

(ii) Units of radiation dose and quantity of radioactivity;

(iii) Hazards of exposure to radiation;

(iv) Levels of radiation from licensed material;

(v) Methods of controlling radiation dose:

(A) Working time;

(B) Working distances;

(C) Shielding;

(vi) Radiation safety practices, including prevention of contamination, and methods of decontamination;

(2) Radiation detection instrumentation to be used:

(i) Use of radiation survey instruments:

(A) Operation;

(B) Calibration;

(C) Limitations;

(ii) Survey techniques;

(iii) Use of personnel monitoring equipment;

(3) Equipment to be used:

(i) Handling equipment and remote handling tools:

(ii) Licensed materials;

(iii) Storage, control, and disposal of equipment and licensed material;

(iv) Operation and control of equipment and licensed materials;

(v) Maintenance of equipment;

(4) The requirements of pertinent Federal and State regulations; and

(5) Case histories and potential consequences of accidents in well-logging operations.

§ 39.63 Operating and emergency procedures.

Each licensee shall develop and follow written operating and emergency procedures that cover instruction in—

(a) The handling and use of licensed materials to be employed so that no individual is likely to be exposed to radiation doses in excess of the limits established in Part 20 of this chapter;

(b) Methods and occasions for conducting radiation surveys;

(c) Methods and occasions for locking and securing licensed materials;

(d) Personnel monitoring and the use of personnel monitoring equipment;

(e) Transportation of licensed materials to field stations or temporary jobsites, including packing of licensed materials in vehicles, placarding of vehicles when needed, and physically securing licensed materials to transport vehicles during transportation to prevent accidential loss, tampering, or unauthorized removal;

(f) Minimizing personnel exposure, including that from inhalation and ingestion of licensed materials, during well-logging operations and in the event of an accident;

(g) The procedure for notifying proper persons in the event of an accident;

(h) Maintenance of records;

(i) The inspection of maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;

(j) The procedure to be followed if a sealed source is lodged in a well or ruptured;

(k) The procedure to be used for picking up, receiving, and opening packages containing licensed materials;

(l) The procedure for identifying and reporting to NRC defects and noncompliance, as required by Part 21 of this chapter;

(m) The procedure and the use of tools for remote handling of sealed sources and radioactive tracer material, except low-activity calibration sources;

(n) The procedure to be used for detecting contamination, required by §§ 39.67(c) through (e), and for preventing the spread of contamination; and

(o) The procedure to be used to decontaminate the environment, equipment or personnel if any or all are contaminated.

§ 39.65 Personnel monitoring.

(a) The licensee may not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during well-logging operations, either a film badge or a thermoluminescent dosimeter (TLD). Each film badge or TLD must be assigned to and worn by only one individual. The film badge must be replaced at least monthly and TLD badges replaced at least quarterly. The licensee shall have each badge or dosimeter processed.

(b) The licensee shall provide appropriate bioassay services to individuals using licensed materials in subsurface tracer studies.

(c) The licensee shall keep reports received from the badge or TLD processor and from the bioassay service laboratory for inspection until the Commission authorizes disposition or terminates the license.

§ 39.67 Radiation surveys.

(a) The licensee shall make radiation surveys, including but not limited to paragraphs (b) through (e) of this section, of each area where licensed materials are used and stored.

(b) Before transporting the licensed materials, the licensee shall make a radiation survey of the position occupied by each individual in the vehicle and of the exterior of each vehicle used to transport the licensed materials.

(c) After removing the sealed source assembly from the logging tool and before departing from the temporary jobsite, the licensee shall confirm that the logging tool is free of contamination by energizing the logging tool detector or by using a survey meter.

(d) If the licensee suspects that, as a result of operations involving a sealed source, the encapsulation of the sealed source could be damaged by the operation, it shall conduct a radiation survey, including a contamination survey, during and after the operation.

(e) The licensee shall make a radiation survey at the temporary jobsite for each subsurface tracer study. The survey must include a measurement of radiation levels before and after the operation, and a measurement of contamination levels after the subsurface tracer study.

(f) The results of surveys required under paragraphs (a) through (e) of this section must be recorded and must include the date the survey took place, the name of the individual making the survey, the identification of the survey instrument used, and the location of the survey. The licensee shall maintain records of surveys for inspection by the Commission for 3 years after they are made.

§ 39.69 Radioactive contamination control.

(a) During efforts to recover a sealed source lodged in the well, the licensee shall continuously monitor, with an appropriate radiation detection instrument or a logging tool with a radiation detector, the circulating fluids from the well to check for contamination resulting from damage to the sealed source.

(b) If the licensee detects evidence that the sealed source has ruptured or licensed materials have caused contamination, it shall initiate the emergency procedures required by § 39.63 immediately.

(c) If contamination results from the use of licensed material in well-logging operations, the licensee shall decontaminate all work areas, equipment, and unrestricted areas.

Subpart E—Security, Records, Notifications

§ 39.71 Security.

During each well-logging operation, the logging supervisor or other licensee employee designated by the logging supervisor shall maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in § 20.3(a)(14) of this chapter.

§ 39.73 Documents and records required at field stations.

(a) Each licensee shall maintain the following documents and records at the field station:

(1) A copy of applicable NRC regulations;

(2) The license authorizing the use of licensed material;

(3) Operating and emergency procedures;

(4) The record of the radiation survey instrument calibration required by § 39.33;

(5) The record of the leak test results required by §39.35;

(6) Physical inventory records required by § 39.37;

(7) Utilization records required by § 39.39;

(8) Records of inspection and maintenance required by § 39.43;

(9) Training records required by § 39.61(d); and

(10) Survey records required by § 36.67.

(b) Records required by paragraphs (a)(1) through (3) of this section must be kept until the licensee terminates its well-logging operations at the field station. Records required by paragraphs (a)(4) through (10) of this section must be kept for 3 years.

§ 39.75 Documents and records required at temporary jobsites.

Each licensee conducting operations at a temporary jobsite shall maintain the following documents and records at the temporary jobsite until the well-logging operation is completed:

(a) Operating and emergency procedures;

(b) Evidence of latest calibration of the radiation survey instruments in use at the site required by § 39.33;

(c) Latest survey records required by § 39.67;

(d) The shipping papers for the transportation of radioactive materials required by § 71.5 of this chapter; and

(e) A copy of the NRC license authorizing use of licensed materials, or a copy of the Agreement State license when operating under reciprocity pursuant to § 150.20 of this chapter.

§ 39.77 Notification of incidents and lost sources; abandonment procedures for irretrievable sources.

(a) The licensee shall immediately notify the appropriate NRC Regional Office by telephone and subsequently within 5 days by confirmatory letter if it knows or has reason to believe that (1) licensed material has been lost in or near a fresh water aquifer; or (2) a sealed source has been ruptured. This

notice must designate the well or other location and describe the magnitude and extent of licensed materials, assess the consequences of the loss or rupture, and explain efforts planned or being taken to mitigate these consequences.

(b) The licensee shall notify the Commission of incidents and sources lost, other than in the well, in accordance with §§ 20.402, 20.403, and 20.405 of this chapter.

(c) If a sealed source becomes lodged in a well, and when it becomes apparent that efforts to recover the sealed source will not be successful, the licensee shall—

(1) Advise the well owner or operator, as appropriate, of the abandonment procedures under § 29.15 (b) or (c) and ensure that these procedures are implemented within 30 days after the sealed source has been classified as irretrievable; and

(2) Notify the appropriate NRC Regional Office by telephone of the circumstances of the loss, and request approval to implement abandonment procedures.

(d) The licensee shall, within 30 days after a sealed source has been classified as irretrievable, make a report in writing to the appropriate NRC Regional Office. The licensee shall send a copy of the report to each appropriate State agency that has authority over the particular well-drilling operation. The report must contain the following information:

(1) Date of occurrence;

(2) A description of the irretrievable well-logging source involved, including radionuclide, quantity, chemical and physical form;

(3) Surface location and identification of the well;

(4) Results of efforts to immobilize and seal the source in place;

(5) Depth of the source;

(6) Depth of the top of the cement plug;

(7) Depth of the well;

(8) Any other information (e.g., warning statement) contained on the permanent identification plaque;

(9) Notifications made to State agencies; and

(10) A brief description of the attempted recovery effort.

Subpart F—Exemptions

§ 39.91 Applications for exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

Subpart G—Enforcement

§ 39.101 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of this part.

(b) A court order may be obtained for the payment of a civil penalty imposed for violation of this part.

(c) Any person who willfully violates any provision of this part issued under section 161 b., i., or o. of the Atomic Energy Act of 1954, as amended, or the provisions cited in the authority citation at the beginning of this part may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment, or both, as provided by law.

PART 19—NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

§ 19.2 [Amended]

2. Section 19.2 is amended by adding "39," after "Parts 30 through 35," in the first sentence.

§ 19.3 [Amended]

3. Section 19.3(d) is amended by adding "39," after "Parts 30 through 35," in the first sentence.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

§ 20.2 [Amended]

4. Section 20.2 is amended by adding "39," after "Parts 30 through 35," in the first sentence.

§ 20.3 [Amended]

5. Section 20.3(a)(9) is amended by adding "39," after "Parts 30 through 35," in the first sentence.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

§ 21.2 [Amended]

6. Section 21.2 is amended by adding "39," after "34, 35," in the first sentence.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

§ 30.4 [Amended]

7. In §30.4, paragraph (b) and (i) are amended by adding "and 39" after "31 through 35", and paragraph (x) is removed.

§ 30.5 [Amended]

8. Section 30.5 is amended by adding "and 39" after "31 through 35".

§ 30.6 [Amended]

9. In § 30.6, paragraph (b)(1) is amended by adding "39" after "30 through 35" in the first sentence.

§ 30.11 [Amended]

10. In § 30.11, paragraph (a) is amended by adding "and 39" after "31 through 35".

§ 30.13 [Amended]

11. Section 30.13 is amended by adding "and 39" after "31 through 35".

§ 30.14 [Amended]

12. In § 30.14, paragraph (a) is amended by adding "and 39" after "31 through 35" and paragraph (c) is amended by removing "and 34" and adding "34 and 39" after "32, 33".

§ 30.15 [Amended]

13. In § 30.15, paragraph (a) is amended by adding "and 39" after "31 through 35".

§ 30.18 [Amended]

14. In § 30.18, paragraph (a) is amended by adding "and 39" after "30 through 34".

§ 30.31 [Amended]

15. Section 30.31 is amended by adding "and 39" after "32 through 35".

§ 30.33 [Amended]

16. Section 30.33, paragraph (a)(4) is amended by adding "and 39" after "32 through 35".

§ 30.34 [Amended]

17. Section 30.34, paragraph (a) and (b) are amended by adding "and 39" after "31 through 35"; paragraph (c) is amended by adding "and 39" after "31 through 35" in the first and the second sentences; paragraphs (d) and (e) are amended by adding "and 39" after "31 through 35".

§ 30.39 [Amended]

18. Section 30.39 is amended by adding "and 39" after "32 through 35".

§ 30.56 [Removed]

19. Section 30.56 is removed.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

§ 40.5 [Amended]

20. In § 40.5, paragraph (b)(1) is amended by adding "39," after "30 through 35," in the first sentence.

PART 51—ENVIRONMENTAL REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

§ 51.22 [Amended]

21. In § 51.22, paragraphs (c)(3), (c)(10) and (c)(14) are amended by adding "39," after "34, 35," in the first sentence of each paragraph.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

§ 70.4 [Amended]

22. In § 70.4, paragraph (w) is removed.

§ 70.5 [Amended]

23. In § 70.5, paragraph (b)(1) is amended by adding "39" after "30 through 35."

§ 70.60 [Removed]

24. Section 70.60 is removed.

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

§ 71.0 [Amended]

25. In § 71.0, paragraph (b) is amended by adding "39," after "21, 30," in the first sentence.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

§ 150.20 [Amended]

26. In § 150.20, paragraph (b) is amended by removing "70.60, to 70.62, inclusive," and adding "70.61, 70.62," after "70.51 to 70.56, inclusive,"; and by adding "§ 39.15 and Subparts C, D, E, F, and G of Part 39" after "and to the provisions of Parts 19, 20, and 71" of the first sentence.

The conforming amendments to Parts 19, 20, 21, 30, 40, 51, 70, 71, and 150 are issued under the following authority:

(Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 82 Stat. 1242, as amended (42 U.S.C. 5841))

Dated at Washington, D.C. this 2nd day of April, 1985.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 85-8340 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 50

Proposed Policy for Regulation of Advanced Nuclear Power Plants; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed Policy Statement; correction.

SUMMARY: This document corrects a proposed policy statement.

FOR FURTHER INFORMATION CONTACT: Dennis K. Rathbun or James G. Beckerley, (202-634-3295).

SUPPLEMENTARY INFORMATION: In FR Doc. 85-7136 appearing on page 11882 in the issue of Tuesday, March 26, 1985, make the following correction:

Page 11882, third column, under the **"DATES"** caption change the comment expiration date to May 28, 1985.

Approved: April 2, 1985.

John C. Hoyle,

Acting Secretary.

[FR Doc. 85-8342 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. CE-2, Notice No. 23-ACE-10A]

Special Conditions; Soloy Conversions, Ltd., Modified Cessna Model 207 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of proposed special conditions.

SUMMARY: This notice withdraws Notice No. 23-ACE-10, published in the **Federal Register** on October 15, 1984, [49 FR 40184]. That notice proposed special conditions for the supplemental type certification of Soloy Conversions, Ltd. turbine-powered Cessna Models 207, T207, 207A and T207A airplanes. That notice is being withdrawn because Part 23 of the Federal Aviation Regulations (FAR) has been amended to include the standards proposed in these special conditions (Amendment 23-31). The certification basis for these Soloy Conversions, Ltd. turbine-powered Cessna 207 Series airplanes is being revised to include Amendment 23-31.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 1983, Soloy Conversions, Ltd., 450 Pat Kennedy Way, SW., Olympia, Washington 98502, submitted an application for supplemental type certification of turbine-powered Cessna Model 207 Series airplanes which are single-engine, unpressurized, seven-place, highwing monoplanes. The existing propulsion system is a single, 284-continuous-horsepower, reciprocating engine. The airplane's maximum gross takeoff weight is 3800 pounds.

This modification of the Cessna 207 Series airplanes places a turbine engine substantially forward from the original reciprocating engine location which, in turn, makes the engine installation more critical with regard to engine mount flexibility. A flexible engine installation can cause an aeroelastic instability commonly known as propeller whirl flutter.

Now that the final rule has been published in the **Federal Register** (49 FR 46866; November 28, 1984) and Soloy has agreed to comply with Amendment 23-31 to Part 23 of the FAR in their January 15, 1985, letter, this notice can be withdrawn.

The Decision and Withdrawal

Accordingly, Notice No. 23-ACE-10 is withdrawn.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983)))

Issued in Kansas City, Missouri on March 26, 1985.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 85-8272 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-39-AD]

Airworthiness Directives; British Aerospace Model BAC 1-11 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that

would require repetitive inspections, functional tests, and replacement of components, if necessary, of the spoiler activating mechanism on British Aerospace BAC 1–11 400 series airplanes. There have been two incidents reported where one spoiler deployed during approach, causing an uncommanded roll.

DATES: Comments must be received on or before May 28, 1985.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–NM–39–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S; telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84–NM–39–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace BAC 1–11 Service Bulletin 27–A–PM5890 as mandatory. Two incidents have occurred in service where, following depressurization of the No. 1 hydraulic system, one spoiler deployed during approach, causing the aircraft to roll. Spoilers are normaly held in position by No. 1 hydraulic system pressure. In the event of a pressure loss, the spoilers are held in place by mechanical locks. Excessive wear or corrosion can degrade the mechanical locks so that reservoir pressure on the full area side of the actuator piston is sufficient to extend the spoiler.

The service bulletin prescribes repetitive inspections and, if necessary, repetitive operational checks of the spoiler actuating mechanisms. Components which do not pass the service bulletin operational checks must be replaced.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exists or develop on airplanes of this model registered in the United States, an AD is proposed that would require the action mentioned above.

It is estimated that 25 U.S. registered airplanes would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $300 per airplane. Based on these figures, the toal cost impact of this AD to U.S. operators is estimated to be $13,500.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a subtantial number of small entities because few, if any, British Aerospace Model BAC 1–11 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

British Aerospace: Applies to Model BAC 1–11 series 400 airplanes certificated in all categories. Compliance is required as indicated. To prevent asymmetrical deployment of spoilers accomplish the following, unless previously accomplished within the last 1000 landings or one year, whichever occurred earlier:

A. Within the next 100 landings or 30 days after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 5,000 landings from the last inspection, inspect the spoiler mechanical locks for misalignment, and adjust if necessary, in accordance with the accomplishment instructions of British Aerospace BAC 1–11 Alert Service Bulletin 27–A–PM5890, dated December 21, 1983.

From the results of the inspection above:

1. If two or more mechanical locks out of the four per spoiler are found unserviceable, perform an operational check of the spoilers prior to further flight and thereafter at intervals not to exceed 600 landings or 150 days, whichever occurs earlier, until defective components are replaced in accordance with the accomplishment instructions of the service bulletin.

2. If one mechanical lock out of the four per spoiler is found unserviceable, perform an operational check of the spoilers prior to further flight and thereafter at intervals not to exceed 2,500 landings in accordance with the accomplishment instructions of the service bulletin until defective components are replaced.

3. If the mechanical lock system fails the operational check conducted in accordance with pargraphs A.1. or A.2., above, the locks must be repaired or the spoilers rendered inoperative in accordance with the accomplishment instructions of the service bulletin prior to further flight.

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

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on March 27, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-8286 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-16-AD]

Airworthiness Directives; Gates Learjet Model 35 and Model 36 Airplanes Modified by Raisbeck STC SA766NW

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Gates Learjet Models 35 and 36 aircraft modified in accordance with Raisbeck Supplemental Type Certificate (STC) SA766NW, which would reduce the maximum operating limit speed on affected airplanes to prevent encountering certain potentially hazardous conditions. This action is the result of several reported incidents of aileron buffet or buzz experienced during high speed cruise. The aileron buffet or buzz can result in deterioration of the aircraft lateral control system characteristics to an unacceptable level.

DATES: Comments must be received no later than May 21, 1985.

ADDRESSES: Send comments on the proposal in duplicative to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-16-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service documents may be obtained upon request from the Jet Air Corporation, P.O. Box 245, Bellevue, Washington, 98009. This information also may be examined at Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Les Berven, Flight Test Branch, ANM-160S, telephone (206) 431-2889; or Mr. Stanton Wood, Airframe Branch, ANM-120S, telephone (206) 431-2924. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-16-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been several reported incidents of aileron buffet or buzz involving Gates Learjet Models 35 and 36 aircraft modified in accordance with Raisbeck STC SA766NW. This aileron buffet or buzz may be of a severity that requires an immediate speed reduction to prevent an unacceptable deterioration in aircraft lateral control characteristics.

This proposed AD requires the operator to permanently reduce the maximum operating Mach limit (M_{MO}) to eliminate the probability of encountering this aileron instability within the allowable operating Mach envelope. This reduction in M_{MO} will necessitate removal and modification of the airspeed indicators to reset both the maximum airspeed/Mach indicator (Barber Pole), and the Mach overspeed warning switch. Additionally, the Airplane Flight Manual Supplement for Mark IV equipped airplanes must be changed to reflect the new Mach limits.

The aileron instability is affected by the wing leading edge contour, which is a function of manufacturing tolerances. In light of this, not all aircraft modified in accordance with STC SA 766NW may exhibit the aileron buffet or buzz below .83 Mach indicated. Therefore, certain operators may petition for an exemption from the requirements of this AD, under the provisions of Part II of the Federal Aviation Regulations (FAR). The reported aileron instability occurs during flight at the higher gross weights above 42,000 feet at Mach Numbers .80 to .83. Petitions for exemption should state the number of flights in these conditions and describe any incidents of buffet or buzz observed. Based upon the data contained in the petition, the FAA will then determine if a flight evaluation or other data is necessary to determine safety acceptability.

Other alternatives to compliance with this AD include removing the Raisbeck STC Number SA766NW modification and returning the airplane to the original configuration, or to the Gates Learjet "Softflite" configuration.

There are 29 U.S. registered aircraft that would be affected by this AD. It would take approximately 5 hours to accomplish the removal and recalibration of the airspeed indicators and Mach overspeed warning switch, and to revise the FAA approved Airplane Flight Manual Supplement. Average labor costs are estimated to be $40 per manhour. It is estimated that it would cost $950 to reset the airspeed indicators and Mach overspeed warning switch. Based on this information, the total cost impact of this AD on U.S. operators would be approximately $33,350.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Learjet Model 35/36 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation

Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Gates Learjet: Applies to Model 35, 35A, 36, and 36A series airplanes modified by Raisbeck Group Supplemental Type Certificate (STC) SA766NW and certificated in all categories. The affected airplane serial numbers are: 35-023, 35-034, 35-042, 35-044, 35-047, 35A-068, 35A-073, 35A-075, 35A-076, 35A-086, 35A-092, 35A-093, 35A-095, 35A-118, 35A-127, 35A-132, 35A-135, 35A-145, 35A-172, 35A-185, 35A-192, 35A-203, 35A-206, 35A-207, 35A-209, 35A-228, 35A-231, 35A-244, 35A-245, 36-003, 36-004, 36-017, 36A-028, 36A-029, 36A-031, 36A-038, 36A-043 and 36A-044.

To prevent deterioration of the aircraft lateral control characteristics as a result of aileron buffet or buzz accomplish the following, unless previously accomplished:

A. Within the next 200 hours time in service or six months after the effective date of this AD, whichever comes first, accomplish one of the following:

1. Reduce M_{MO}:

a. Submit the FAA approved STC SA766NW Airplane Flight Manual Supplement to the Manager, Flight Test Branch, ANM-160S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, to change the limit Mach number from .83 to .80.

b. Remove the "Mach Overspeed Warning Switch" and have it reset from Mach .83 to .80. Contact PRECISION SENSOR, P.O. Box 509, Milford, Connecticut 06460, telephone number (203) 877-2795, to have the instrument recalibrated. Reinstall the "Mach Overspeed Warning Switch" after it has been recalibrated.

c. Remove pilot's and copilot's airspeed indicators and have them modified by changing the "Barber Pole" from Mach number .83 to .80. The instrument must be recalibrated by the instrument manufacturer or a certified repair station. Reinstall the pilot's and copilot's airspeed indicators after they have been recalibrated.

2. Remove the modifications installed by Raiseback Group STC SA776NW. The aircraft should be returned to the original type design configuration or to the Gates Learjet "Softflite" configuration.

B. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

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

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on March 22, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-8287 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-27-AD]

Airworthiness Directives; Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require periodic holding torque checks on the slat asymmetry brakes on Lockheed-California Company Model L-1011-385 series airplanes. This AD is required because a reduction in the restraining torque capacity due to inherent brake degradation may preclude locking the slats in their proper position, which may result in loss of control of the airplane.

DATES: Comments must be received on or before May 28, 1985.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-27-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98188. The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Augusto Coo, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-27-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

As a result of reports of low holding torque values on the slat asymmetry brakes, Lockheed-California Company issued L-1011 Service Bulletin 093-27-216, dated April 30, 1981, which required that operators: (1) Have the P/N 672157-111 or prior part number brake assemblies torque checked annually or every 3000 flight hours; or (2) replace the P/N 672157-111 or prior part number brake assemblies with P/N 672157-113 brake assemblies.

Installation of P/N 672157-113 brake assemblies was originally thought to provide terminating action, and to permit return to standard maintenance action by the airline. However, it was later discovered that a significant percentage of the new P/N 672157-113 brakes were below the required minimum holding torque. On May 13, 1982, the Service Bulletin was revised (Revision 1) to include the same inspection requirements on the P/N 672157-113 brake assemblies.

On July 19, 1983, Revision 2 to Lockheed Service Bulletin 093-27-216 was issued to increase minimum holding torque of the brake test from 1200 to 1500 inch-pounds; to revise the periodic test period from annually or 3000 flight hours, whichever came first, to 3000 flight hours only; and to establish an alternative test for a repetitive 4000 flight hours period with a 1700 inch-pounds minimum holding torque.

Concurrently, Lockheed issued Service Bulletin 093-27-269 on July 19, 1983, which required replacement of the brake linings with fully qualified brake linings, creating the P/N 672157-115 configuration.

The manufacturer's analyses of disassembled slat asymmetry brakes which had not met minimum holding torque requirements after various

periods of service revealed that, in many cases, the lubricant had migrated past the shaft "O-ring" seal and had contaminated the surfaces of the brake linings. Lockheed Service Bulletin 093–27–274, dated July 19, 1983, incorporates, as a modification, the replacement of the "O-ring" shaft seal with a more suitable "lip seal." This seal change upgrades the brake from the P/N 672157–115 to the P/N 672157–117 configuration.

Due to the hazardous consequences which may result from inadequate holding torque on the slat asymmetry brakes, an AD is being proposed which would incorporate the inspections and modifications called for in the manufacturer's service bulletins mentioned above. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require periodic holding torque checks on the slat asymmetry brakes and eventual replacement of brakes having certain part numbers.

It is estimated that 142 airplanes of U.S. registry would be affected by the proposed AD. It would require approximately 6 hours to perform the functional test and approximately 10 hours to install the replacement part; the average labor charge is estimated to be $40 per manhour. Based on these figures, the total cost impact on this proposed AD to U.S. operators is estimated to be $90,880.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model L–1011 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subject in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

Lockheed-California Company: Applies to Lockheed Model L–1011–385 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To preclude inadequate holding torque on slate asymmetry brakes installed on both LH and RH wings, accomplish the following:

A. On aircraft having P/N 672157–115 or prior part number brakes:

(1) Conduct a functional test of each P/N 672157–115 or prior part number slat control system brake assembly within 300 flight hours after the effective date of this AD, or 3000 flight hours from the last test, whichever is later. Thereafter, conduct the same test at intervals not to exceed 3000 flight hours from the last test.

(2) If the left and right slat asymmetry brake holding torque measures 1500 to 2400 inch-pounds, the airplanes may continue in service.

(3) If the left or right slat asymmetry brake holding torque measures less than 1500 inch-pounds but more than 1300 inch-pounds, the aircraft may be flown in the condition for the minimal time necessary to replace the brake assembly, but not more than 500 flight hours from the time the deficient brake was found.

(4) If the left or right slat asymmetry brake holding torque measures less than 1300 inch-pounds, before further flight replace the brake assembly with one having 1700 to 2400 inch-pounds of slip torque.

B. The following alternate procedure may be applied to P/N 672157–115 or prior part number brakes:

(1) Conduct a functional test within 300 flight hours after the effective date of this AD, or 4000 flight hours from the last test, whichever is later, if the last test substantiated that the brake holding torque was at least 1700 inch-pounds. Thereafter, conduct the same test at intervals not to exceed 4000 flight hours from the last test.

(2) If the left and right asymmetry brake holding torque measures 1700 to 2400 inch-pounds, the airplane may continue in service.

(3) If the left or right slat asymmetry brake holding torque measures less than 1700 inch-pounds, before further flight replace the brake assembly with one having 1700 to 2400 inch-pounds of slip torque.

C. Replace P/N 672157–113 or prior part number brakes with P/N 672157–115 or later part number within one year after the effective date of this AD.

D. On aircraft having P/N 672157–117 (with "lip seal" instead of "O-ring" seal) or later part number brakes:

(1) Conduct a functional test of each P/N 672157–117 or later part number brake assembly within 300 flight hours after the effective date of this AD, or 4000 flight hours from the last test, whichever is later. Thereafter, conduct the same test at intervals not to exceed 4000 flight-hours from the last test.

(2) If the left or right slat asymmetry brake holding torque measures 1700 to 2400 inch-pounds, the airplane may continue in service.

(3) If the left or right slat asymmetry brake holding torque measures less than 1700 inch-pounds but more than 1300 inch-pounds, the aircraft may be flown in that condition for the minimal time necessary to replace the brake assembly, but not more than 500 flight hours from the time the deficient brake was found.

(4) If the left or right slat asymmetry brake holding measures less than 1300 inch-pounds, before further flight replace the brake assembly with one having 1700 to 2400 inch-pounds of slip torque.

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

(F.) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the aircraft to a base for accomplishment of tests or modifications required by this AD.

Note.—Instructions to accomplish these tests and modifications are found in these Lockheed Service Bulletins:

(1) S/B 093–27–216, Revision 2, dated July 19, 1983, or later revisions approved by Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

(2) S/B 093–27–269, dated July 19, 1983, or later revisions approved by Manager, Los Angeles Aircraft Certification Office, FAA, Northewest Mountain Region.

(3) S/B 093–27–274, dated July 19, 1983, or later revisions approved by Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commericial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on March 27, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85–8280 Filed 4–5–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–04–AD]

Airworthiness Directives; Short Brothers Ltd. Model SD3–30 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) applicable to certain Short Brothers Ltd. Model SD3–30 series airplanes which would require the installation of a new torsion spring on the flight crew seat harness inertia reel assemblies. Cases of spring failures have occurred which caused failure of the rewind function. This function is necessary to ensure that the crew member is properly restrained by the harness.

DATES: Comments must be received no later than May 28, 1985.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–04–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Shorts Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S; telephone (206) 431–2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–04–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Civil Aviation Authority of the United Kingdom (CAA) has classified Short Brothers Ltd. Service Bulletin SD3–25–37 as mandatory. Service experience has demonstrated that the torsion spring which controls the rewind function on the crew seat harness may break. If the rewind function is not available, the crew member will not be properly restrained. The service bulletin requires the installation of a new torsion spring of an improved design.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the installation of the new parts in accordance with the service bulletin.

It is estimated that approximately 57 airplanes of U.S. Registry would be affected by this AD, that it would take approximately one manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Modification parts are estimated at $80 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,840.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Short Brothers Ltd. Model SD3–30 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

Short Brothers Ltd: Applies to Model SD3–30 airplanes as listed in Short Brothers Service Bulletin SD3–25–37, dated June 1984, certificated in all categories. Compliance is required within 90 days after the effective date of this AD, unless previously accomplished. To assure proper operation of the crew seat harness, accomplish the following:

A. Install the improved crew seat harness torsion spring assembly in accordance with Short Brothers Ltd. Service Bulletin SD3–25–37, dated June, 1984.

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

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

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on March 27, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85–8285 Filed 4–5–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–CE–12–AD]

Airworthiness Directives; SIAI-Marchetti Models F260, F260B and F260C (Including SF260) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain SIAI-Marchetti Models F260, F260B and F260C (including SF260) airplanes which would require inspection of the tip tank fuel tube to determine the affixation of the fuel tube and requires repetitive inspections or modification of unwelded tip tank fuel tubes. SIAI-Marchetti has reported movement due to vibration of unwelded fuel tubes which could result in the obstruction of fuel from the tip tanks, engine fuel starvation and engine

stoppage. This action would preclude engine failure.

DATES: Comments must be received on or before May 13, 1985. Compliance: As prescribed in the body of the AD.

ADDRESSES: SIAI-Marchetti Mandatory Service Bulletin (S/B) Number 206B39, dated June 8, 1984, applicable to this AD may be obtained from SIAI-Marchetti S.p.A., V-12070 via Indipendenza, 2,2108 Sesto Calenda, Italy; Telephone 0331 924842/923598 or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-CE-12-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. M. Dearing, Brussels Aircraft Certification Office, AEU-100, Europe, Africa and Middle East Office, FAA, C/O American Embassy, 1000 Brussels, Belgium; Telephone 513.38.30; or Mr. B. Sexton, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-CE-12-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

SIAI-Marchetti has reported that on its Models F260, F260B and F260C (including SF260) airplanes, vibration can cause movement of unwelded tip tank fuel tubes. This movement could result in obstruction of the fuel tube, interruption of fuel flow and subsequent engine fuel starvation. As a result, SIAI-Marchetti has issued S/B No. 250B39, dated June 8, 1984, which specifies (1) an initial visual inspection of the tip tank fuel tube to determine if it is affixed by welding, and (2) initial and repetitive inspection of unwelded tip tank fuel tubes for proper clearance, unless modified in accordance with paragraph (c) of the service bulletin. The Registro Aeronautio Italiano (RAI) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy has classified this service bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Service Bulletin Number 260B39, dated June 8, 1984, and the mandatory classification of this service bulletin by the RAI. Based on the foregoing, the FAA believes that the condition addressed by S/B No. 260B39, dated June 8, 1984, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD is applicable to SIAI-Marchetti Models F260, F260B and F260C (including SF260) airplanes and would require visual inspection of the tip tank fuel tube within 100 hours time-in-service and, if appropriate, periodic inspections or modification of the tip tank fuel tube assembly as defined in the AD.

There are approximately 23 aircraft currently on the U.S. Register affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $1,725 to the private sector. The cost of compliance with the proposed AD is so small that the expense of compliance will not be a signficant financial impact on any small entities operating these airplanes.

Therefore, I certify that this section (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location identified under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

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

SIAI-Marchetti: Applies to Model F260, F260B, and F260C (including SF260), (Serial Numbers 101 thru 125, 235, 286, 287, 302, 303, 305, 369, 374, 502, 563, 566 thru 568, 570, 635 thru 637, 712 thru 729, 2-26 thru 2-75, 3-76 thru 3-84, 10-09, 17-01, and 20-01) airplanes certificated in any category.

Compliance: Required within 100 hours time-in-service after the effective date of this AD unless already accomplished.

To determine the fixing condition of the tip tank fuel tube accomplish the following:

(a) Visual inspect the tip tank fuel tube, Part Number (P/N) SF260-16-05-33, to determine if it is welded to the fuel tube support P/N SF260-16-05-29, in accordance with figure 1 of SIAI-Marchetti Service Bulletin (S/B) Number 260B39, dated June 8, 1984.

(1) If the tip tank fuel tube is welded to the fuel tube support, no further action is required. Record compliance with this AD in the aircraft maintenance records in accordance with FAR 91.173.

(2) If the tip tank fuel tube is not welded to the fuel tube support, check for clearance between the fuel tube, P/N SF260-16-05-33 and insert, P/N SF260-16-19-1.

(A) If the clearance measured in paragraph (a)(2) of this AD is 18mm (.7 inches) or greater, reinspect the clearance at intervals not to exceed 25 hours time-in-service until the modification listed in paragraph (c) of S/B Number 260B39, dated June 8, 1984, has been accomplished.

(B) If the clearance measured in paragraph (a)(2) of this AD is less than 18mm (.7 inches), prior to further flight, modify the airplane in accordance with the procedures listed in paragraph (c) of S/B Number 260B39, dated June 8, 1984.

(b) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(c) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and section 11.85 of the Federal Aviation Regulations (14 CFR 11.85)

Issued in Kansas City, Missouri, on March 27, 1985.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 85-8281 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ACE-04]

Proposed Designation of Transition Area—Sibley, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Sibley, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Sibley Municipal Airport, Sibley, Iowa, utilizing the Sibley Non-Directional Radio Beacon (NDB) as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before May 13, 1985.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis G. Earp, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availabilty of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Discussion

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Sibley, Iowa. To enhance airport usage, a new instrument approach procedure is being developed for the Sibley Municipal Airport, Sibley, Iowa, utilizing the Sibley NDB as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Sibley, Iowa, at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

Sibley, Iowa

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Sibley Municipal Airport (latitude 43°22'30" N, longitude 95°45'15" W) and within 3 miles each side of the Sibley NDB (ISB) 188° bearing extending from the 5 miles radius to 8.5 miles southwest of the Sibley NDB and within 3 miles each side of the Sibley NDB 334° bearing extending from the 5 mile radius to 8.5 northwest of Sibley NDB, excluding the portion which overlies the Sheldon, Iowa transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Public Law 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Issued in Kansas City, Missouri on March 29, 1985.

Murray E. Smith,

Director, Central Region.

[FR Doc. 85-8279 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ACE-03]

Proposed Designation of Transition Area—York, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at York, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the York Municipal Airport, York, Nebraska, utilizing the York, Nebraska, Non-Directional Radio Beacon (NDB) as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before May 13, 1985.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12the Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at York, Nebraska. To enhance airport usage a new instrument approach procedure is being developed for the York, Nebraska, Municipal Airport utilizing the York NDS as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at York, Nebraska, at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airports status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A, dated January 2, 1985.

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.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), by designating the following transition area:

York, Nebraska

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the York Municipal Airport (latitude 40°53'47" N, longitude 97°37'26" W.) within 3 miles each side of the York NDB (JYR) (latitude 40°53'51" N, longitude 97°37'01" W) 188° bearing extending from the 5 mile radius to 8.5 miles southwest of the York NDB and within 3 miles each side of the York NDB 320° bearing extending from the 5 mile radius to 8.5 northwest of the York NDB.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Issued in Kansas City, Missouri on March 29, 1985.

Murray E. Smith,

Director, Central Region.

[FR Doc. 85-8278 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ASW-11]

Proposed Designation of Transition Area: Ennis, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Ennis, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Ennis Municipal Airport. This action is necessary since there is a proposed VOR/DME-A SIAP to the Ennis Municipal Airport using the Scurry Vortac. Coincident with this proposed action, the airport will be changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received by May 23, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 85-ASW-11, Federal

Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-534, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2463.

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. 85-ASW-11." 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 the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, 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

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. 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 § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Ennis Municipal Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regualtions (14 CFR Part 71) as follows:

Ennis, TX New

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ennis Municipal Airport, (latitude 32°19'43" N., longitutude 96°39'47" W.), and within 2 miles each side of the 244-degree radial of the Scurry Vortac, extending from the 6.5-mile radius to 13 miles southwest of the vortac.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Fort Worth, TX, on March 27, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 85-8273 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANE-06]

Amend the Description of the Portsmouth, NH, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the description of the Portsmouth, New Hampshire Control Zone so as to provide protected airspace for aircraft executing a new Nondirectional Radio Beacon (NDB) Approach to the Littlebrook Airpark, Elliot, Maine.

DATES: Comments must be received on or before May 27, 1985.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 85-ANE-06.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

An informal docket may also be examined during normal business hours in the: Air Traffic Division, ANE-500 Room 304, 12 New England Executive Park, Burlington, MA 01803.

FOR FURTHER INFORMATION CONTACT: John Boyce, Acting Manager, Operations, Procedures and Airspace, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts; telephone (617) 273-7141.

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. 85–ANE–06." 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 the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, ANE–7, 12 New England Executive Park, Burlington, Massachusetts 01803, 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, S.W., Washington, D.C. 20591, or by calling (202) 426–8085.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs 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 § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Portsmouth, New Hampshire Control Zone so as to provide protected airspace for instrument flight rules aircraft executing a new NDB approach to the Littlebrook Airpark, Elliot, Maine.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The FAA has determined thta this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it (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.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following to the description of the Portsmouth, New Hampshire Control Zone:

[Amended]

"within a 5-mile radius of the Littlebrook Airpark, Elliot, ME. (Lat. 43°08'35" N., Long. 70°46'22" W.) and within 2 miles each side of the 152° True (168° Mag.) bearing of the Rollings NDB (Lat. 43°13'12" N., Long. 70°49'43" W.) extending from the 5 mile radius of Littlebrook Airpark to the Rollings NDB."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Issued in Burlington, Massachusetts, on March 26, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85–8277 Filed 4–5–85; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Regulatory Flexibility Act Review of Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Request for comments.

SUMMARY: The Federal Trade Commission ("FTC"), in accordance with the Regulatory Flexibility Act and publication of a Plan for the Periodic Review of Commission Rules, 46 FR 35118 (July 7, 1981), is soliciting comments and data on whether the Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act, 16 CFR Part 305 (the "Rule"), has had a significant economic impact on small entities, and if it has, whether the Rule should be amended to minimize any such significant economic impact on small entities.

DATE: All comments and data should be received by the Commission no later than May 8, 1985.

ADDRESS: Comments and data should be sent to Secretary, Federal Trade Commission, Washington, D.C. 20580. Submissions should be identified as "Appliance Labeling Rule—RFA Comment".

FOR FURTHER INFORMATION CONTACT: James G. Mills, or Don Winfrey, (202) 376–8934, Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (the "RFA"), requires that the FTC conduct a periodic review of rules that have or will have a significant economic impact upon a substantial number of small entities.

Secton 324 of the Energy Policy and Conservation Act (EPCA)[1] required the Federal Trade Commission to consider issuing labeling rules for the disclosure of estimated annual energy costs or alternative energy consumption information for at least 13 categories of major household appliances. The statute also requried that the disclosures be based on standard test procedures prescribed by the Department of Energy (DOR). On November 19, 1979, the Commission issued a final rule[2] of seven appliance categories: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances,[3] either because the cost difference between the least and most efficient appliances was not large enough to be likely to affect consumer purchase decisions, or because the appliances were already highly efficient.

The Rule requires that energy information, including energy costs (in dollars) or energy efficiency information (disclosed as energy efficiency ratings (EER)), based on the DOE test procedures, be disclosed on labels and in retail sales catalogs for all covered products except furnances. The yellow and black labels must include a highlighted energy cost or efficiency disclosure, a range indicating the highest and lowest energy costs or efficiencies

[1] Pub. L. 94–163, 89 Stat. 871, 42 U.S.C. 6294 (Dec. 22, 1975).

[2] 44 FR 66466, 16 CFR Part 305.

[3] The Appliances exempted were clothes dryers, home heating equipment (other than furnaces), television sets, kitchen ranges and ovens, and humidifiers and dehumidifiers.

for all similar appliance models, and a chart that permits an individual to estimate how much it will cost to run the appliance each year. For furnances, the energy usage information must be disclosed on separate fact sheets, while the labels on the products disclose energy-saving tips and direct consumers to the fact sheets.

Certain point-of-sale promotional materials must disclose the availablilty of energy cost or energy efficiency rating information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisments must be based on the results of the DOE test procedures.

The statute and the Rule both place responsibility for testing and labeling on manufacturers. The responsibility of retailers is limited to refraining from removing labels or rending them illegible. Violations are punishable by fines of $100 for each unit in violation.

For the purpose of this view under the RFA, the term "small entity" is defined under the Small Business Size Standards, codified at 13 CFR Part 121, and recently revised by the Small Business Administration (49 FR 5024 *et seq.* Feb. 9, 1984). The definitions of "small entity" applicable to those business entities covered by the Rule are: For manufacturers of air-conditioning and warm-air heating equipment, fewer than 750 employees; for manufacturers of refrigerators, freezers, and clothes washers, fewer than 1,000 employees; for manufacturers of other covered appliances, fewer than 500 employees; for wholesalers of electrical appliance, fewer than 500 employees; for department stores, under $13.5 million in annual sales; for retailers of household appliances, under $4.5 million in annual sales; for mail order houses, under $12.5 million in annual sales; and, for plumbing, heating and air-conditioning contractors, under $7 milion is annual sales.

The purpose of this review is limited to determining whether the Rule should be continued without change, or should be amended or rescinded, consisent with the stated objectives of applicable statutes, to minmize any significant economic impact of the Rule upon a substantial number of small entities.

In order to conduct the periodic review of this Rule pursuant to the RFA, the FTC poses the following guestions for comment. The Commission requests that the factual data (e.g., economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with the comments.

(1) Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive impact.

(2) Is there a continued need for the Rule and all of its requirements?

(3) (a) What burdens, if any, does compliance with the Rule place on small entities?

(b) To what extent are these burdens that small entities would also experience under standard and purdent business practice?

(4) What changes, if any, should be made to the Rule that would minimize the economic effect on small entities?

(5) To what extent does the Rule overlap, duplicate or conflict with other federal, state and local government rules?

(6) Have technology, economic conditions or other factors changed in the area affected by the Rule since its promulgation in 1979 and, if so, what effect do these changes have on the Rule or those covered by it?

List of Subjects in 16 CFR Part 305

Advertising, energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirement.

Authority: The Regulatory Flexibility Act, 5 U.S.C. 601 et seq. (1980).

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-8336 Filed 4-5-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 83-14]

Truck Size and Weight; Advance Notice of Proposed Rulemaking

Correction

In FR Doc. 85-7631, beginning on page 12825, in the issue of Monday, April 1, 1985, make the following corrections:

1. On page 12826, second column, in the table, under **North Carolina**, in Posted route No. "NC 11" in column two, "760" should read "70".

2. On the same page, same column between lines one and two under **Puerto Rico** insert the heading **South Carolina**, and

3. In the third column, same page, under **Virginia**, under "Posted route No.", "Route 460" should read "U.S. 460".

4. On page 12827, in column one, after the third paragraph, the heading should read:

List of Subjects in 23 CFR Part 658

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-14-81]

Deduction for Certain Foreign Deferred Compensation Plans; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans. Changes to the applicable tax law were made by section 2 of the Act of December 28, 1980, [Pub. L. No. 96-603, 1980-2 C.B. 684], as amended by section 305 of Pub. L. No. 97-448. These regulations provide necessary guidance to the public for compliance with that Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by June 7, 1985. The regulations are proposed to apply, if an election is made, for taxable years beginning after December 31, 1979, but may apply earlier if a retroactive election is made as provided under the Act.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-14-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Calder L. Robertson, Jr. of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3544, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 404A of the Internal Revenue Code of 1954. The proposed regulations would be issued under the authority of

sections 404(h) and 7805 of the Internal Revenue Code of 1954 (94 Stat. 3508; 68A Stat. 917; 26 U.S.C. 404A, 7805).

Scope

Although the proposed regulations includes a discussion of the tax treatment with respect to plans for which no election is made under section 404A, this discussion does not reflect the changes made by section 91(a) of the Tax Reform Act of 1984 (Pub. L. No. 98–369) to section 461(h). It is anticipated that guidance on this subject will be issued in the near future.

General Explanation of Provisions

The proposed regulations provide guidance with respect to section 404A, which allows deductions or reductions of earnings and profits or accumulated profits for amounts paid or accrued by an employer under a qualified foreign plan. The two types of qualified foreign plans are qualified funded plans and qualified reserve plans. In order to take advantage of this provision, an election must be made by the taxpayer. The provision generally applies for taxable years commencing after December 31, 1979. However, a retroactive election may be made for certain taxable years.

Qualified Foreign Plan Election

The proposed regulations provide that the election under which a plan is to be treated as a qualified foreign plan for a particular taxable year may be made by the taxpayer by claiming a deduction or reduction of earnings and profits or accumulated profits not later than the time prescribed by law for filing the United States income tax return (including extensions) for the taxable year. In addition, a statement of election must be attached to the taxpayer's United States return. This statement must be accompanied by the documents described in § 1.404A–6(b). Electing taxpayers are not required to file Form 5500. However, it is anticipated that a substitute form will be developed which will require substantially less information from the taxpayer than does the Form 5500.

For those taxpayers who made the "method (2) election" described in Announcement 81–114, 1981–28 I.R.B. 21, adjustments to the United States return required by section 404A must be made on an amended return not later than 90 days after final regulations are issued. That method required only that a statement of election be attached to the taxpayer's income tax return without either including deductions or taking into account reductions in earnings and profits or accumulated profits. Taxpayers wishing to revoke an election that was made before the date of issuance of final regulations may do so without the consent of the Commissioner until 90 days after final regulations are issued. Otherwise, an election may be revoked only in accordance with the proposed regulations. Under the proposed regulations, elections generally may be made on an individualized plan basis. However, the retroactive plan elections with respect to foreign subsidiaries will not be effective unless the election applies to all written plans of every foreign subsidiary of the taxpayer which defer the receipt of compensation and which satisfy the requirements of section 404A(e) (1) and (2).

Effect of No Election

In the event that a qualified foreign plan election is not made, deductions for amounts paid by an employer to a funded deferred compensation plan are governed by section 404. Similarly, if a qualified foreign plan election is not made, reductions of earnings and profits or accumulated profits with respect to amounts paid to a funded deferred compensation plan are governed by sections 312, 901, 902, 960 and 964 provided that reasonable funding methods and actuarial assumptions are used. Conversely, for unfunded deferred compensation plans where no qualified foreign plan election is made, an unpaid accrued liability may not be deducted under section 404 and it also may not reduce earnings and profits or accumulated profits under sections 312, 901, 902, 960 and 964.

Qualified Funded Plans

The determination of amounts that may be taken into account for a qualified funded plan generally follows the deduction limits for domestic defined benefit and defined contribution plans. Generally, qualified funded plan contributions are taken into account for the taxable year in which paid.

Qualified Reserve Plans

In general, the amount that may be taken into account under a qualified reserve plan for a taxable year may not exceed the reasonable addition to the reserve for the employer's liability under the plan. The proposed regulations describe the manner in which the reasonable addition to the reserve is calculated. In calulating the reserve for purposes of section 404A, taxpayers may not use any actuarial cost method other than the unit credit method as described in the proposed regulations. In addition, the reasonable addition to the reserve does not include salary scale assumptions and anticipated benefit changes. Moreover, amounts may not be taken into account unless the benefits accrued by an employee are not subject to a substantial risk of forfeiture. Finally, any increase or decrease to the reserve on account of the adoption of the plan, or a plan amendment, experience gains and losses, vesting of benefits accrued in prior years, change in actuarial assumptions, and change in interest rates must be amortized over 10 years. The proposed regulations also contain a special interim rule for the amortization of cost-of-living adjustments for qualified reserve plans maintained by a foreign subsidiary. Otherwise, cost-of-living adjustments must also be amortized over 10 years. The only exception to the rule contained in the preceding sentence relates to benefits that are in pay status. In such a case, such amounts may be amortized in the year or years permitted under foreign law or over 10 years, whichever is fewer.

United States and Foreign Law Limitations

Generally, the maximum amount that may be taken into account under section 404A for any taxable year is equal to the lesser of the cumulative United States amount or the cumulative foreign amount, reduced in either case by the aggregate amount determined under section 404A for all prior taxable years. The cumulative foreign amount is determined without regard to the provisions of section 404A. Deductions described in section 404A(g)(1) and adjustments described in section 404A(g)(5) are also taken into account without regard to the computation described above.

Limitations Applicable to all Qualified Foreign Plans

Proposed § 1.404A–6 contained additional limitations on amounts that may be taken into account for a taxable year with respect to any qualified foreign plan. For example, no amounts may be taken into account under section 404A for a qualified funded plan to the extent that a contribution would cause the fair market value of the plan's assets to exceed the accrued liability under the plan.

In addition, an election under section 404A is treated as a change in the taxpayers's method of accounting for purposes of section 481. The proposed regulations provide the manner in which the section 481 adjustment is to be made for a qualified funded branch plan, qualified funded subsidiary plan, qualified reserve branch plan and qualified reserve subsidiary plan. The

section 481 adjustment is based, in part, upon plan participant information. The proposed regulations provide that "best guess" estimates or actuarial projections are not permitted for purposes of calculating the section 481 adjustment. Consequently, the proposed regulations provide that a retroactive election is prohibited if the taxpayer is unable to calculate the section 481 adjustment because actual data is not available. Comments are requested as to the appropriateness of requiring that the 481 adjustment be based on actual participant data. Comments are also requested as to any limitations on the section 481 adjustment that should be required as a condition of making a retroactive election if the actual data requirement is not adopted when final regulations are promulgated.

Executive Order 12291 and Regulatory Flexibility Act

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291.

The Secretary of the Treasury has certified that these regulations will not have a significant economic impact on a substantial number of small entities and are, therefore, not subject to the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6). These regulations will generally only affect United States businesses that have foreign operations that are conducted through a branch of a United States corporation or through a foreign subsidiary of a United States parent corporation.

Comments and Requests For a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eitht copies) to the Commissioner of Internal Revenue. All comments are available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OBM) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OBM, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copis of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Eric A. Raps 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 Part 1.401–0–1.425–1

Income taxes, Foreign retirement plans, Pensions, Aliens, Foreign tax credit.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. The Income Tax Regulations, 26 CFR Part 1, are amended by adding the following new sections immediately after § 1.404(e)–1A:

§ 1.404A–1 General rules concerning deductions and adjustments to earnings and profits for foreign deferred compensation plans.

(a) *In general.* Except as provided in this section, no deductions or reductions of earnings and profits (or accumulated profits) are permitted for amounts paid or accrued by an employer under a foreign deferred compensation plan unless the following requirements are satisfied:

(1) A written plan for deferring the receipt of compensation is maintained by the employer.

(2) The plan is maintained for the exclusive benefit of the employer's employees or their beneficiaries.

(3) 90 percent or more of the amounts taken into account under the plan must be attributable to services performed by nonresident aliens, the compensation for which is not subject to federal income tax.

(4) An election under § 1.404A–2 is made as a qualified funded plan or a qualified reserve plan.

Deductions, or reductions of earnings and profits (or accumulated profits) with respect to amounts paid or accured by an employer to a plan described in this paragraph (a) are allowed for the taxable year in which such amounts are properly taken into account under §§ 1.404A–1 through 1.404A–6.

(b) *90 percent test.*—(1) *Reserve plans.* For purposes of determining whether § 1.404A–1(a)(3) is satisfied when a reserve plan is maintained by an employer, 90 percent or more of the present value of the total benefits accrued under the plan must be attributable to services performed by nonresident aliens, the compensation for which is not subject to federal income tax.

(2) *Funded plans.* (i) *Individual account plans.* For purposes of determining whether § 1.404A–1(a)(3) is satisfied when a funded plan with individual accounts is maintained by an employer, 90 percent or more of the amounts allocated to individual accounts under the plan must be allocated to the accounts of nonresident aliens who perform services for the employer, the compensation for which is not subject to federal income tax.

(ii) *Plans without individual accounts.* For purposes of determining whether § 1.404A–1(a)(3) is satisfied when a funded plan without individual accounts is maintained by an employer, 90 percent or more of the present value of the total benefits accrued under the plan must be attributable to services performed by nonresident aliens, the compensation for which is not subject to federal income tax.

(c) *Calculation of 90 percent amounts.* For purposes of determining whether the tests described in paragraphs (b)(1), b(2)(i) and (b)(2)(ii) are satisfied, accrued benefits may be calculated under a reasonable method. The rules provided for calculating the present value of accrued benefits at normal retirement age (except for the actuarial assumption safe harbor) under Treas. Reg. § 1.416–1 (concerning the determination whether a retirement plan is top-heavy) are presumed to be reasonable for purposes of this paragraph. See § 1.404A–6(a) (3) and (5) for rules describing the calculation of accrued benefits attributable to services for which the compensation thereof is subject to federal income tax.

(d) *Deductions.* Deductions for amounts paid by an employer to a foreign deferred compensation plan that does not meet the requirements of paragraph (a) are governed by section 404.

(e) *Reductions of earnings and profits.* Reductions of earning and profits (or accumulated profits) with respect to amounts paid by an employer to a funded foreign deferred compensation plan that does not meet the

requirements of paragraph (a) are governed by sections 312, 901, 902, 960, and 964. Thus employers using the cash basis method of accounting with respect to deferred compensation expenses may reduce earnings and profits (or accumulated profits) when that expense is properly paid to an irrevocable trust (or the equivalent of a trust) that does not satisfy the requirements of section 404(a). Amounts shall not be considered properly paid unless reasonable funding methods and actuarial assumptions are used. See § 1.404A–3(b) for the requirements that a trust or the equivalent of a trust must satisfy. Conversely, reductions of earnings and profits (or accumulated profits) shall not be made with respect to amounts accrued by an employer under a foreign deferred compensation plan that does not meet the requirements of paragraph (a).

(f) *Applicable rules.* See § 1.404A–2 for rules relating to the manner in which the qualified foreign plan election is to be made; see § 1.404A–3 for rules relating solely to qualified funded plans; see § 1.404A–4 for rules relating solely to qualified reserve plans; See §§ 1.404A–5 and 1–404A–6 for rules relating to both qualified funded and reserve plans.

(g) *Definitions.* The following definitions apply for purposes of section 404A and §§ 1.404A–1 through 1.404A–6.

(1) *Written plan.* A "written plan" is one which is defined by plan instruments or required under the law of a foreign country, or both. An insurance contract may constitute a written plan. See § 1.404A–3(b) for the definition of a retirement annuity.

(2) *Qualified foreign plan.* The term "qualified foreign plan" means a deferred compensation plan that meets the requirements of § 1.404A–1(a). A qualified foreign plan may be a qualified funded plan or a qualified reserve plan.

(3) *Qualified funded plan.* The term "qualified funded plan" means a qualified foreign plan for which no election has been made by the taxpayer to treat such plan as a qualified reserve plan.

(4) *Qualified reserve plan.* The term "qualified reserve plan" means a qualified foreign plan for which an election has been made by the taxpayer to treat such plan as a qualified reserve plan.

(5) *Deferred compensation plan.* For purposes of §§ 1.404A–1 through 1.404A–6, "deferred compensation" means any item for which the deductibility is determined by reference to section 404 without regard to whether section 404 permits a deduction and without regard to whether an election is made under § 1.404A–2. However, a deferred compensation plan, as described above, does not include a plan providing for deferred benefits (as described in section 404(b)(2)). A plan under which a foreign government (including a political subdivision, agency or instrumentality thereof) makes a contribution or a direct payment to a participant (or the participant's beneficiary) is not a deferred compensation plan. Thus for example, a foreign country's social security system shall not be considered a deferred compensation plan. However, a plan may be a deferred compensation plan even though employers are required to maintain the plan by reason of foreign law, or such plan supplements social security benefits provided by a foreign country.

(6) *Exclusive benefit.* The term "exclusive benefit" has the same meaning as in §§ 1.401–2 and 1.413–1(d).

(7) *Taxpayer.* For the definition of the term "taxpayer," see section 7701(a)(14).

(8) *Employer.* The term "employer" means a person that maintain a qualified foreign plan.

(9) *Equivalent of a trust.* The term "equivalent of a trust" means a funds:

(i) Whose corpus and income is separately identifiable and segregated, through a separately incorporated entity, from the general asssets of the employer,

(ii) Whose corpus and income is not subject to the claims of the emloyer's creditors,

(iii) Whose corpus and income do not at any time prior to the satisfaction of all liabilities with respect to employees under a qualified funded plan be used for, or diverted to, any purpose other than the providing of benefits under the plan, and

(iv) Where the legal rights to the corpus and income is held by a person who has a fiduciary duty to prudently operate the fund.

(h) *Section 162 requirements.* Except as provided in § 1.404A–6(a)(2), no deductions or reductions of earnings and profits (or accumulated profits) are permissible under sections 162, 212, 312, 404, 902, 960, or 964 for amounts paid or accrued under a qualified foreign plan. In order to deduct amounts or reduce earnings and profits (or accumulated profits) under section 404A, amounts contributed to a qualified funded plan or properly added to a reserve with respect to a qualified reserve plan must satisfy the conditions under section 162. Thus, amounts may be taken into accounts under section 404A only to the extent that they are ordinary and necessary expenses during the taxable year in carrying on a trade or business and are compensation for personal services actually rendered.

§ 1.404A–2 Election to be treated as a qualified funded or reserve plan.

(a) *In general.* An election which meets the requirements of this section shall be made as a condition for claiming a deduction or reduction of earnings and profits (or accumulated profits) under section 404A because of amounts taken into account under a qualified foreign plan.

(b) *Procedure for making election*—(1) *Time of election.* Except as provided in this section, an election under this section shall only be made for taxable years beginning after December 31, 1979.

(2) *Manner in which election is to be made.* Subject to the provisions of this paragraph, the election shall be made by the taxpayer by attaching to its federal income tax return a statement containing a list of plans for which section 404A treatment is desired. For each plan listed, the taxpayer shall designate whether it is a qualified funded or qualified reserve plan. See § 1.404A–6(b) concerning additional information that shall be included in the statement described in this paragraph (b)(2).

(3) *Plan maintained by a controlled foreign corporation*—(i) *In general.* In the event that a qualified foreign plan is maintained by a controlled foreign corporation (as defined in section 957) the election under this section shall be considered made only if its controlling United States shareholders (as defined in § 1.964–1(c)(5)):

(A) File the written statement described in subdivision (ii) of this subparagraph at the time and in the manner prescribed therein, and

(B) Provide the written notice required by subdivision (iii) of this subparagraph at the time and in the manner prescribed therein.

(ii) *Written statement required by controlling United States shareholders.* The written statement required by subdivision (ii) of this subparagraph shall be jointly executed by the controlling United States shareholders, and attached to each of the controlling shareholders' returns for the taxable year. The written statement shall set forth the name and country of organization of the foreign corporation, the names, addresses, and stock interests in the controlled foreign corporation of the controlling United States shareholders, the nature of the action taken, the names and addresses of all other United States shareholders notified of the election, and such other

information as the Commissioner may require.

(iii) *Notice to shareholders.* Prior to the filing of the written statement described in subdivision (ii) of this subparagraph, the controlling United States shareholders shall provide written notice of the election to all other persons known by them to be United States shareholders who own (within the meaning of section 958(a)) stock of the foreign corporation. Such notice shall set forth the name and country of organization of the foreign corporation, the names, addresses, and stock interests of the controlling United States shareholders, the nature of the action taken, and such other information as the Commission may require. However, the failure of the controlling United States shareholders to provide such notice to a person required to be notified thereunder shall not invalidate the election, if it is established to the satisfaction of the Commissioner that reasonable cause existed for such failure.

(iv) *Effect of action by controlling United States shareholders.* Any election made by the controlling United States shareholders under this section pursuant to paragraph (b)(2) shall be reflected in the adjustment of earnings and profits of such corporation under section 404A, to the extent it bears upon the tax liability of a United States shareholder who either—

(A) Was a controlling United States shareholder with respect to the action taken,

(B) Received the written notice provided by subparagraph (2)(iii) of this paragraph,

(C) Failed to file any of the returns required by section 6046 and the regulations thereunder within the period prescribed by section 6046(d), or

(D) Was notified by the Commissioner of the election made within the time prescribed by subparagraph (5) of this paragraph.

(4) *Plan maintained by foreign corporation other than a controlled foreign corporation.* In the event that a qualified foreign plan is maintained by a foreign corporation other than a controlled foreign corporation, the elections under this section may be made by each United States person (as defined in section 7701(a)((30)) that owns stock in the foreign corporation.

(5) *Period during which election may be made*—(i) *In general.* The taxpayer may make the election under section 404A not later than the time prescribed by law for filing the United States return for the taxable year (including extensions thereof).

(ii) *Transitional rule.* In lieu of paragraph (b)(5)(i), taxpayers may rely on the prior published position of the Internal Revenue Service with respect to the period during which the election may be made for taxable years beginning before [60 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE **FEDERAL REGISTER**]. Thus, for taxable years described in the preceding sentence, taxpayers may make the election for the appropriate taxable year on an amended return that is filed no later than the end of the extended time period prescribed in section 6081, whether or not such time is actually extended for filing the taxpayer's return.

(iii) *Special rule for protective elections.* For those taxpayers who have relied on the prior position of the Internal Revenue Service by making a protective or method (2) election, adjustments to the United States return required by section 404A shall be made on an amended return no later than [90 DAYS AFTER THE DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE **FEDERAL REGISTER**]. Otherwise, the protective election shall have no effect.

(6) *Revocation of election*—(i) *Qualified funded plans.* Assumptions and methods under a qualified funded plan are established in the first income tax return that is filed with respect to a taxable year and may not be changed for that taxable year. Once an election has been made for a taxable year with respect to a qualified funded plan it may not be changed for such taxable year, except when the Commissioner determines that the methods, factors, assumptions or limitations were not proper. The mere fact that an election has been made in one taxable year, however, does not bind the taxpayer for a subsequent taxable year. However, in such a case, see paragraph (b)(6)(iv) of this section and § 1.404A–6(f)(5) concerning a change of the taxpayer's method of accounting.

(ii) *Qualified reserve plans.* Assumptions under a qualified reserve plan are established in the first income tax return that is filed with respect to a taxable year and may not be changed for that taxable year. With respect to a qualified reserve plan, except as provided by § 1.404A–2(b)(6)(iii) and this subdivision, an election once made is irrevocable for such taxable year and all succeeding taxable years. However, upon application of the taxpayer, an election to be treated as a qualified reserve plan may be revoked for succeeding taxable years subject to the approval of the Commissioner. Approval will not be granted unless a material and substantial change in circumstances occurs which could not have been anticipated when the election was made. Such approval will be granted only in rare and unusual circumstances. A change in interest rates, described in § 1.404A–6(d)(2), will not be considered a rare and unusual change in circumstance. A failure to satisfy the 90 percent requirement (described in § 1.404A–1(a)(3)), however, shall be considerd a rare and unusual change in circumstance. See paragraph (b)(6)(iv) of this section concerning a change of the taxpayer's method of accounting.

(iii) *Transitional rule.* Any qualified foreign plan election, including any retroactive election described in section 2(e) of Pub. L. 96–603, that was made before [THE DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE **FEDERAL REGISTER**] may be revoked without the consent of the Commissioner until [90 DAYS AFTER DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE **FEDERAL REGISTER**]. If any qualified foreign plan election is revoked pursuant to paragraph (b)(6)(iii) of this section, taxpayers shall amend their income tax returns for all taxable years in which an election under section 404A had been in effect to the extent that deductions or credits claimed are inconsistent with the tax treatment accorded to taxpayers that fail to make an election under section 404A. Such amended returns shall be accompanied by a statement indicating that the qualified foreign plan election is revoked pursuant to the authority contained in § 1.404A–2(b)(6)(iii). See § 1.404A–2(b)(5)(iii) concerning the manner in which a protective election shall be revoked.

(iv) *Revocation and change in method of accounting.* In the event that a revocation of the election would result in a change of method of accounting for the taxpayer, the request for a change in accounting method for taxable years affected by the revocation must be filed within 180 days after the close of the taxable year in which the revocation is made.

(7) *Extent of election.* (1)—In general. Except as provided in this section, the election shall be made with respect to each plan that qualifies as a single plan. See § 1.414(l)–1(b) for the definition of the term "single plan". For purposes of this section, an employer's reserve for its liability under the plan will be considered a plan asset. Although a plan may be treated as a reserve plan under foreign law, this treatment shall not be binding for purposes of section 404A and this section. See example (2) of

§ 1.404A–4(e) for an illustration of this principle. See § 1.404A–4(b)(1) as to the calculation of the reasonable addition to a qualified reserve plan when the liabilities of the plan are reinsured.

(ii) *Effect on earnings and profits.* Except as provided in paragraph (c)(2) of this section, reductions in earnings and profits (or accumulated profits) that relate to the maintenance of a qualified foreign plan shall only be made for those taxable years for which an election under this paragraph (b) is in effect.

(8) The principles of paragraph (b) of this section is illustrated by the following example.

Example. *M*, a domestic corporation, wholly owns *R*, a foreign corporation. *R* has maintained an unfunded pension plan for its employees since 1978. In 1980, *M* makes an election to have *R*'s plan to be treated as a qualified reserve plan for taxable years beginning after December 31, 1979. *R*'s accumulated profits (before taking into account its pension liabilities) in excess of foreign income taxes for the years 1978–1980 are as follows.
manner in which a protective election

Year	Accumulated profits
1978	$200,000
1979	100,000
1980	50,000

The amount that is required to be taken into account under section 404A for 1980 is $115,000. Because no retroactive election was made, reductions in accumulated profits cannot be applied against the earnings and profits accumulated prior to 1980. Thus, *R*'s accumulated profits shall only be reduced by $50,000.

(c) *Retroactive election*—(1) *In general.* Notwithstanding any provision contained in the Code or regulations, the provisions contained in this paragraph (c) (as well as paragraphs (a) and (b) of this section to the extent applicable) are the only rules that apply for purposes of making the retroactive elections described in section 2(e) of Pub. L. 96–603. Subparagraph (2) of this paragraph describes the rules applicable to retroactive elections for certain foreign subsidiaries of taxpayers that maintain qualified foreign plans.

Subparagraph (3) of this paragraph describes the rules applicable to retroactive elections for certain foreign branches of domestic corporations that maintain qualified funded plans. Subparagraph (4) of this paragraph provides rules governing the time and manner for making a retroactive election. Subparagraph (5) of this paragraph provides special rules relating to the retroactive election.

(2) *Retroactive election for foreign subsidiaries*—(i) *In general.* Subject to the requirement of § 1.404A–2(c)(4)(iii), an election may be made with respect to a qualified foreign plan maintained by a foreign subsidiary to have section 404A apply for the taxpayer's "open period" as defined in this paragraph (c). See § 1.404A–2(c)(5) for the definition of open period.

(ii) *Scope of election.* As a condition of making the election described in paragraph (c)(2)(i), the election shall be made with respect to all written plans of every foreign subsidiary (whether or not wholly owned) of the taxpayer which defer the receipt of compensation and which satisfy the requirements of section 404A(e) (1) and (2). This election may be made without regard to whether an election is made under section 404A for taxable years beginning after December 31, 1979.

(iii) *Effect on earnings and profits.* The election described in paragraph (c)(2)(i) shall only apply to distributions made out of earnings and profits (or accumulated profits) earned after December 31, 1970.

(iv) *Revocation of retroactive election.* Except as provided in paragraph (b) of this section, the election described in paragraph (c)(2)(i) may not be revoked.

(3) *Retroactive election for foreign branches*—(i) *In general.* Subject to the requirement of § 1.404A–2(c)(4)(iii), an election may be made with respect to a qualified funded plan maintained by a foreign branch of a domestic corporation to have section 404A apply with respect to the taxpayer's "prior deduction" to the extent provided in subdivision (iii) of this subparagraph. See § 1.404-2(c)(5) for the definition of "prior deduction".

(ii) *Scope of election.* As a condition of making the election described in subdivision (i) of this subparagraph (3), the taxpayer shall agree to the assessment of all deficiencies (including interest thereon) arising during those taxable years falling within the open period (without regard to whether the taxable year has closed) to the extent that the deficiencies arise from "erroneous deductions" claimed by the taxpayer with respect to each of the taxpayer's foreign branches that maintained a plan deferring the receipt of compensation. This election may be made without regard to whether an election is made under section 404A for taxable years beginning after December 31, 1979. See § 1.404A–2(c)(5) for the definition of "erroneous deduction" and see § 1.404A–6(f) for adjustments required by section 481.

(iii) *Amounts allowed as a deduction.* If the requirements of subdivisions (i) and (ii) of this subparagraph (3) have been satisfied, an amount equal to 1/15th of the aggregate of the "prior deductions" shall be allowed as a deduction for the taxpayer's first taxable year beginning in 1980, and an equal amount shall be allowed for each of the succeeding 14 taxable years.

(iv) *Revocation of retroactive election.* Except as provided in paragraph (b) of this section, the election described in paragraph (c)(3)(i) may not be revoked.

(4) *Period during which election can be made*—(i) *Time.* (A) *General rule.* Except as provided in subdivision (B), an election under this paragraph shall be made not later than time prescribed by law for filing the United States return for the first taxable year ending on or after December 31, 1980, including extensions (whether or not such time is actually extended for filing the taxpayer's return).

(B) *Special rule for protective elections.* For those taxpayers who have relied on the prior published position of the Internal Revenue Service by making a protective (method (2)) election, adjustments to the United States return required by section 2(e) of Pub. L. 96–603 shall be made on an amended return no later than [90 DAYS AFTER DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE FEDERAL REGISTER].

(ii) *Manner.* (A) *Foreign subsidiaries.* An election under this paragraph that relates to a qualified foreign plan maintained by a foreign subsidiary shall be made in the same manner as provided in § 1.404A–2(b). Alternatively, an election under this paragraph may be made by a taxpayer upon agreement to an assessment of a deficiency to the extent it is attributable to a qualified foreign plan maintained by a foreign subsidiary. Such agreement shall be entered into by the later of September 23, 1981, or the time prescribed by paragraph (c)(4)(i).

(B) *Foreign branches.* An election under this paragraph that relates to a qualified funded plan maintained by a foreign branch of a domestic corporation shall be made in the same manner as provided in § 1.404A–2(b) except that the taxpayer must agree to the assessment of a deficiency for any closed year falling within the "open period" to the extent such deficiency is attributable to the operation of a retroactive election. Alternatively, an election under this paragraph may be made by a taxpayer upon agreement to an assessment of a deficiency to the extent it is attributable to a qualified foreign plan maintained by a foreign

branch of a domestic corporation. Such agreement shall be entered into by the later of September 23, 1981, or the time prescribed by paragraph (c)(4)(i).

(iii) *Circumstances where retroactive election prohibited.* A retroactive election shall be prohibited if the taxpayer is unable to calculate based upon actual data the section 481(a) adjustment required by § 1.404A–6(f)(6). Thus, an estimate (based upon either projected actuarial data or any other method of the section 481(a) adjustment is not permitted.

(5) *Definitions and special rules.* (i) *Open period.* For purposes of paragraph (c) of this section, the term "open period" means, with respect to any taxpayer, all taxable years which begin before January 1, 1980, and which begin after December 31, 1971, and for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was not barred by any law or rule of law.

(ii) *Protective or method (2) election.* The term "protective or method (2) election" means an election that is in conformance with the prior published position of the Internal Revenue Service and that is made without claiming deductions (or in the case of foreign subsidiaries taking into account reductions of earnings and profits or accumulated profits) on a taxpayer's income tax return that relates to a qualified foreign plan.

(iii) *Erroneous deduction.* The term "erroneous deduction" means a deduction claimed on a taxpayer's income tax return with respect to contributions to a deferred compensation plan which are not deductible under section 404.

(iv) *Prior deduction.* The term "prior deduction" means a deduction with respect to a qualified funded plan maintained by a foreign branch of a taxpayer—

(A) Which the taxpayer claimed for a taxable year (or could have claimed if section 404A applied to taxable years beginning before January 1, 1980) beginning before January 1, 1980,

(B) Which was not allowable, and

(C) With respect to which, on December 1, 1980, the assessment of a deficiency was not barred by any law or rule of law.

The computation of the prior deduction for the taxable year to which it relates is subject to the limitations described in section 404A(d). However, once the prior deduction is calculated, the deductibility of the prior deduction (in accordance with paragraph (c)(3)(iii) of this section) is no longer subject to the limitations prescribed by section 404A(d)(1).

§ 1.404A–3 Rules for qualified funded plans.

(a) *In general.* Except as provided in this section, contributions are properly taken into account under a qualified funded plan for the taxable year in which paid (regardless of whether the taxpayer's or employer's return is prepared on the accrual method of accounting). Accretions to the trust (or the equivalent of a trust) shall not be considered a contribution to a plan.

(b) *Payment to certain entities.* Contributions made under a qualified funded plan may not be taken into account unless paid—

(1) To a trust (or the equivalent of a trust) which is operated in accordance with the requirements of section 401(a)(2),

(2) For a retirement annuity under which retirement benefits are provided under an annuity which is for the exclusive benefit of the employer's employees or their beneficiaries, or

(3) Directly to a participant or beneficiary (in lieu of the entities described above).

A trust (or the equivalent of a trust) must have substantiality. It must provide for the accumulation of employer contributions for the purposes of distributing benefits under a deferred compensation plan. For example, a trust may not merely serve as a conduit for a promissory note. Whether a trust (or the equivalent of a trust) provides for the accumulation of employer contributions for the purpose of distributing benefits depends on the facts and circumstances. A retirement annuity has the same meaning as that term is used in section 404(a)(2) except that the retirement annuity need not be part of a plan that meets the requirements of section 401(a) or 401(d). Notwithstanding the preceding sentence, the retirement annuity described therein need not be issued by an insurance company qualified to do business in a State if the taxpayer(s) and/or sponsoring employer(s) of the plan have shifted the risk of making payments under the plan to an entity that is qualified to do business in the country (or countries) where the plan is maintained.

(c) *Time when contributions deemed made.* (1) *In general.* For purposes of this section a payment made after the close of a shareholder's taxable year shall be deemed to have been made on the last day of the shareholder's preceding taxable year if:

(i) The payment is made on account of the taxable year of the employer and is made not later than the time prescribed by law for filing the appropriate United States return for the shareholder's taxable year (including extensions thereof) in which or with which the employer's taxable year ends, and

(ii) The requirements of paragraph (c)(2) of this section are satisfied.

The appropriate United States return in the case of a qualified funded plan maintained by a controlled foreign corporation is the return of any controlling United States shareholder. The appropriate United States return in the case of a qualified funded plan maintained by a foreign corporation other than a controlled foreign corporation is the return of any United States shareholder. The appropriate United States return in the case of a qualified funded plan maintained by a foreign branch of a United States person is the return of the United States person. In such a case, the term "taxpayer" shall be substituted for the term "shareholder" as it appears in this paragraph (c)(1).

(2) *Requirements.* Whether an employer or a taxpayer is on the cash or accrual method of accounting, and whether the conditions for accrual have been met, a payment made after the close of the taxpayer's taxable year shall be considered to be on account of such taxable year if the requirements of subdivisions (i) and (ii) of this paragraph are satisfied.

(i) The payment must be treated by the plan in the same manner that the plan would treat a payment actually received on the last day of such taxable year, and

(ii) Either the employer designates the payment in writing to the plan administrator or trustee as a payment on account of the taxpayer's preceding taxable year, or the taxpayer claims such a payment as a deduction on its tax return for such taxable year, or the taxpayer reduces earnings and profits or accumulated profits with respect to such payment.

(3) *Time of designation.* A payment shall be designated as a payment on account of the preceding taxable year in the manner provided in paragraph (c)(2) of this section not later than the time described in paragraph (c)(1).

(4) *Irrevocable designation.* After a payment has been designated or claimed on a return in the manner provided in paragraph (c)(2) of this section as being on account of a preceding taxable year such designation or claim may not be retracted or changed.

(5) *Examples.* The principles of this section are illustrated by the following examples:

Example (1). *P*, a domestic corporation, owns all of the one class of stock of foreign corporation *S*. The taxable year for *P* is the calendar year and its United States return for the 1982 taxable year was filed on March 15, 1983. The taxable year for *S* is the fiscal year beginning on June 1. *S* makes a contribution to its qualified funded plan on March 1, 1983, and designates in writing to the plan's trustee that the payment should be treated as a payment on account of *P*'s preceding taxable year. For purposes of this section, the contribution is taken into account by *P* for the 1982 taxable year.

Example (2). Assume the same facts as example (1), except that the contribution made by *S* to the qualified funded plan was made on April 1, 1983. In this case, the contribution was made after *P* filed its United States tax return, and therefore, the contribution may not be taken into account for the 1982 taxable year.

Example (3). A foreign subsidiary of a domestic corporaton maintains a deferred compensation plan for its employees. The foreign subsidiary makes annual contributions under the plan to a trust. Each year after the contribution is paid into the trust, the trustee lends the entire contribution back to the foreign subsidiary maintaining the plan. The foreign subsidiary executes promissory notes obligating it to pay back the borrowed funds (including a reasonable rate of interest) to the trust and to pay any benefits that are due under the plan. Notwithstanding that the taxpayer may have designated the plan as a qualified funded plan, amounts may not be taken into account under section 404A with respect to contributions paid to the trust because the trust lacks substance and does not provide for the accumulation of employer contributions. Similarly, even if a qualified funded plan election was not made under aforementioned circumstances, no reductions of earning (or accumulated profits) would be permitted under sections 312, 902, 960, and 964.

(d) *Limitation for qualified funded plans under which benefits are fixed or determinable*—(1) *Computation of deductible limit.* Execpt as provided in §§ 1.404A–5 and 1.404A–6 and this section, contributions made to a qualified funded plan for which benefits are fixed or determinable shall be taken into account under this section. However, the amount taken into account may not exceed the amount that would be taken into account under section 404(a)(1)(A) (ii) and (iii) and the regulations thereunder (determined without regard to the last sentence of that subparagraph). The deductible limit described in the preceding sentence is determined on the basis of the accounting period of the qualified foreign plan, (i.e.) its plan year. If the employer's taxable year coincides with the plan year, the deductible limit for the employer's taxable year is the deductible limit for the plan year that coincides with that year. If the employer's taxable year does not coincide with the plan year, the deductible limit for a given taxable year of the empoyer shall be one of the alternatives described in § 1.404(a)–14(c). In the event the qualified funded plan is maintained by a foreign corporation the deductible amount shall be taken into account for the shareholder's taxable year in which or with which the employer's taxable year ends. If the qualified foreign plan does not have its own separate accounting period, the deductible limit is determined on the accounting period of the employer. For purposes of section 404A and this section, benefits are considered fixed or determinable if either benefits or contributions are definitely determinable within the meaning of § 1.401–1(b)(1)(i).

(2) *Certain limitations of section 404(a)(1)(A) not applicable.* The amount that is taken into account under paragraph (d)(1) is determined without regard to whether the payment is made to a trust that is exempt under section 501(a).

(3) *Permissible actuarial assumptions, etc.* Actuarial assumptions and methods selected for determining the amount to be taken into account under paragraph (d)(1) must conform with § 1.404A–6(c)(1). In determining the amount to be taken into account under this section an actuarial valuation shall be made not less frequently than once every three years. However, an actuarial valuation shall be made for the first plan year or annual accounting period of the plan for which an election under § 1.404A–2 is in effect. See § 1.412(c)(9)–1 concerning applicable rules for actuarial valuations.

(4) *Additional rules.* The Commissioner may prescribe additional rules for determining the amount that may be taken into account under this section for qualified funded plans under which benefits are fixed or determinable.

(e) *Limitation for qualified funded plans under which benefits are not fixed or determinable*—(1) *Computation of deductible limit.* Except as provided in §§ 1.404A–5 and 1.404A–6 and this section, if contributions are made by an employer for a taxable year to a qualified funded plan under which benefits are not fixed or determinable, the amounts that may be taken into account for such year under this section shall be subject to the limitations of section 404(a)(3).

(2) *Certain limitations of section 404(a)(3) not applicable.* The amount that is taken into account under paragraph (e)(1) is determined without regard to whether the payment is made to a trust that is exempt under section 501(a).

(3) *Additional rules.* The Commissioner may prescribe additional rules modifying the provisions of section 404(a)(3) for purposes of determining the amount that may be taken into account under this section with respect to a qualified funded plan under which benefits are not fixed or determinable.

(f) *Limitations where more than one type of plan is maintained*—(1) *In general.* Except as provided in §§ 1.404A–5 and 1.404A–6 and this paragraph, where payments are made for a taxable year to more than one qualified funded plan (where at least one plan is described in paragraph (d)(1) and at least one plan is described in paragraph (e)(1)) the amounts that may be taken into account for the taxable year with respect to such payments are subject to the limitations of section 404(a)(7).

(2) *Certain limitations of section 404(a)(7) not applicable.* The amount that is taken into account under paragraph (f)(1) is determined without regard to whether the payment satisfies the minimum funding standard described in section 412.

(3) *Additional rules.* The Commissioner may prescribe additional rules modifying the provisions of section 404(a)(7) for purposes of determining the amount that may be taken into account under this paragraph.

(g) *Carryforward contributions.* (1) *General rule.* Except as provided in this paragraph, if (i) the aggregate amount of contributions paid during a taxable year in which an election under section 404A is in effect (reduced by an amount described in section 404A(g) (1) and (2)) exceeds (ii) the amount that may be taken into account under section 404A(a) and this section, the excess (carryforward contribution) shall be treated as an amount paid in the succeeding taxable year.

(2) *Application of section 404A(d).* For purposes of paragraph (g)(1) of this section, the amount of the carryforward contribution shall be computed without regard to sections 404A(d) and 1.404A–5.

(3) *When carryforward contributions may be taken into account.* Carryforward contributions are taken into account in succeeding taxable years in order of time pursuant to the following rules:

(i) In the case of a succeeding taxable year during which the plan meets the requirements of section 404A(e), such excess contributions are taken into account subject to the limitations of section 404A(d).

(ii) In the case of a succeeding taxable year during which the plan does not meet the requirements of section 404A(e), such excess contributions may be taken into account subject to the limitations of section 404.

(4) The principles of this section are illustrated by the following examples.

Example (1). A qualified funded plan under which benefits are not fixed or determinable is maintained by a foreign branch of a domestic corporation. The taxpayer's taxable year and the plan year are coterminous with the calendar year. The plan was established in 1985 and the taxpayer makes the election described in § 1.404A–2. The employer for the 1985 taxable year makes a $25,000 contribution under the plan and $15,000 of that contribution may be taken into account under paragraph (e) of this section. The cumulative foreign amount for the 1985 taxable year is $20,000. The amount of the carryforward contribution is $10,000 or $25,000 – $15,000 because the amount of the carryforward contribution is determined without regard to section 404A(d).

Example (2). Assume the same facts as example (1), except that the entire $25,000 contribution made under the plan may be taken into account under paragraph (e) of this section. The amount of the carryover is 0, even though the cumulative United States amount may exceed the cumulative foreign amount for the taxable year because the amount of the carryforward contribution is determined without regard to section 404A(d).

§ 1.404A–4 Rules for qualified reserve plans.

(a) *In general.* Except as provided in §§ 1.404A–5 and 1.404A–6, the amount that is taken into account under a qualified reserve plan for a taxable year is the reasonable addition to the reserve for the taxpayer's liability under the plan. The reasonable addition to the reserve for a taxable year shall be taken into account only in the first year that it becomes available. Thus, the reasonable addition to the reserve is first calculated without regard to section 404A(d) and § 1.404A–5, and such amounts are then subject to the foregoing provisions without carryover. All benefits paid under a plan which is or has been a qualified reserve plan shall be charged to the reserve.

(b) *Determination of reasonable addition*—(1) *Funding method.* The reserve for the taxpayer's liability shall be determined under the unit credit method as further described in this section. The reasonable addition (subject to the other requirements provided in this section) shall be the excess of the sum of the reserve for the current plan year and the benefit payments for the year over the reserve for the prior plan year. Thus, an actuarial valuation must be made for each plan year, and a comparison of the results of the actuarial valuation must be made for the plan year and the preceding plan year. See § 1.412(c)(9)–1(b) for applicable rules concerning actuarial valuations. Notwithstanding any provision contained in this section, the addition to the reserve for the current plan year shall be reduced by any payments made by the employer which are used to either reinsure the liabilities or benefits under a qualified reserve plan, or to separately fund all or a portion of the benefits under a qualified reserve plan, if the employer separately deducts amounts or reduces earnings and profits (or accumulated profits) with respect to those payments without regard to this section. See § 1.404A–1(e) as to the requirements for reducing earnings and profits (or accumulated profits) when payments are made to a foreign deferred compensation plan for which an election under section 404A is not made. If the employer's taxable year coincides with the plan year, the deductible limit for the employer's taxable year is the deductible limit for the plan year that coincides with that year. If the employer's taxable year does not coincide with the plan year, the deductible limit for a given taxable year of the employer shall be one of the alternatives described in § 1.404(a)–14(c). In the event the qualified reserve plan is maintained by a foreign corporation the deductible amount shall be taken into account for the shareholder's taxable year in which or with which the employer's taxable year ends. See § 1.404A–3(d)(1) when the qualified foreign plan does not have its own separate accounting period.

(2) *Timing of reasonable addition.* The reasonable addition to the reserve shall be calculated on the last day of each plan year.

(3) *Permissible actuarial assumptions.* Except as provided in this section, actuarial assumptions used in determining the reasonable addition to the reserve under paragraph (b)(1) of this section are based on the plan being an ongoing plan. Thus, mortality assumptions may be used. However, interest rate assumptions shall conform to the requirements of §1.404A–6(d). Subject to the requirements of § 404A–4(d), only cost-of-living adjustments that are part of the accrued benefits, without regard to future service of employees, may be assumed.

(4) *Prohibited considerations for reserve plans*—(i) *Substantial risk of forfeiture.* In determining the reasonable addition to the reserve under this paragraph, amounts shall not be taken into account unless the benefits accrued by an employee are not subject to a substantial risk of forfeiture. The term "substantial risk of forfeiture" has the meaning stated in § 1.83–3(c)(1). However, a benefit earned under a qualified reserve plan will not be subject to a substantial risk of forfeiture merely because it will not be paid or distributed to the participant's beneficiary upon the death of the participant. For purposes of this paragraph (b)(4)(i), the term "property" as defined in § 1.83–1(e) shall also include benefits accured under a qualified reserve plan by a nonresident alien with respect to services performed, the compensation for which is not subject to federal income tax.

(ii) *Use of salary scale.* Salary scale assumptions shall not be used for purposes of determining the reasonable addition to the reserve under this paragraph.

(iii) *Anticipated benefit changes.* Except as otherwise provided by the Commissioner, changes in plan benefits or appropriate foreign law that become effective (whether or not retroactively) in a future taxable year shall not be used for purposes of determining the reasonable addition to the reserve under this paragraph.

(iv) *Additional service performed by employee.* Assumptions that employees shall perform additional service in a future taxable year shall not be used for purposes of determining the reasonable addition to the reserve under this paragraph.

(c) *Certain reserve decreases*—(1) *Reserve plans maintained by foreign subsidiary.* Except as provided in paragraph (d) of this section, in the case of a plan which is maintained by a foreign subsidiary and which is or has been a qualified reserve plan, an amount equal to that portion of any decrease for the taxable year in the reserve which is not attributable to the payment of benefits shall be included in the foreign subsidiary's earnings and profits or accumulated profits for such taxable year.

(2) *Reserve plans maintained by foreign branch.* Except as provided in paragraph (d) of this section, in the case of a plan which is maintained by a foreign branch and which is or has been a qualified reserve plan, an amount equal to that portion of any decrease for the taxable year in the reserve which is not attributable to the payment of benefits shall be included in the taxpayer's income for such taxable year.

(d) *10-year amortization of certain increases and decreases in reserve*—(1) *Adoption or amendment of plan.* Increases or decreases to the reserve on

account of adoption or amendment to a reserve plan shall be amortized over 10 years. An amendment to a plan includes a change in the level of compensation upon which plan benefits depend.

(2) *Experience gains and losses.* Increases or decreases to the reserve on account of experience gains or losses shall be amortized over 10 years.

(3) *Change in actuarial assumptions.* Increases or decreases to the reserve on account of any change in actuarial assumptions shall be amortized over 10 years. Thus, increases or decreases to the reserve on account of a change in the interest rate determined under section 404A(g)(3) and § 1.404A-6(d) shall be amortized over 10 years.

(4) *Cost of living adjustments for foreign subsidiaries*—(i) *Taxable years beginning before [90 DAYS AFTER DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE* FEDERAL REGISTER]. For taxable years beginning before [90 DAYS AFTER DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE FEDERAL REGISTER], increases or decreases to the reserve of a plan maintained by a foreign subsidiary on account of cost-of-living adjustments described in paragraph (b)(3) of this section shall be amortized in the year or years permitted under foreign law or over 10 years, which ever is less.

(ii) *Taxable years beginning on or after [90 DAYS AFTER DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE* FEDERAL REGISTER]. Except as provided in paragraph (d)(4)(iii) of this section, for taxable years beginning on or after [90 DAYS AFTER DATE ON WHICH FINAL REGULATIONS ARE PUBLISHED IN THE FEDERAL REGISTER] increases or decreases to the reserve of a foreign subsidiary on account of cost-of-living adjustments described in paragraph (b)(3) of this section shall be amortized over 10 years.

(iii) *Special rule for retirees.* Cost-of-living adjustments described in paragraph (b)(3) of this section that relate to retirees in pay status under a qualified reserve plan maintained by a foreign subsidiary shall be amortized (A) in the year or over the number of years permitted under foreign law or (B) over 10 years, whichever is less.

(5) *Cost of Living adjustments for foreign branches.* (i) *In general.* Except as provided in paragraph (d)(5)(ii) of this section, increases or decreases to the reserve of a foreign branch on account of cost-of-living adjustments described in paragraph (b)(3) of this section shall be amortized over 10 years.

(ii) *Special rule for retirees.* Cost-of-living adjustments described in paragraph (b)(3) of this section that relate to retirees in pay status under a qualified reserve plan maintained by a foreign branch shall be amortized (A) in the year or over the number of years permitted under foreign law or (B) over 10 years, whichever is less.

(6) *Vesting of benefits accrued in prior years.* Increases or decreases to the reserve on account of benefits which accrued in a prior taxable year which cease to be subject to a substantial risk of forfeiture (within the meanings of § 1.404A-4(b)(4)) shall be amortized over 10 years.

(e) The principles of this section are illustrated by the following examples.

Example (1). A qualified reserve plan is maintained by a foreign subsidiary of a domestic corporation. The taxpayer's taxable year, the subsidiary's taxable year and the plan year are coterminous with the calendar year. The foreign subsidiary established the qualified reserve plan in 2001 and the taxpayer makes the election described in § 1.404A-2. The reasonable addition to the plan in 2001 determined under this section is $750,000. However, the amount allowed as a deduction under the appropriate foreign tax laws for such taxable year is $650,000. The difference between the reasonable addition determined under this section and the deduction under the appropriate foreign tax laws or $100,000, may not be taken into account for any succeeding taxable year because the reasonable addition to the reserve for any taxable year may not be carried forward from one taxable year to another.

Example (2). A foreign subsidiary of a U.S. Company contributes funds to an irrevocable trust which is used to pay benefits provided under its reserve plan. The trust does not satisfy the requirements of sections 401(a), 404(a)(4) or 404(a)(5). The funds are not used to provide benefits in addition to those provided by the reserve plan. An election for the subsidiary's reserve plan to be treated as a qualified reserve plan is made in 1984. In 1984, the subsidiary also reduces its earnings and profits (or accumulated profits) by the amount contributed to the trust. The amount taken into account under this section must be reduced by the funds contributed to the trust in 1984.

Example (3). Employer Y hires 10,000 employees in 1980, each of whom is age 40 at the beginning of the year. The employees immediately commence participation in the plan and have the salary history set forth below. The plan provides that the accrued benefit at the end of X years is X times 1%, times the highest 1 year's compensation. The plan vesting is 20% per year starting after 2 years of service with the employer. Under the plan, once an employee is vested in a benefit, the benefit may not be forfeited for any reason other than the death of the employee. Relevant data is set forth below:

Year	End of year age	Number of EEs remaining	Comp/EE	End of year AB/EE	End of year vested AB/EE	End of year actuarial factor [1]	End of year reserve (3)×(5)×(7)
(1)	2	3	4	5	6	7	8
1980	41	9,979	10,000	100	0	2.527438	0
1981	41	9,956	10,000	200	0	2.660000	0
1982	43	9,931	10,000	300	60	2.800157	1,668,502
1983	44	9,903	10,000	400	160	2.948474	4,671,798
1984	45	9,900	15,000	750	450	3.105509	13,835,043

[1] Present worth at attained age of deferred annuity of $1 commencing at age 65 payable monthly based on UP-1984 mortality table with interest at 5 pct.

(a) *Computation of amounts taken into account for 1980 and 1981.* The amount taken into account for 1980 and 1981 is 0 because there is no reserve at the end of those years.

(b) *Computation of amount taken into account for 1982.* The reserve at the end of 1982 is $1,668,502. Of this amount $556,167 (9,931 ×100×2.800157×.20) is attributable to benefits accruing in the year. The remaining part of the reserve, $1,112,335 is attributable to increases in the vesting of benefits that accrued in prior years. This amount is taken into account over 10 years and $111,233.50 is the amount for each of the 10 years 1982 through 1991. The total amount taken into account for 1982 is $667,400.50 ($556,167 plus $111,233.50).

(c) *Computation of amount taken into account for 1983.* The increase in the reserve is $3,003,296 (4,671,798 less $1,668,502). Of this increase $1,167,950 (9,903×100×.40×2.948 474) is attributable to benefits accruing in the year. $1,751,924 (9,903×100×.20×3× 2.948474) is attributable to additional vesting of benefits that accrued in prior years and is taken into account over 10 years. The balance of the increase in the reserve is $83,422. This amount consists of $83,425 (.05×$1,668,502) which is the interest on the reserve from the beginning of the year, and an actuarial gain of $3. The $3 is spread over 10 years. The amortization base that is established is $1,751,921 ($1,751,924 less $3).

The total amount taken into account for the year is $1,537,800.60 or $1,167,950 (relating to increases in the reserve attributable to benefits accruing in 1983), plus $83,425 (relating to interest on the reserve from the beginning of the year) plus $111,233.50 (relating to the 10 year amortization of the base from 1982) plus $175,192.10 (relating to the 10 year amortization of the base for 1983).

(d) *Computation of amount taken into account for 1984.* The increase in the reserve is $9,163,245 ($13,835,043 less $4,671,798). Of this increase $2,767,009 (9,900×150×.60×3.105509) is attributable to benefits accruing in the year. $2,459,563 (9,900×100×.20×4×3.105509) is attributable to benefits that accrued in prior years and is taken into account over 10 years. The amount attributable to the increase in accrued

benefits from prior years because of the salary increase is $3,689,345 (5,000×.01×9,900×4×3.105509×.60). The balance of the increase in reserve is $247,328. This amount consists of $233,590 (.05×4,671,798) which is the interest on the reserve at the beginning of the year, and an actuarial loss of $13,738 from mortality. The amortization base is $6,162,646 (2,459,563+3,689,345+13,738).

The total amount taken into account for the year is $3,903,289.20 or $2,767,009 (relating to increases in the reserve attributable to benefits accruing in 1984), plus $233,590 (relating to interest on the reserve from the beginning of the year) plus $111,233.50 (relating to the 10 year amortization of the base from 1982), plus $175,192.10 (relating to the 10 year amortization of the base from 1983), plus $616,264.60 (relating to the 10 year amortization of the base from 1984).

(e) *Alternative computation method.* The amounts taken into account for 1982, 1983 and 1984 may also be illustrated as follows:

1982—Worksheet for Calculating Amount Taken Into for Qualified Reserve Plans Under 404A

(1) Vested accrued benefits at end of current year for current employees using service through end of previous year	$397,240
(2) Vested accrued benefits at end of current year	595,860
(3) (2)−(1)	198,620
(4) Present value of vested accrued benefit at end of previous year (item (5) from previous year)	0
(5) Present value of (2) at end of current year	1,668,502
(6) Benefit payments during current year	0
(7) Increase (decrease) in reserve [(5)+(6)−(4)]	1,668,502
(8) Interest on (4) for current year at valuation rate	0
(9) Interest on benefit payments from date paid to end of current year at valuation rate	0
(10) Present value of (3) at end of current year	556,167
(11) Increase (decrease) in reserve to be spread over 10 years (7)−(10)−(8)+(9)	1,112,335
(12) Remaining 10 percent bases from prior years (original amounts) (item 14 from prior year)	0
(13) 10 percent bases whose 10 years ended last year	0
(14) (12)−(13)+(11)	1,112,335
(15) 10 percent of (14)	111,233.50
(16) Amount taken into account for current year (10)+(8)−(9)+(15)	667,400.50

1983—Worksheet for Calculating Amount Taken Into for Qualified Reserve Plans Under 404A

(1) Vested accrued benefits at end of current year for current employees using service through end of previous year	$1,188,360
(2) Vested accrued benefits at end of current year	1,584,480
(3) (2)−(1)	396,120
(4) Present value of vested accrued benefit at end of previous year (item (5) from previous year)	1,668,502
(5) Present value of (2) at end of current year	4,671,798
(6) Benefit payments during current year	0
(7) Increase (decrease) in reserve [(5)+(6)−(4)]	3,003,296
(8) Interest on (4) for current year at valuation rate	83,425
(9) Interest on benefit payments from date paid to end of current year at valuation rate	0
(10) Present value of (3) at end of current year	1,167,950
(11) Increase (decrease) in reserve to be spread over 10 years (7)−(10)−(8)+(9)	1,751,921
(12) Remaining 10 percent bases from prior years (original amounts) (item 14 from prior year)	1,112,335
(13) 10 percent bases whose 10 years ended last year	0
(14) (12)−(13)+(11)	2,864,256
(15) 10 percent of (14)	286,425.60
(16) Amount taken into account for current year (10)+(8)−(9)+(15)	1,537,800.60

1984—Worksheet for Calculating Amount Taken Into for Qualified Reserve Plans Under 404A

(1) Vested accrued benefits at end of current year for current employees using service through end of previous year	$3,564,000
(2) Vested accrued benefits at end of current year	4,455,000
(3) (2)−(1)	891,000
(4) Present value of vested accrued benefit at end of previous year (item (5) from previous year)	4,671,798
(5) Present value of (2) at end of current year	13,835,043
(6) Benefit payments during current year	0
(7) Increase (Decrease) in reserve [(5)+(6)−(4)]	9,163,245
(8) Interest on (4) for current year at valuation rate	233,590
(9) Interest on benefit payments from date paid to end of current year at valuation rate	0
(10) Present value of (3) at end of current year	2,767,009
(11) Increase (decrease) in reserve to be spread over 10 years (7)−(10)−(8)+(9)	6,162,646
(12) Remaining 10 percent bases from prior years (original amounts) (item 14 from prior year)	2,864,256
(13) 10 percent bases whose 10 years ended last year	0
(14) (2)−(13)+(11)	9,026,902
(15) 10 percent of (14)	902,690.20
(16) Amount taken into account for current year (10+(8)−(9)+(15)	3,903,289.20

§ 1.404A–5 United States and foreign law limitations on amounts taken into account for qualified foreign plans.

(a) *In general.* Except as provided in § 1.404A–6, deductions or reductions in earnings and profits (or accumulated profits) with respect to a qualified foreign plan for any taxable year may not exceed:

(1) The lesser of:

(i) The cumulative United States amount, or

(ii) The cumulative foreign amount,

(2) Reduced by the aggregate amount.

(b) *Special rule for foreign subsidiaries.* The deduction in computing taxable income and the reduction in earnings and profits or accumulated profits of any foreign subsidiary with respect to a qualified foreign plan shall not exceed the amount allowed as a deduction under the appropriate foreign tax laws for such taxable year. See example (1) of paragraph (f) of this section for an illustration of this rule.

(c) *Maintenance of more than one type of qualified foreign plan by an employer.* In determining the deduction or reduction in earnings and profits (or accumulated profits) when an employer maintains one plan for purposes of foreign law that is treated as two separate plans for purposes of § 1.404A–2(b)(7), the cumulative United States amount for each plan shall be combined for purposes of paragraph (a) of this section. See example (4) of paragraph (f) of this section for an illustration of this principle.

(d) *United States and foreign law limitations not applicable.* Amounts may be taken into account with respect to items described in section 404A(g)(1) and adjustments required by section 404A(g) (4) and (5) and section 2(e)(3)(ii) of Pub. L. 96–603 without regard to the limitation set forth in paragraph (a) of this section.

(e) *Definitions*—(1) *Cumulative United States amount.* The term "cumulative United States amount" means the amount determined under section 404A (without regard to section 404A(d)) for the taxable year of the employer ending with or within the taxable year of the taxpayer, and all prior taxable years to which an election under section 404A was in effect.

(2) *Cumulative foreign amount.* The term "cumulative foreign amount" means the sum of the amount allowed as a deduction under the appropriate foreign tax law for the taxable year of the employer ending with or within the taxable year of the taxpayer and the total amount allowed as a deduction under the appropriate foreign tax laws for those prior taxable years to which section 404A was in effect.

(3) *Aggregate amount.* The term "aggregate amount" refers to amounts actually taken into account under section 404A(d)(1) for all prior taxable years to which section 404A applies. Thus, the aggregate amount includes amounts described in § 1.404A–2(c)(5)(iv) and section 2(e)(3) of Pub. L. 96–603 even though these amounts have not been deducted in the current taxable year or prior taxable years by reason of section 404A. However, such amounts are deductable without regard to the restrictions of this paragraph (e). See § 1.404A–2(c)(5)(iv) as to the computation of the prior deduction.

(4) *Appropriate foreign tax law.* The appropriate foreign tax law is the tax law of the country (other than the United States) in which deductions are allowed in computing taxable income with respect to the employer maintaining the plan. If deductions for the same plan is allowed in more than

one country (other than the United States), the amount allowed as a deduction under appropriate foreign tax law for that taxable year is the combined amount deducted in each country.

(f) *Example.* The principles of this section are illustrated by the following examples.

Example (1). A qualified reserve plan is maintained by a foreign subsidiary of a domestic corporation. The foreign subsidiary established the qualified reserve plan in 1985 and the taxpayer makes the election described in § 1.404A–2. The taxpayer's taxable year, the subsidiary's taxable year and the plan year are coterminous with the calendar year. The assumed deductions under section 404A and appropriate foreign law for selected years, and the computations under this section which follow from such deductions, are shown in the following table:

	1985	1986	1987	1988
(1) Amount determined with respect to the plan under section 404A for the taxable year without regard to section 404A(d)	$800,000	$900,000	$300,000	$1,000,000
(2) Amount allowed as a deduction under the appropriate foreign tax laws for the taxable year	1,000,000	600,000	400,000	0
(3) Aggregate amount	0	800,000	1,400,000	1,800,000
(4) Cumulative United States amount	800,00	1,700,000	2,000,000	3,000,000
(5) Cumulative foreign amount	1,000,000	1,600,000	2,000,000	2,000,000
(6) Lesser of cumulative United States or foreign amount, reduced by aggregate amount	600,000	800,000	600,000	200,000
(7) Amount taken into account for the taxable year (lesser of (2) or (f))	600,000	600,000	400,000	0

Example (2). Assume the same facts as example (1) for all taxable years, except that the qualified reserve plan is maintained by a foreign branch. In this case, the computations under this section which follow from such deductions are shown in the following table.

	1985	1986	1987	1988
(1) Amount determined with respect to the plan under section 404A for the taxable year without regard to section 404A(d)	$800,000	$900,000	$300,000	$1,000,000
(2) Amount allowed as a deduction under the appropriate foreign tax laws for the taxable year	1,000,000	600,000	400,000	0
(3) Aggregate amount	0	800,000	1,600,000	2,000,000
(4) Cumulative United States amount	800,000	1,700,000	2,000,000	3,000,000
(5) Cumulative foreign amount	1,000,000	1,600,000	2,000,000	2,000,000
(6) Lesser of cumulative United States or foreign amount, reduced by aggregate amount	600,000	800,000	400,000	0
(7) Amount taken into account for the taxable year	600,000	800,000	400,000	0

Example (3). A foreign branch maintains a qualified funded plan. In 1980, the taxpayer is eligible to make the elections described in § 1.404A–2 (a) and (c), and does so during the 1980 taxable year. The amount determined under § 1.404A–2(c)(5)(iv) after taking into account the limitations prescribed by paragraph (a) of this section for the open period is $1,500,000. For the 1980 taxable year, $100,000 of the prior deductions may be deducted without regard to the limitations prescribed by paragraph (a) of this section that apply for the 1980 taxable year.

Example (4). *Z*, a domestic corporation maintains a retirement plan for employees employed in its foreign branch office. The plan is a combination book reserve and funded plan, but is considered a single plan under foreign law. The total retirement benefits that a participant is eligible to receive is the sum of the benefits provided by the qualified reserve plan and the qualified funded plan. Pursuant to § 1.404A–2, *Z* makes a separate qualified reserve plan and funded plan election with respect to each portion of the foreign plan. The assumed deductions under section 404A and appropriate foreign law for selected years, and the computations under this section which follow from such deductions, are shown in the following table:

	1984	1985
(1) Amount determined with respect to the qualified funded plan under section 404A for the taxable year without regard to section 404A(d)	$40,000	$90,000
(2) Amount determined with respect to the qualified reserve plan under section 404A for the taxable year	30,000	80,000
(3) Amount allowed as a deduction under the appropriate foreign tax laws for the taxable year	60,000	185,000
(4) Aggregate amount for the qualified funded and reserve plan	0	60,000
(5) Cumulative United States amount for the qualified funded plan	40,000	130,000
(6) Cumulative United States amount for the qualified reserve plan	30,000	110,000
(7) Combined cumulative United States amount	70,000	240,000
(8) Cumulative foreign amount	60,000	245,000
(9) Lesser of combined cumulative United States amount or cumulative foreign amount reduced by aggregate amount	60,000	180,000
(10) Amount taken into account for taxable year	60,000	180,000

(g) *Special rules relating to foreign currency.* If a foreign branch or subsidiary keeps its books in foreign currency the cumulative United States amount, the cumulative foreign amount, and the aggregate amount shall be calculated in that foreign currency. If a foreign branch or subsidiary keeps its books in U.S. dollars, the cumulative United States amount, the cumulative foreign amount and the aggregate amount shall be calculated in U.S. dollars.

§ 1.404A–6 Additional limitations on amounts taken into account for qualified foreign plans.

(a) *Restrictions for nonqualified individuals*—(1) *In general.* No amounts shall be taken into account under section 404A for any contribution or amount accrued attributable to services either—

(i) Performed by a citizen or resident of the United States who is an officer, shareholder, or highly compensated, or

(ii) Performed in the United States, the compensation for which is subject to tax under chapter 1 of subtitle A of the Internal Revenue Code.

(2) *Special rule.* Amounts described in subparagraph (1) of this paragraph are taken into account under the rules of section 404(a)(5).

(3) *Prior service performed in the United States.* No amounts shall be taken into account under section 404A for any contribution or amount accrued under a qualified foreign plan that was attributable to services described in paragraph (a)(1) that were performed during a prior taxable year. For purposes of this paragraph the accrued benefit attributable to services described in paragraph (a)(1) is the sum of (1) the accrued benefit determined without regard to vesting provisions and provisions relating to forfeitures of accrual (break in service that did not actually occur) that would be provided based only on the compensation and services described in paragraph (a)(1) plus (2) the excess, if any, of the accrued benefit attributable to services not described in paragraph (a)(1) over the accrued benefit that would be provided for services not described in paragraph (a)(1) if the individual's compensation taken into account under the plan only considered service not described in paragraph (a)(1). The accrued benefit attributable to services not described in paragraph (a)(1) is the excess, if any, of the total accrued benefit over the accrued benefit attributable to services described in paragraph (a)(1).

(4) *Highly compensated.* The term "highly compensated" has the same meaning as under § 1.410 (b)–1(d).

(5) The principles of this section are illustrated by the following example.

Example. ABC Company maintains a qualified foreign plan for employees of its foreign subsidiary. *P*, and employee of ABC, became a participant in the plan on January 1, 1985. *P* was employed by ABC in the United States from January 1, 1980, through

December 31, 1984. The benefit formula of the plan provides a benefit with respect to years of service both with the subsidiary and with ABC including service performed in the United States. The benefit is 2 percent of average compensation per year of service. Average compensation is defined as the average of compensation for the five consecutive years producing the highest average compensation. The plan year is the calendar year. For the years 1980 through 1989, *P* had compensation as shown below:

Year	Compensation
1980	$20,000
1981	20,000
1982	30,000
1983	30,000
1984	35,000
1985	30,000
1986	32,000
1987	40,000
1988	30,000
1989	30,000

P's accrued benefit on December 31, 1989 is $6,680 (.02×$33,400×10 years, where 33,400 is the average for the years 1984–1988 and is the highest average for the 10 years). The accrued benefit as of December 31, 1989, that is attributable to service described in paragraph (a)(1) is $2,800 which is the sum of:

(1) 2,700, which is .02×$27,000×5 ($27,000 is the average compensation for 1980 through 1984) plus,

(2) 100, the excess of $3,340 (.02×$33,400×5) over $3,240 (.02×$32,400×5, where $32,400 is the average of compensation for the years 1985–1989).

The accrued benefit attributable to services not described in paragraph (a)(1) is $6,680 less $2,800 or $3,880.

(b) *Records to be provided by taxpayer*—(1) *In general.* The taxpayer whose tax liability is affected by a qualified foreign plan maintained by an employer shall attach a statement to its United States income tax return. Such statement must specify the name and type of qualified foreign plan maintained by each employer which affects the taxpayer's tax liability, the cumulative United States and foreign amounts as well as the aggregate amount with respect to each plan. The statement shall also set forth the name and country of organization of the employer as well as such further information as the Commissioner may prescribe by forms and accompanying instructions.

(2) *Primary evidence.* The statement and/or form described in paragraph (b)(1) must be completed in good faith with all the information called for and with the calculations indicated. Except as provided in paragraph (b)(3) the statement and/or form must have attached to it (i) a statement from the foreign tax authorities specifying the amount of the deduction allowed in computing taxable income under foreign law for the appropriate year or years with respect to the qualified foreign plan, or (ii) if the return under foreign tax laws shows the deduction for plan contributions or plan reserves as a separate identifiable item, a copy of the foreign tax return for the appropriate year or years with respect to the qualified foreign plan. The statement or return so attached must be either the original, a duplicate original, a duly certified or authenticated copy, or a sworn copy. In case only a sworn copy of a receipt or return is attached, there must be kept readily available for comparison on request the original, a duplicate original, or a duly certified or authenticated copy.

(3) *Secondary evidence.* Where the statement or return described in paragraph (b)(2) (i) or (ii) is not available the following information shall be submitted:

(i) A certified statement setting forth the cumulative foreign amount for each taxable year to which section 404A applies,

(ii) Excerpts from the employer's books and records showing either the change in the reserve or contributions made with respect to the plan for the taxable year to which section 404A applies, and

(iii) Computations of the foreign deduction relating to the plan to be established by data such as excerpts from the foreign law, assessment notices, or other documentary evidence thereof.

(4) *Foreign language.* If such returns, books, records or computations are not maintained in the English language, the taxpayer shall furnish a certified translation that is satisfactory to the District Director.

(5) *Information required by this section.* No amounts shall be taken into account under section 404A unless the information described in this section is furnished by the taxpayer. In addition, if the taxpayer upon request of the District Director fails without justification to furnish any such additional information which is significant, the District Director may disallow the amounts that are claimed under section 404A.

(6) *Individual eligible to complete statements.* The statements and/or forms that are required by § 1.404A–2 and this section shall be signed by a responsible corporate officer or individual who must verify under penalty of perjury that the statement and all other documents submitted are true and correct to his knowledge and belief.

(7) *Transitional rule.* In lieu of the provisions of this paragraph, taxpayers may rely on the prior published position of the Interal Revenue Service for taxable years beginning before [60 DAYS AFTER PUBLICATION OF FINAL REGULATIONS IN THE FEDERAL REGISTER].

(c) *Certain defined benefit limitations applicable*—(1) *Acturial assumptions.* Except as provided in §§ 1.404A–3 and 1.404A–4, and paragraph (d) of this section, in the case of a qualified reserve plan, or a qualified funded plan under which benefits are fixed or determinable, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of acturial assumption and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the acturary's best estimate of anticipated experience under the plan. Notwithstanding the preceding sentence, in the case of a qualified reserve plan the interest rate determined under section 404A(g)(3)(B) and § 1.404A–6(d) shall not be considered in determining whether other acturial assumptions are reasonable in the aggregate. For guidelines as to reasonable funding methods for qualified funded plans, see § 1.412(c)(3)–1.

(2) *Maximum amount to be taken into account for qualified foreign plans*—(i) *Qualified funded plans.* In the case of a qualified funded plan under which benefits are fixed or determinable, amounts shall not be taken into account to the extent that, if contributed, would cause the lesser of the fair market value or the actuarial value of the plan's assets to exceed the accrued liability under the plan for the taxable year. In the event that the accrued liability cannot be directly calculated under the funding method normally used, such accrued liability shall be determined using the entry age normal cost method.

(ii) *Qualified reserve plans.* See § 1.404A–4 for amounts that may be taken into account with respect to a qualified reserve plan.

(d) *Interest rate for reserve plan*—(1) *In general.* In the case of a qualified reserve plan, the rate of interest for the plan shall be selected by the taxpayer from within the permissible range.

(2) *Change of interest rate.* The rate selected by the taxpayer for the plan under this subparagraph shall remain in effect for such plan until the first taxable year for which such rate is no longer within the permissible range. At such time, the taxpayer shall select a new rate of interest which is within the permissible range applicable at such time.

(3) *Permissible range.* For purposes of this paragraph, the term permissible range means a rate of interest which is

not more than the product of 1.2 multiplied by the average rate of interest, and not less than the product of .8 multiplied by the average rate of interest for long-term corporate bonds in the appropriate country for the 15-year period ending on the last day before the beginning of the taxpayer's taxable year.

(4) *Special rules*—(i) *Foreign country with no long-term corporate bond market.* In the event that the appropriate country does not have a long-term corporate bond market, the long-term corporate bond interest rates in effect in the United States for the appropriate years may be used.

(ii) *Foreign country with different quality bonds.* In the event that the appropriate country's long-term corporate bond market consists of different quality bonds, the average interest rate on the highest quality bonds shall be used.

(iii) *Appropriate country.* The appropriate country is the country (other than the United States) in which deductions are allowed in computing taxable income with respect to the employer maintaining the plan. If deductions with respect to the same plan is allowed in more than one country (other than the United States) the taxpayer shall use a separate rate of interest (in accordance with this paragraph (d)) for participants employed in such countries. In the event that a participant is employed in more than one country the appropriate country with respect to that individual shall be the country in which the participant was employed for the highest number of days during the accounting period of the plan.

(e) *Requirement respecting the adoption or change of method*—(1) *Consent not required.* Except as otherwise provided in this paragraph, any actuarial cost method, described in § 1.412(c)(1)–1(a) that is consistent with section 404A and the regulations thereunder, may be used to determine the amount to be taken into account under section 404A for a qualified funded plan.

(2) *Consent required.* After an initial election to have section 404A apply for a taxable year has been made with respect to a particular plan, any change in the method used to determine the amount to be taken into account under section 404A for a subsequent taxable year shall not be permitted unless the consent of the Commissioner is obtained by the taxpayer before such change is adopted. In such a case, consent must be secured whether or not the new method is proper or permitted under the Internal Revenue Code and regulations thereunder.

(3) *Change in method.* A change in the method used to determine the amount to be taken into account under section 404A does include items described in § 1.446–1(e)(2)(ii)(b) or a change of actuarial assumptions.

(4) *Examples.* A change in the method used to determine the amount to be taken into account under section 404A requiring the consent of the Commissioner may be illustrated by the following examples:

Examples (1). D, a domestic corporation maintains a funded foreign deferred compensation plan for employees employed in its foreign branch office. The plan does not meet the requirements of § 1.404A–1(a). In 1984, *D* establishes a qualified reserve plan (which is intended to replace its former plan) and the election described in § 1.404A–2 is made. Because prior to 1984 the corporation did not elect to have its plan treated as a qualified foreign plan, there is no change in the method used to determine the amount to be taken into account under section 404A. However, see paragraph (f) of this section, with regard to an election being treated as a change in accounting method.

Example (2). Assume the same facts as in example (1), except that the funded foreign deferred compensation plan was a qualified funded plan for taxable years beginning in 1980 through 1983 and the appropriate elections had been made with respect to the plan. Because prior to 1984 the corporation had elected to have the plan treated as a qualified foreign plan, a change in the method used to determine the amount to be taken into account under section 404A has occurred.

Example (3). P, a domestic corporation owns all of the one class of stock of foreign corporation *S. S* maintains a qualified funded plan and *P* makes the election described in § 1.404A–2 for the 1980 taxable year. In computing the amount to be taken into account under section 404A, the plan uses the unit credit actuarial cost method. *S* continues to maintain the plan, except that *P* does not make the election described in § 1.404A–2 for taxable years 1981 through 1986. In 1985, the method used to determine costs and liabilities under the plan is changed from the unit credit method to the aggregate cost method. In 1986, *P* makes the election described in § 1.404A–2. Because prior to 1986 the corporation elected to have the plan treated as a qualified foreign plan, the use of the aggregate cost method to determine the amount taken into account under section 404A in 1986 constitutes a change in method.

(5) *Procedure for obtaining consent.* Written requests for approval are to be submitted, as directed by the Commissioner, to Commissioner of Internal Revenue Attention: OP:E:EP 1111 Constitution Avenue, NW., Washington, D.C. 20224. Such a request must be submitted before the close of the taxable year for which the change is to be effective unless an extension of time for filing the request is granted.

(f) *Election as a change of accounting method*—(1) *In general.* The making of elections under section 404 (e) and (f), and section 2(e) of Pub. L. 96–603, and § 1.404A–2 constitutes a change in method of accounting to which section 481 applies. Except as otherwise provided in this paragraph (f), an adjustment shall be made in accordance with section 481 and the regulations thereunder.

(2) *Period of adjustment.* The adjustment required by this paragraph and section 481 shall be taken into account on a pro rata basis for the year for which the election is made and the 14 succeeding taxable years without regard to whether an election is made for the 14 succeeding taxable years.

(3) *Effect of adjustment.* The adjustment required by this paragraph shall take into account any increase or decrease in accumulated profits, earnings and profits or taxable income resulting from the application of section 481(a)(2).

(4) *Voluntary change.* The election described in subparagraph (1) of this paragraph shall be considered a change in method of accounting initiated by the taxpayer.

(5) *No election in subsequent year.* The failure to make an election (in the case of a qualified funded plan) or the revocation of an election with the permission of the Commissioner (in the case of a qualified reserve plan) in the taxable year subsequent to a taxable year which an election has been made constitutes a change in the taxpayer's method of accounting for purposes of section 481. See § 1.404A–2(b)(6) as to the circumstances when an election may be revoked.

(6) *Computation of 481 adjustment*—(i) *Qualified funded branch plans.* The section 481 adjustment with respect to a qualified funded plan maintained by a foreign branch of a domestic corporation shall be the difference between the contributions to the plan that were previously deducted by the taxpayer and the contributions that would have been deductible by the taxpayer under section 404A for all taxable years prior to which an election described in § 1.404A–2 is made (during which the plan was maintained) had section 404A been in effect for those taxable years. Contributions made to the plan, during a taxable year prior to which an election under section 404A was in effect, that have not been previously deducted by the taxpayer may be taken into account pursuant to the rules contained in § 1.404A–3(g). The amount described in the preceding sentence shall not exceed the lesser of:

(A) The difference between the total contributions to the plan since the date of its establishment and the contributions to the plan that were previously deducted by the taxpayer, or

(B) The difference between the total contributions to the plan since the date of its establishment and the contributions that would have been deductible by the taxpayer for all taxable years prior to which an election described in § 1.404A–2 is made had section 404A been in effect for those taxable years.

(ii) *Qualified funded subsidiary plans.* The section 481 adjustment with respect to a qualified funded plan maintained by a foreign subsidiary shall be the difference between the contributions to the plan that previously reduced the subsidiary's earnings and profits (or accumulated profits), and the contributions that would have reduced the subsidiary's earnings and profits (or accumulated profits) under section 404A for all taxable years prior to which an election described in § 1.404A–2 is made (during which the plan was maintained) had section 404A been in effect for those taxable years. Contributions made to the plan, during a taxable year prior to which an election under section 404A was in effect, that have not previously reduced the subsidiary's earnings and profits (or accumulated profits), may be taken into account pursuant to the rules contained in § 1.404A–3(g). The amount described in the preceding sentence shall not exceed the lesser of:

(A) The difference between the total contributions to the plan since the date of its establishment and the contributions to the plan that previously reduced the subsidiary's earnings and profits (or accumulated profits), or

(B) The difference between the total contributions to the plan since the date of its establishment and the contributions that would have reduced the subsidiary's earnings and profits (or accumulated profits) under section 404A for all taxable years prior to which an election described in § 1.404A–2 is made had section 404A been in effect for those taxable years.

(iii) *Qualified reserve branch plans.* The section 481 adjustment with respect to a qualified reserve plan maintained by a foreign branch of a domestic corporation shall be the difference between the reserve previously deducted by the taxpayer (reduced by payments made under the plan) and the reserve calculated under section 404A (as of the first day of the first year in which an election described in § 1.404A–2 is made).

(iv) *Qualified reserve subsidiary plans.* The section 481 adjustment with respect to a qualified reserve plan maintained by a foreign subsidiary shall be the difference between the reserve previously claimed by the taxpayer (reduced by payments under the plan) and the reserve calculated under section 404A (as of the first day of the first year in which an election described in § 1.404A–2 is made).

(7) *Timing of section 481 adjustment.* If a taxpayer makes a retroactive election described in § 1.404A–2(c), the section 481 adjustment shall be determined as of the beginning of the earliest open year for which the retroactive election is effective.

(8) *Calculation of opening reserve under section 404A.* For purposes of calculating the section 481 adjustment when qualified reserve plan treatment is elected for the first time, the reserve, calculated under section 404A as of the first day of the first year in which the election described in § 1.404A–2 is made, shall be determined on the basis of reasonable actuarial assumptions and in a manner consistent with the provisions of section 404A.

(9) *Effect of cumulative United States and foreign amount, etc.* The section 481 adjustment shall be determined without regard to the cumulative United States and foreign amounts, and the foreign law limitation of section 404A(d)(3). The section 481 adjustment shall also be determined without regard to whether the plan satisfied section 404A(e) prior to the making of an election under section 404A.

(10) *Estimations prohibited.* See § 1.404A–2(c)(4)(iii) as to those circumstances where a retroactive election is prohibited.

(11) *Examples.* The principles of paragraph (f) of this section are illustrated by the following examples:

Example (1). *X*, a domestic corporation maintains a funded defined benefit plan, which does not meet the requirements for qualification under section 401(a), for employees employed in its foreign branch office. The plan was first established during the 1976 taxable year. Since the date of its establishment contributions to the plan have totalled $150,000. However, only $100,000 of the total amount has been deducted by the taxpayer. For the 1980 taxable year, *X* makes a prospective election for its plan to be treated as a qualified funded plan. The total amount that would have been deductible by the taxpayer under section have 404A for the 1976, 1977, 1978, and 1979 taxable years, had section 404A been in effect for each of those years, is $80,000. The section 481 adjustment is a positive $20,000 or $100,000 – $80,000. The $50,000 which was previously contributed to the plan but not deducted by the taxpayer would be treated as a contribution carry forward under § 1.404A–3(g) and would be taken into account pursuant to the rules described therein.

Example (2). Assume the same facts as in example (1), except that only $80,000 of the total amount has been deducted by the taxpayer. Further assume that the total amount that would have been deductible by the taxpayer under section 404A for the 1976, 1977, 1978 and 1979 taxable years, had section 404A been in effect for each of those years, is $100,000. The section 481 adjustment is a negative $20,000, or $100,000 – $80,000. Only $50,000 of the $70,000 which was previously contributed to the plan but not deducted by the taxpayer would be treated as a contribution carry forward under § 1.404A–3(g) and would be taken into account pursuant to the rules described therein.

Example (3). A foreign subsidiary of a domestic corporation established an irrevocable balance sheet reserve for pension expenses in 1971. From 1971 through 1979 the taxpayer reduced earnings and profits of the foreign subsidiary by $700,000, the amount of the pension liability which had accrued under the plan. Through December 31, 1979, actual pension payments under the plan totalled $100,000. For the 1980 taxable year, the taxpayer makes an election for the plan to be treated as a qualified reserve plan. The reserve calculated under section 404A as of the first day of the 1980 taxable year is $200,000. The section 481 adjustment in this example is a positive $400,000 or $600,000 – $200,000.

Example (4). A foreign subsidiary of a domestic corporation established an irrevocable balance sheet reserve for pension expenses in 1973. From 1973 through 1979, the taxpayer reduced earnings and profits of the foreign subsidiary by $150,000, the amount of the pension liability which had accrued under the plan. Through December 31, 1979, actual pension payments totalled $15,000. For the 1980 taxable year, the taxpayer makes an election for the plan to be treated as a qualified reserve plan. The reserve calculated under section 404A as of the first day of the 1980 taxable year is $175,000. This section 481 adjustment is a negative $40,000 or $175,000 – $135,000.

Example (5). Assume the same facts as in example (4), except that the reserve calculated under section 404A as of the first day of the 1980 taxable year is $75,000. The section 481 adjustment is a positive $60,000 or $135,000 – $75,000.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85–8234 Filed 4–5–85; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[GCD8–85–07]

Drawbridge Operation Regulations; Blackwater River, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Seaboard System Railroad, the Coast Guard is considering a change in the regulation governing the operation of the swing span railroad bridge over the Blackwater River, mile 2.8, near Milton, Santa Rosa County, Florida, by requiring that at least eight hours advance notice be given for an opening of the draw from 5 p.m. to 9 a.m. The Bridge would open on signal outside of these hours. Presently, the draw is required to open on eight hours advance notice from 8 p.m. to 4 a.m. and to open on signal from 4 a.m. to 8 p.m. This proposal is being made because of infrequent requests to open the draw during the proposed advanced notice period. This action should accommodate the nees of the railroad's schedule and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before May 23, 1985.

ADDRESS: Comments should be mailed to Commandar (obr), Eight Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regualtion may be changed in the light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 5.5 feet above high water and 7.0 feet above low water. Navigation through the bridge consists exclusively of pleasure boats. Data submitted by Seaboard System Railroad for the ten-month period from March 1984 through December 1984 shown that this traffic through the bridge is as follows:

(1) During the proposed eight hours advance notice period of 5 p.m. to 9 a.m, there were 46 bridge openings—an average of 4.6 openings per month or an average of one opening about every six days.

(2) During the existing eight hours advance notice period of 8 p.m. to 4 a.m., there was one bridge opening.

(3) During the remaining hours when the bridge opens on signal, there were 130 bridge openings—an average of 13.0 openings per month or an average of two openings every five days.

The eight hours advance notice for an opening of the draw would continue to be given to the railroad Train Master's office in Pensacola, Florida, by placing a collect call at any time, telephone (904) 434-3183.

To provide for leeway in the appointed arrival time, Seaboard System Railroad would have a bridge tender at the bridge at least one-half hour before the appointed time who would remain at least one-half hour after that time for a late arriving vessel.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory polices and procedures (44 FR 11034, February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the the number of vessels passing this bridge during the proposed advance notice period, 5 p.m. to 9 a.m., is one vessel every six days. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.271(a) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.271(a) Blackwater River.

The draw of the Seaboard System Railroad bridge, mile 2.8 at Milton, shall open on signal; except that, from 5 p.m. to 9 a.m., the draw shall open on signal if at least eight hours notice is given.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(C)(5); 33 CFR 1.05-1(g)(3))

Dated: March 22, 1985.

W.H. Stewart,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 85-8366 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Cancellation of Unnecessary Regulations

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA proposes to cancel several paragraphs in some sections of its education regulations dealing with the G.I. Bill. These paragraphs are redundant. No purpose is served by repeating the same information in more than one section. In fact, this sometimes causes confusion. Canceling redundant paragraphs will make 38 CFR Part 21 easier to use. The agency also proposes to amend a paragraph dealing with advance payment so that it is in agreement with other paragraphs on the same subject. If all paragraphs concerning advance payment are in agreement, confusion among users of these regulations will be eliminated.

DATES: Comments must be received on or before May 6, 1985.

ADDRESSES: Send written comments to: Administrator of Veterans' Affairs (217A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until May 20, 1985.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration.

Education Service, Department of Veterans Benefits, (202) 389–2092.

SUPPLEMENTARY INFORMATION: Various paragraphs in 38 CFR 21.4136, 21.4137, 21.4235, and 21.4237 are canceled because they are redundant. Provisions of 38 CFR 21.4137 dealing with advance payments of educational assistance allowance are amended to bring them into agreement with other paragraphs dealing with the same subject.

The Veterans Administration has determined that the paragraphs in the regulations it proposes to cancel are not major rules as that term is defined by E.O. 12291, entitled Federal Regulation. The agency has determined that the paragraph it proposes to amend is not a major rule. The proposal will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs has certified that cancellation and amendment of these regulations, if made final, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the proposed cancellation and amendment of these regulations, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this is a technical change. The material contained in these canceled regulations is retained in other regulations which are not being canceled. For example, the canceled portions of 38 CFR 21.4136 and 21.4137 are covered adequately in 38 CFR 21.4138. Similarly, the material being deleted from 38 CFR 21.4235 and 21.4237 is retained in 38 CFR 21.4200. The material in the amended regulation is not new. It merely brings 38 CFR 21.4137 into agreement with other similar regulations.

(The Catalog of Federal Domestic Assistance numbers for the programs affected by this proposed cancellation and amendment of regulations are §§ 64.111 and 64.117)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 18, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21 [AMENDED]

38 CFR Part 21, VOCATIONAL REHABILITATION AND EDUCATION is amended as follows:

§ 21.4136 [Amended]

1. Section 21.4136 is amended by removing and reserving paragraph (h).

2. Section 21.4137 is amended by removing and reserving paragraph (e), and by revising paragraph (g)(2) and the introductory portion of paragraph (g)(3) to read as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. chapter 35.

* * * * *

(e) [Reserved]

* * * * *

(g) *Advance payment.* * * *

(2) *Payment.* (i) The amount of payment is the allowance for the month or fraction thereof in which the course will begin plus the allowance for the following month.

(ii) The VA will mail an advance payment check to the institution for delivery to the eligible person upon registration when—

(A) The VA has received an application, together with an enrollment certification or other information as required by paragraph (g)(3) of this section.

(B) The provisions of subparagraph (2)(v) of this paragraph do not prevent making an advance payment to the eligible person.

(C) The provisions of paragraph (g)(4) of this section are met, and

(D) This is not evidence in the eligible person's file showing that he or she is not eligible for an advance.

(iii) The educational institution shall not deliver the advance payment check more than 30 days in advance of commencement of the program.

(iv) The VA shall make subsequent payments each month subject to the certification requirements set out in §§ 21.4138, 21.4203, 21.4204, and 21.4205. The VA will withhold final payment if absence reporting is required, until the VA receives the required certification and makes any necessary adjustments.

(v) The Director of the VA field station of jurisdiction may direct that advance payments not be made to eligible persons attending an educational institution if—

(A) The educational institution demonstrates an inability to comply with the requirements of subparagraph (2)(iii) of this paragraph, or

(B) The educational institution fails to provide adequately for the safekeeping of the advance payment checks before delivery to the eligible person or return to the VA, or

(C) The Director determines, based on compelling evidence, that the institution demonstrates its inability to discharge its responsibilites under the advance payment program.

(3) *Certification.* Advance payment will be authorized at the beginning of each term preceded by an interval of nonpayment for 30 days or more, provided the application, enrollment certification or other document signed either by an authorized official of the institution or the eligible person contains the following information: (38 U.S.C. 1780(d))

* * * * *

§ 21.4235 [Amended]

3. In § 21.4235, paragraphs (g), (h) and (i) are removed.

§ 21.4237 [Amended]

4. In § 21.4237, paragraphs (g), (h) and (i) are removed.

(38 U.S.C. 210(c))

[FR Doc. 85–8299 Filed 4–5–85; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 175, 176, 177, 180, 181, 182, 183, 184, 185, 186, and 187

[CGD 85–021]

Standards for Small Passenger Vessels

AGENCY: Coast Guard, DOT.

ACTION: Request for comment; notice of meeting.

SUMMARY: The Coast Guard has made the determination that there are many small passenger vessels embodying features of a novel kind not totally envisioned in the regulations. Some of the provisions of the 46 CFR Subchapter T—Small Passenger Vessels (Under 100 gross tons), which then refer to 46 CFR Subchapter H— Passenger Vessels, appear to be too onerous. In cases when more than 150 passengers are carried, we are applying large ocean liner standards to small short duration, protected route vessels. The Coast Guard is prepared to reevaluate its position and consider relaxing the more onerous requirements to take account of the vessel type, operation and construction features.

DATES: Comments may be submitted on or before June 7, 1985. A public meeting is scheduled for 10:00 am on April 17, 1985.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/44) U.S. Coast Guard, Washington, DC 20593.

The public meeting will be held in Room 3317, U.S. Coast Guard Headquarters, 2100 2nd St. SW, Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Donald J. Kerlin, Office of Merchant Marine Safety, U.S. Coast Guard, (G-MTH-4/13), Room 1304, 2100 Second Street, SW, Washington, D.C. 20593. Telephone (202) 426-2197.

SUPPLEMENTARY INFORMATION: Over the last several years many appeals and discussions have resulted over the growing concern amongst the industry that the standards being applied to "small" passenger vessels are too onerous. The majority of concern has been expressed in the area of structural fire protection, although other concerns have been expressed as well.

The National Association of Passenger Vessel Owners (NAPVO) as well as other owner groups have expressed an interest in providing the Coast Guard background information on these areas of concern and making suggestions for improvement. The purpose of this notice is to provide an early opportunity for others to indicate their interests and areas of concern and to solicit comments/suggestions. The basic parameters from which we will be operating in developing our potential future regulatory package are as follows:

a. No overnight accommodations;

b. Short duration voyages;

c. Limited combustibles (furnishings, etc.);

d. Isolation of ignition sources;

e. Operation in close proximity to shore;

f. Steel or steel equivalent construction;

g. More than adequate access/egress arrangements; and

h. Area of safe refuge.

The vessels in question are daytime excursion vessels, ferry vessels, charter fishing vessels, dinner cruise vessels, to name just a few.

The public meeting will be informal and is intended to provide a preliminary indication of the extent of interest in revisions to the small passenger vessel standards and to further identify areas of concern.

Dated: April 3, 1985.

Clyde T. Lusk, Jr.,

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

[FR Doc. 85-8387 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-91; FCC 85-152]

Amendment of the Rules To Expand the Use of Automatic Transmission Systems at AM, FM and Television Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes rule amendments to permit the use of automatic transmission systems (ATS) at directional AM stations and television stations. The FCC further proposes to delete, for all broadcast stations, certain ATS design requirements that are no longer necessary. This action is based on advancements in broadcast and electronic automatic control system technology.

DATES: Comments must be submitted on or before June 10, 1985 and reply comments on or before July 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: Bernard Gordon, Mass Media Bureau, Technical and International Branch, Washington, D.C. 20554, (202) 632-9660

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of the Commission's Rules to Expand the Use of Automatic Transmission Systems at AM, FM and Television Broadcast Stations; MM Docket No. 85-91.

Adopted: March 28, 1985.
Released: April 2, 1985.

Introduction

1. The action under consideration proposes to extend the permitted use of automatic transmission systems (ATS) to include directional AM stations and television broadcast stations. Currently, ATS use is permitted for FM and non-directional AM stations only. Our action herein also updates the ATS provisions with certain changes, deletions, and consolidations in keeping with other deregulatory rule amendments and advances in broadcast technology.

2. In the context of this proceeding an automatic transmission system consists of monitoring devices, and control and alarm circuitry, arranged so that they interact automatically to operate a broadcast station's transmitter. For example, such an ATS automatically makes the necessary adjustments to maintain authorized transmitter parameters, and immediately alerts station operators if and when any malfunction of the system's control features occurs. It also alerts station operating personnel if the transmitter does not respond appropriately to the commands of the ATS. ATS can also automatically switch the transmitter to critical modes of operation to prevent interference conditions, such as in the different day and night-time operating parameters of many AM stations. In addition, ATS can terminate the transmitter operation in the event of some catastrophic occurrence or if critical maximum operating limits are exceeded for some sustained period of time.

Background

3. On December 21, 1976, the Commission adopted a *First Report and Order (First Report)*, Docket 20403, published in the **Federal Register** at 42 FR 1233, January 6, 1977.[1] The *First Report* amended the rules to permit the use of ATS at FM broadcast stations and AM broadcast stations operating with nondirectional antenna systems. Initially, the Commission had envisioned that all AM, FM, and TV stations, regardless of complexity, could use automatic transmission systems. However, the comments received early in the course of this proceeding raised a number of technical questions concerning TV broadcast signal processing equipment availability. Additionally, the Commission in a separate proceeding, was working toward finding a resolution of the appropirate AM directional antenna electric current phase tolerance factor.

Discussion

4. In permitting FM and non-directional AM stations to use ATS, the Commission expected work to proceed in resolving those remaining technical considerations applicable to ATS

[1] The original proceeding on automatic transmission systems in Docket 20403 is being terminated by a concurrent Memorandum Opinion and Order. The remaining issues and comments of that proceeding are outdated and no longer relevant to the proposals set forth herein.

operation for television stations and AM stations using directional antenna systems. In BC Docket No. 78–28, *Report and Order*, Adopted December 1, 1983, the Commission resolved the AM directional antenna phase tolerance issue.[2] We also now believe that in view of today's advanced technology, sufficient automation techniques are available to television broadcast licensees for efficient ATS operation.

5. Although beyond the immediate scope of this proceeding to propose rule changes, a fully automatic transmission system holds the potential of permitting a completely unattended automated broadcast station. Early comments in this proceeding suggested this would be one of the chief advantages of ATS. For example, a station's employee would no longer be required to be in attendance to monitor the transmitter facilities. However, this aspect of unattended ATS operation is not considered in this proceeding because of section 318 of the Communications Act (47 U.S.C. 318), which we believe requires that an FCC licensed operator be on duty at the broadcast transmitter. Thus, the Commission is bound to maintain requirements that operation of broadcast and certain other types of non-broadcast stations must be attended at all periods of operation by persons holding radio operator licenses (or permits).[3] This proceeding is, however, directed at eliminating the workload of the duty operator.

6. The statutory requirement that a licensed operator be on duty in charge of the broadcast station transmitting equipment originated at a time when nearly constant observation and adjustment of the transmitter was required to ensure operation in conformance with the Commission's Rules. Over the years, the reliability and stability of the transmitting apparatus has developed to the point where station transmitters can operate for long periods without frequent observation or adjustments by a skilled technician. During the past ten years, the Commission has made a series of adjustments in its Rules to reflect the improvements in station equipment by removing many of the operator licensing, monitoring, measurement, inspection, and record keeping requirements that originated nearly 50 years ago. However, the present ATS rules remain essentially the same as originally adopted in 1977. Although stations can implement many recent advances in broadcast transmitter technology, our present ATS rules restrict the uses of many of these new techniques. We request comments on the benefits and drawbacks to allowing unattended operation.

7. Moreover, the Commission recently deregulated its rules governing remote control systems. The Rules previously specified many features that had to be included, such as specific metering and control circuits.[4] In that proceeding, the judgements and responsibilities for remote control implementation were placed on the station licensees. Thus, licensees were allowed to operate their stations by remote control using any methods that assure that: (1) An operator is on duty, (2) the transmitting system is operating properly, and (3) the Commission can contact station personnel during hours of operation. Remote control system Rules also require that the operator be able to determine that the station is operating within the terms of its authorization, and that he or she be able to terminate the transmissions if an out of tolerance condition is not or cannot be corrected. By comparison, ATS rules currently require (1) automatic adjustments of all critical operating parameters, (2) warnings of system failures that *impair* station operation, and (3) automatic termination of transmissions if there is a continued and uncorrected condition that may cause interference to other stations. With ATS, all monitoring or meter readings and adjustment of parameters are done automatically. The existing rules contain detailed ATS design requirements for the monitoring, control, and alarm functions. Because other appropriate rule sections already specify operating tolerances for various parameters considered necessary for avoiding interference, the Commission now proposes to delete the "how to" or detailed methodology requirements from the ATS rules. Rather, the proposed rules would merely place full responsibility on each licensee to assure compliance with all station operation requirements.

8. As the Commission concluded in Docket No. 84–110, the Communication Act requires that a licensed operator have supervisory control over the station's transmitter during all periods of operation. Therefore, at a minimum, that operator must be able to terminate the station's operation should it be the source of harmful interference or be operating inconsistently with law or treaty. To facilitate this level or control, automatic systems may be utilized. Moreover, advancements in broadcast technology may have now obviated the need for many of the prescriptive ATS details as provided by the *First Report*. Thus, we propose to remove many of the original specifications for use of ATS and further to allow its use at AM directional and TV broadcast stations. In recent proceedings, the Commission has held that licensees should have flexibility in operating their stations. Therefore, we are proposing an approach that meets the basic requirements of the Communications Act while allowing licensees maximum flexibility in meeting the transmitter operating requirements.

Other Considerations

9. In making the above described changes to the Rules, it is appropriate to make certain other editorial changes. Thus, we propose to delete the twelve separate ATS rules for AM, FM, and Non-commercial FM and combine the provisions in one rule common to all services. The provisions of the referenced rule sections will be condensed and rewritten in a new section to include all information relating to use of facilities, monitoring and alarm points, and fail-safe transmitter control of automatic transmitter systems. The Appendix reflects these ediorials.

10. Regulatory Flexibility Act—Initial Analysis.

I. *Reason for Action.* The Rules currently prescribe standards for automatic transmission systems for FM stations and nondirectional AM stations. This action extends the provision to allow ATS operation at directional antenna AM stations and television stations. The proposed rule amendments would also editorially update the existing provisions by replacing them with a common rule applicable to all types of broadcast stations.

II. *The Objective.* The objective of this action is to provide broadcasters with more flexibility in the operation of their stations.

III. *Legal Basis.* This action is in accordance with section 4(i) and 303 of the Communications Act of 1934, as amended.

IV. *Description, potential impact, and number of small entities affected.* The proposed rule amendments would favorably affect all AM, FM, and television broadcast stations by

[2] 49 FR 1373, January 11, 1984.

[3] It has been determined that the term "operator's license" as mentioned in the Communications Act, refers to any and all classes of operator permits issued by the Commission. Also, section 318 of the Act authorizes the Commission to waive the duty operator requirements for some types of stations including translators that retransmit the signals of broadcast stations.

[4] MM Docket No. 84–110, *Report and Order*, 49 FR 47608, December 6, 1984.

allowing them increased flexibility in automating their transmitter operations. Further, broadcast related equipment manufacturers would be able to market ATS devices using advanced technology that the present rules do not provide for, particulary in television systems and AM directional antenna systems.

V. *Recording, recordkeeping, and other compliance requirements.* The proposed rule amendments would impose no recordkeeping requirements, nor would they require any additional application or notification procedures.

VI. *Federal Rules which overlap, duplicate, or conflict with this proposed rule amendment.* None.

VII. *Any significant alternative minimizing the impact on small entities and consistent with the stated objective.* None.

Paperwork Reduction Act Implications

11. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose no new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ex Parte Presentations

12. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. In general, an *ex parte* presentation is any written or oral communications (other than formal written comments/pleadings and formal 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 state on its face that the Secretary has been served, and 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.

Comment Period

13. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before June 10, 1985, and reply comments on or before July 10, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

Actions

14. The Secretary shall cause a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief, Counsel for Advocacy of the Small Business Administration in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. et seq.).

15. Authority for this action is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

16. For further information on this matter, contact Bernard Gorden, Mass Media Bureau, at (202) 632-9660.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 73—[AMENDED]

Appendix

1. 47 CFR Part 73 would be amended by removing the following Rule Sections in their entirety:

(1) 47 CFR 73.140 Use of automatic transmission systems (ATS).

(2) 47 CFR 73.142 Automatic transmission system facilities.

(3) 47 CFR 73.144 Fail-safe transmitter control for automatic transmission systems.

(4) 47 CFR 73.146 Automatic transmission system monitoring and alarm points.

(5) 47 CFR 73.340 Use of automatic transmission systems (ATS).

(6) 47 CFR 73.342 Automatic transmission system facilities.

(7) 47 CFR 73.344 Fail-safe transmitter control for automatic transmission systems.

(8) 47 CFR 73.346 Automatic transmission system monitoring and alarm points.

(9) 47 CFR 73.540 Use of automatic transmission systems (ATS).

(10) 47 CFR 73.542 Automatic transmission system facilities.

(11) 47 CFR 73.544 Fail-safe transmitter control for automatic transmission systems.

(12) 47 CFR 73.546 Automatic transmission system monitoring and alarm points.

2. 47 CFR 73.1500 would be added to read as follows:

§ 73.1500 Automatic Transmission System (ATS).

(a) Licensees of AM, FM, or TV broadcast stations may utilize an automatic transmission system (ATS) in lieu of either direct or remote control of the station transmitting system.

(b) No authorization from the FCC is required to operate the transmitter using an automatic transmission system. Prior to commencing use of the ATS, the station chief operator, technical director, or consulting engineer shall certify to the station licensees that the system has been installed, tested, and fully complies with all prescribed technical standards of the ATS Rules applicable to the particular class of station.

(c) Broadcast stations operating automatic transmission systems must be provided with one or more ATS duty operator points. Each such point shall have a means to turn the transmitting apparatus off at all times.

(d) Whenever an automatic transmission system duty operator point is established at a location other than at the main studio or transmitter, notification of that location must be sent to the FCC in Washington, DC, within 3 days of initial use of that point. This notification is not required if responsible station personnel may be contacted at the transmitter or studio site during hours of operation when the ATS duty operator is elsewhere.

(e) The ATS control system for a broadcast station must incorporate circuits that will terminate the

radiations of the station if its automatic power adjustment, operating mode, or directional antenna monitoring controls do not correct an over power or antenna malfunction condition exceeding 3 minutes.

(f) A station employee holding at least a Restricted Radiotelephone Operator Permit shall be at the duty operator point at all times when the station is in operation.

(g) The station employees on duty at the ATS duty operator points shall be fully instructed in procedures to take in the event of a malfunction of the transmission system and must also be able to observe and respond to an EBS alert as required by Subpart G of this part.

[FR Doc. 85-8346 Filed 4-5-85; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CRF Part 1175

[Ex Parte No. 397]

Exemption of Railroads From Securities Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules and exemption.

SUMMARY: Currently, all railroads and corporations organized to become railroads must file an application for authority to issue securities or to assume an obligation or liability with respect to the securities of another, including equipment trust certificates (49 U.S.C. 11301). This requirement was enacted in 1920 to reduce manipulation of rail securities that, among other things, often led to a diversion of funds needed for productive railroad purposes to other use, resulting in a deterioration of essential service to the public and substantial losses to *bona fide* investors. The need for our oversight of railroad securities has decreased as a result of changed circumstances and recent Congressional action.

We preliminarily find that our continued regulation of the majority of securities transactions is not necessary to carry out the national rail transportation policy.

We propose to exempt from regulation a substantial number of the securities issued or assumed by railroads. We also propose to eliminate the security application and competitive bidding requirements of 49 CFR Part 1175 and the forms used to implement Part 1175 are proposed to be discontinued.

DATES: Comments are due May 8, 1985.

ADDRESSES: All interested persons are invited to comment. Comments (an original and 15 copies) referring to Ex Parte No. 397 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission proposes to exempt the following transactions from the requirements of 49 U.S.C. 11301: (1) Equipment trust certificates; (2) securities issued or guaranteed in connection with proceedings filed under 49 U.S.C. 10905; and (3) issuance or guaranty of securities by Class II and Class III railroads. The Commission also proposes to exempt security issuances by Class I railroads, subject to notice and comment procedures in individual cases. Finally, the Commission proposes to remove 49 CFR Part 1175 and discontinue use of forms OP-F-200, OP-F-210, OP-F-220, OP-F-230, and OP-F-240.

Additional information is contained in the Commission's decision proposing the exemption. To obtain a copy of the full decision, write to Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275-7428.

Initial Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), requires us to analyze the impact of the proposed exemption on small entities (*e.g.*, small businesses, not-for-profit organizations, and small governmental bodies).

The Commission is considering the proposed exemption to give carriers the flexibility to negotiate financing without undue delay and to eliminate costs incidental to the filing of securities applications or individual exemptions. The basis of the proposed exemption lies in a lessening need for oversight of these types of transactions as embodied in both the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. No. 94-210, and the Staggers Rail Act of 1980, Pub. L. No. 96-448.

Although the precise impact on carriers cannot be measured, a significant number of small carriers could be beneficially affected by exempting rail security issuances from regulation. No Commission reporting or record-keeping requirements are anticipated if the proposed exemption is adopted, and no other potentially relevant Federal regulations appear to conflict. There are no significant alternatives to the proposed exemption.

An original and 15 copies of any comments should be filed by May 8, 1985.

Energy and Environment

We conclude preliminarily that this action will not significantly affect either the quality of the human environment or energy conservation.

This proceeding is instituted pursuant to 5 U.S.C. 553 and 559 and 49 U.S.C. 10505, 10321, and 11301.

List of Subjects in 49 CFR Part 1175

Administrative practice and procedures, Motor carriers, Railroads, Reporting and recordkeeping requirements, Securities.

Decided: April 1, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-8318 Filed 4-5-84; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 50, No. 67
Monday, April 8, 1985

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

DEPARTMENT OF COMMERCE

International Trade Administration

Diamond Tips for Phonograph Needles From the United Kingdom; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 30, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on diamond tips for phonograph needles from the United Kingdom. The review covers the two known exporters of this merchandise to the United States currently covered by the finding and the period April 1, 1983, through March 31, 1984.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: April 8, 1985.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 47077) the preliminary results of its administrative review of the antidumping finding on diamond tips for phonograph needles from the United Kingdom (37 FR 6665, April 1, 1972). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of diamond tips for phonograph needles consisting individually of an almost microscopic chip of diamond bonded to steel and shaped to fit into the grooves of a phonograph record. Diamond tips for phonograph needles are currently classifiable under item 685.3400 of the Tariff Schedules of the United States Annotated.

The review covers the two known exporters of British diamond tips to the United States currently covered by the finding and the period April 1, 1983, through March 31, 1984.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review remain unchanged from the preliminary results of review, and we determine that the following margins exist for the period April 1, 1983, through March 31, 1984:

Manufacturer/exporter	Margin (percent)
Bauden Precision Diamonds, Ltd.	[1]0
Diamond Stylus Ltd.	0

[1] No shipments during the period.

The Department shall instruct the Customs Service not to assess dumping duties on appropriate entries. Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on shipments of British diamond tips for phonograph needles entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

April 3, 1985.

[FR Doc. 85–8375 Filed 4–5–85; 8:45 am]

BILLING CODE 3510–DS–M

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

The Electronic Instumentation technical Advisory Committee was initially established on October 23, 1973, and rechartered on January 5, 1984, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

Time and Place: April 25, 1985 at 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th and Constitution Avenue NW., Washington, D.C. The meeting will continue to its conclusion on April 26, 1985, in Room 3708, the Herbert C. Hoover Building.

Agenda: The Committee will begin with an open meeting to invite public comments with regards to existing commodity or technology controls. The commodities and technologies that falls under the responsibilities of the Committee are those relating to the following Commodity Control List (CCL) entries:

1510	1533	1568
1516	1534	1572
1522	1541	1584
1529	1560	1585
4529	1561	1587
1531	1521	6598

Invited comments will be restricted to these or substantially related items.

In particular the Committee would like to invite public comments in two areas:

1. The effect of the new regulations for CCL 1565, 1566, and 1567 as published in the **Federal Register** December 31, 1984 and effective January 1, 1985, on export of electronic instrumentation and other products that are controlled by the CCL items listed above.

2. Evidence relating to CCL 1522 lasers and laser systems that:

a. Establishes technology levels in non-COCOM countries

b. Establishes equipment levels available from one or more non-COCOM countries.

c. Indicates impact upon competitiveness of U.S. products abroad (include any impact within the COCOM countries).

In presenting evidence please submit as much detail as possible indicating a foreign produced product's capabilities, features, price, production, quantity and quality. The Committee wishes to justifiy decontrol of those products where proof can be provided that U.S. control or COCOM control levels are no longer necessary.

If you wish to attend this open meeting of the Electronic Instrumentation Technical Advisory Committee, please call or write Jess Bratton at (202) 377-4959, U.S. Department of Commerce 14th & Constitution Avenue NW., Washington, D.C. at least five working days in advance in order to reserve a seat as there is limited space available. With this advance notice, arrangment can be made for more space, should that be necessary.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close meeting or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on February 6, 1984, in accordance with the Federal Advisory Committee Act.

A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217. For further information contact Mr. Jess M. Bratton 202-377-4959.

Milton M. Baltas,

Director, Technical Programs Staff Office of Export Administration.

[FR Doc. 85-8376 Filed 4-5-85; 8:45 am]

BILLING CODE 3510-DT-M

Microelectronics Center of North Carolina et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85-114. Applicant: Microelectronics Center of North Carolina, 3021 Cornwallis Road, Research Triangle Park, NC 27709. Instrument: Scanning Electron Microscope with Facilities/Auger Electron Spectroscopy, Model HB501A. Manufacturer: Vacuum Generators, United Kingdom. Intended use: Experiments involving high resolution studies of semiconductor defects, segregation of dopants, identification of undesirable impurities, electron beam lithography studies, oxidation studies, Silicide formation studies and contact metallurgy, silicon on insular studies and ion implantation induced defect investigations. The objectives pursued in the course of the investigations are the understanding and development of advanced semiconductor devices by the manipulation of defects and microstructural characteristics and parameters that will allow their fabrication. In addition, the instrument will be used for educational purposes in the courses: MAT 610 X-Ray Diffraction, MAT 615 Electron Microscopy and MAT 503 Ceramic Microscopy. Application Received by Commissioner of Customs: March 13, 1985.

Docket No. 85-115. Applicant: Michigan Technological University, Department of Metallurgical Engineering, Houghton, MI 49931. Instrument: Automated X-ray Diffractometer, Model D 500 and Accessories. Manufacturer: Siemens AG, West Germany. Intended use: Research involving structural and chemical characterization with a variety of X-ray and electron techniques. The research will include but is not limited to the following programs.

1. Interphase Boundary Related Fracture;
2. Microstructural Development and Control in Liquid Phase Sintering;
3. Effects of Flotation Machine and Froth Characteristics on Cationic Flotation of Finely Ground Iron Ores and Concentrates;
4. Fine Particle Flotation Advancement;
5. Structure—Property Effects of Tantalum Additions to Nickel-Base Superalloys;
6. Combined Effects of Surface Oxidation and Coating/Substrate Interdiffusion on Coating Performance;
7. Environment-Induced Embrittlement: Effects of Impurity Segregation and State of Stress; and
8. Solidification and Microstructure of Aluminum-Base Alloys.

In addition the instrument will be used for educational purposes in a variety of courses dealing with structural and chemical characterization. Application received by Commissioner of Customs: March 11, 1985.

Docket No. 85-116. Applicant: Emory University, Department of Chemistry, Atlanta, GA 30322. Instrument: Fluorescence Lifetime Instrumentation. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use: Studies of the fluorescence lifetime of molecules in solution. The initial research interest involves the effect of electric field on the fluorescence lifetime of various compounds. If it is found that electric fields have a useful effect on the lifetime, a deeper study of the mechanism of interaction and applications in the analysis of mixtures will be conducted. Other useful research will be in investigating mathematical techniques for extracting accurate information from the experimentally collected data. Application received by Commissioner of Customs: March 13, 1985.

Docket No. 85-117. Applicant: Auburn University, Department of Chemical Engineering, 230 Ross Hall, Auburn, AL 36849. Instrument: Secondary Ion Mass Spectrometer with Accessories. Manufacturer: Leybold Heraeus GmbH & Company, West Germany. Intended use: Identification of adsorbed gases on the surface of catalysts and thin films. Experiments to be conducted include preparation and reaction of materials in selected gaseous environments at pressures up to 30 atmospheres followed by transfer to the instrument for analysis. The samples are then analyzed further with additional surface science techniques in the same ultra high vacuum chamber as the instrument. In addition, the instrument will be used in the training of M.S. and Ph.D. students during the course of their research in Chemical Engineering, Chemistry, Physics and Geology. Application received by Commissioner of Customs: March 14, 1985.

Docket No. 85-118. Applicant: Auburn University, Department of Chemical Engineering, 230 Ross Hall, Auburn, AL 36849. Instrument: Thermomolecular Pump, Model TMP 360. Manufacturer: Leybold Heraeus GmbH & Company, West Germany. Intended use: Studies of surfaces, thin films, organic/inorganic compounds and adsorbed gases, particularly heterogeneous catalysts and multilayered thin films. Experiments to be conducted include: reaction of

catalysts and multicomponent thin films in selected gaseous atmospheres followed by surface characterization and depth profiling using secondary ion mass spectroscopy, electron energy loss spectroscopy, electron spectroscopy for chemical analysis, and other available techniques. In addition, the instrument will be used in the training of M.S. and Ph.D. students during the course of their research in Chemical Engineering, Chemistry, Physics and Geology. Application received by Commissioner of Customs: March 14, 1985.

Docket No. 85–120. Applicant: Stanford University, Stanford, CA 94305. Instrument: Streak Camera, Model C 1587 with Accessories. Manufacturer: Hamamatsu, Japan. Intended use: The instrument is to be used as a diagnostic in a short pulse tunable dye laser system which will be used for studies in atomic and extreme ultraviolet (XUV) physics involving the generation of XUV radiation. The objective of the investigations is to study the physics of innershell atomic transitions with the long term aim of generating new sources of coherent radiation in the 10–1000 V range. Application received by Commissioner of Customs: March 14, 1985.

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

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–8377 Filed 4–5–85; 8:45 am]

BILLING CODE 3510-DS-M

University of Nebraska Medical Center; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–121. Applicant: University of Nebraska Medical Center, 42nd and Dewey Avenue, Omaha, NE 68105. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips, The Netherlands. Intended use: The instrument will be used to identify and measure the damage to cardiac muscle after an infarct, the development and segregation of cells in the anterior pituitary gland, the ultrastructure of the microvasculature of the cerebral cortex and the alterations that occur during hemorrhage, the development of lymphocytes and of new antibodies, the formation of new synaptic connections after brain damage or after hormonal treatments, the process of neurodegeneration after neurotoxicity, the identification of peptides of proteins in the central nervous system and glands of the body. Application received by Commissioner of Customs: March 14, 1985.

Docket No. 85–124. Applicant: Worcester Foundation for Experimental Biology, 222 Maple Avenue, Shrewsbury, MA 01545. Instrument: Nanosecond Fluorometer System, Model 2000. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use: Lifetime measurements, lifetime heterogeneity analysis, and fluorescence energy transfer measurements to study the organization of lipid and proteins in membranes and the interaction of proteins with membranes. The objectives of the experiments are to achieve a basic understanding of molecular processes in the above experiments. Application received by Commissioner of Customs: March 13, 1985.

Docket No. 85–125. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 S. Wright Street, Urbana, IL 61801. Instrument: Electron Beam Microfabrication System, Model 6.5–AL10B. Manufacturer: Cambridge Instruments, Inc., United Kingdom. Intended use: The instrument will be used in semiconductor device research, primarily on compound semiconductor devices. Experiments to be conducted will include optical emission, high field conductivity, and small geometry device effects. In addition, the instrument will be used for the training of advanced graduate students in electron beam fabrication techniques. Application received by Commissioner of Customs: March 13, 1985.

Docket No. 85–126. Applicant: National Oceanic & Atmospheric Administration, National Geophysical Data Center, 325 Broadway, Boulder, CO 80303. Instrument: Ionosonde Data Recorder, Model KEL–46 & Analyzer. Manufacturer: KEL Aerospace, Australia. Intended use: Frequent and specialized observations to derive a high-resolution display of changes in various properties of the ionosphere in order to better understand the interaction between geomagnetic fields, solar-terrestrial activity, and radio communications using ionospheric properties. Application received by Commissioner of Customs: March 13, 1985.

Docket No. 85–128. Applicant: University of California, Irvine, Irvine, CA 92717. Instrument: NMR–FT Spectrometer, Model SMH 300 with Accessories. Manufacturer: Bruker Instruments, Inc., West Germany. Intended use: The instrument will be used in research aimed at:

(1) Mapping out the architecture of the active site of the cytochrome P450–SCC enzyme.

(2) Determining the conformations of peptides in aqueous solution and in the lipid bilayer.

(3) Investigating the biochemical events associated with light-driven ion transport in H. Halobrium.

In each project the NMR studies represent a unique way of obtaining structural and dynamical information which is extremely difficult if not impossible to obtain by any other method. The research projects to be conducted will include:

(1) Studies of the Chloride Binding Sites in Halorhodopsin with Cl^{35}NMR.

(2) NMR Studies of Pulmonary Surfactant.

(3) NMR of Cytochrome P–450scc.

(4) Peptide-Lipid Bilayer Interactions.

In addition, the instrument will be used to acquaint undergraduate, graduate and medical students with state of the art technology in NMR spectrometry as applied to *in vivo* and *in vitro* systems. Applications received by Commissioner of Customs: March 13, 1985.

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

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–8378 Filed 4–5–85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Application for Approval To Transfer Ownership of a U.S. Fishing Vessel to a U.S. Corporation Under Foreign Control

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed fishing vessel transfer, and request for comments.

SUMMARY: The Maritime Administration (MarAd), has received an application to transfer ownership of the vessel NICOLLE N to C. N. Holding, Inc. This would subject the vessel to foreign control since Carl C. Nordman, a Canadian citizen, owns 100 percent of C.N. Holding, Inc. Written comments are requested.

DATE: All comments must be postmarked no later than May 8, 1985.

ADDRESSES: Comments should be mailed to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr., (Financial Assistance Specialist), 202 634–7496.

SUPPLEMENTARY INFORMATION: Application for approval of the transfer of vessel NICOLLE N (O.N. 587265, built 1945, reg. length 166.5') owned by Equico Lessors, Inc., was received by MarAd on February 11, 1985. If the transfer is approved, the vessel will remain documented in the fisheries of the United States and continue to be operated out of Seattle as a processing vessel for salmon and bottomfish off the coast of Alaska. Mr. Charles N. Perkins is and will remain captain of the vessel. He is also President and Director of C.N. Holding, Inc. Approval of the transfer is required by Section 9 of the Shipping Act, 1916 (the Act) as amended (46 U.S.C. 808) because although C.N. Holding, Inc. a Washington corporation, meets the citizenship requirements for Federal documentation of a vessel in the fisheries of the United States, it is not a citizen of the United States within the meaning of Section 2 of the Act because 100 percent of its stock is owned by a Canadian citizen. The MarAd is the Federal Agency responsible for the approval or disapproval of applications submitted under the Act. Where a foreign transfer involves a fishing vessel, MarAd customarily requests NMFS to review the application. In turn, we are soliciting the views of interested persons in this regard.

All written comments received on time will be considered before we respond to MarAd. However, since the Shipping Act provides little basis for disapproving the transfer of a fishing vessel, our response to MarAd will indicate no objection unless information received supports a conclusion that this sale would significantly affect the fishery F/V NICOLLE N will engage in. No public hearing is contemplated at this time.

Dated: April 1, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–8269 Filed 4–5–85; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Intent To Grant Exclusive Patent License; Southwest Technologies Inc., et al.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant partial exclusive licenses to the following three companies to practice the invention embodied in U.S. Patent 4,483,950, "Modified Starches as Extenders for Absorbent Polymers": Southwest Technologies, Inc. of Kansas City, Missouri, Polysorb, Inc. of Smeltville, Idaho, and Garza Agrochem Ltd. of Wilsonville, Oregon. The patent rights in this invention have been assigned to the United States of America, represented by the Secretary of Commerce.

The proposed partial exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed licenses may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed licenses would not serve the public interest.

Inquiries, comments and other materials relating to the proposed licenses must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, Department of Commerce, National Technical Information Service.

[FR Doc. 85–8307 Filed 4–5–85; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Taiwan Effective on January 1, 1985

Correction

In FR Doc. 84–33675 beginning on page 50233 in the issue of Thursday, December 27, 1984, make the following correction: On page 50233, in the third column, footnote 1, third line, "383.4220" should read "383.4320".

BILLING CODE 1505–01–M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 84–1–83CD]

Notice Commencing 1983 Cable Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of commencement of proceeding; Notice of adoption of procedures.

SUMMARY: The Copyright Royalty tribunal announces that a controversy exists regarding the distribution of the royalties paid by cable operators for the calendar year 1983. The Tribunal also announces that it has adopted certain procedures and a schedule which will govern the 1983 Cable Distribution Proceding. The Tribunal has derived the schedule and procedures from recommendations from interested parties and an outside consulting law firm.

EFFECTIVE DATE: The 1983 Cable Distribution controversy is declared as of April 15, 1985.

FOR FURTHER INFORMATION CONTACT: Marianne Mele Hall, Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Room 450, Washington, D.C. 20036, (202) 653–5175.

SUPPLEMENTARY INFORMATION: Notice Commencing 1983 Cable Distribution Proceeding.

On October 1, 1984, the Copyright Royalty Tribunal solicited public comments on (1) whether a controversy existed with regard to the distribution of 1983 cable royalties; (2) the scheduling of the 1983 royalty distribution proceedings; and (3) the procedures to be followed in the proceeding. Comments were submitted by interested copyright owners on November 15, 1984. Earlier, the Tribunal had retained outside counsel to prepare a report analyzing the Tribunal's past

procedures, which report was made available, in part, to all interested parties. Upon direction by the Tribunal the interested parties filed a single joint memorandum on March 19, 1985 identifying the procedures and the schedule that they believed the tribunal should adopt. On March 26, 1985, the Tribunal held a prehearing conference to discuss the recommendations and schedule proposal of the parties.

Based upon the written and oral comments, the Tribunal concludes that a controversy exists on the distribution of the 1983 cable royalty fund, effective April 15, 1985.

The Tribunal also considered the scheduling of the 1983 Cable Distribution Proceeding. Counsel for NAB, joined by Counsel for Canadian, Devotional and Multimedia claimants recommended a two month delay in the schedule, based upon their belief that guidance from the Court of Appeals might be forthcoming later in the year. they also asserted the hardship of obtaining witnesses to appear before the Tribunal during the summer months and their concern for the possible addition of commissioners to the Tribunal. Counsel for MPAA, and for the Joint Sports claimants asserted that the delay violates the spirit and letter of the Copyright Act of 1976 which requires as early a distribution of the 1983 funds as possible. The Tribunal agrees with counsel for MPAA, and Joint Sports claimants for the reasons they state, and also acknowledges the possibility of cable rate adjustment hearings which may be scheduled in 1985. The Tribunal also believes that it would be beneficial to conclude as much of the hearing phases of both cases before the December 1 change of chairmanship. Therefore, the Tribunal issues the following schedule for the 1983 Cable Distribution Proceeding.

April 22, 1985—Parties submit Prehearing Statements. Parties recommend that statements must include: (1) Notice of Intent to Participate in Phase I, Phase II or both; (2) A brief description of the nature of the works for which claims are made; (3) Identification of Phase I categories against which any Phase II Claims are asserted; (4) Identification of Parties encompassed within a claimant group; and (5) Identification of no more than three counsel within a claimant group to receive service of all documents filed with CRT.

The Tribunal adopts these recommendations. The Tribunal cautions that said statements are strictly for notice purposes and should contain no advocacy or explanation. The Tribunal also advises that failure to state intentions to participate in either Phase I or Phase II proceedings at this time will preclude participation. The list of participants for each phase will be published.

April 24, 1985—CFT Makes Available At Its Office The Service List Of All Parties Filing Prehearing Statements.

Parties recommend that the service list will include each counsel identified in the prehearing statements. See (5) above.

The Tribunal adopts this recommendation.

May 13, 1985—Parties Exchange And File With CRT Their Written Direct Case.

Parties recommend that:

(1) all direct testimony, including each witness' background and qualifications, must be reduced to writing and filed with the CRT along with all exhibits to be presented in the direct case,

(2) one copy of such direct evidence must also be served upon each counsel identified in the CRT's service list. (Demonstrative evidence which is not readily duplicated need not be exchanged with the parties; however, at least two copies of such evidence must be filed with the CRT),

(3) each party may choose the format for presenting its witnesses' direct testimony,

(4) each party may designate a portion of past records which it wants included in its direct case. Complete testimony of each witness whose testimony is designated (*i.e.*, direct, cross and redirect) must be referenced,

(5) each claimant group must state its Phase I percentage claim. (No party would be precluded from revising its percentage claim at the conclusion of the hearings),

(6) no evidence, including exhibits, may be submitted without a sponsoring witness, except where official notice is proper. This requirement shall not apply to evidence designated pursuant to paragraph (4) above.

The Tribunal adopts these recommendations. The Tribunal advises that only the original and four copies of evidence need be provided to the present Tribunal. The Tribunal cautions that witnesses' backgrounds should contain self-limitations as to qualifications. It is hoped that parties will update qualifications of all witnesses. References to past records should be clear. Formats for direct testimony should be designed for clarity and simplicity. Issues in dispute and evidence in support of positions should be readily discernible and clearly exposed. Technical, statistical and economic information should be explained in lay terminology. Use of subheadings, tables of contents and any other editorial tools that promote simple display of issues and positions is highly encouraged.

May 13-23, 1985—Parties Seek To Resolve Among Themselves Requests For Underlying Documentation And Objections To Direct Evidence.

Parties recommend that:

(1) parties shall, upon request, furnish to an opposing party non-privileged underlying documents related to the direct exhibits and testimony. The nature and extent to which underlying documentation is to be furnished shall be reasonable under the circumstances,

(2) any party may object to any portion of another party's direct case (including prior record designations) on any proper ground, including without limitation, relevance, materiality, competency, failure to provide underlying documentation, etc.,

(3) within this period each party may amend its direct evidence solely to meet objections raised by other parties. Such amendments must be filed with CRT and exchanged with all parties.

The Tribunal adopts these recommendations.

May 29, 1985—Parties Submit In Writing To CRT And Serve Upon All Parties Any Objections To Direct Evidence, Including Any Objections Based Upon Failure To Provide Underlying Documents.

June 3, 1985—Parties Submit To CRT And Serve Upon All Parties Written Replies To May 29 Submissions.

June 7, 1985—CRT Holds Prehearing Conference For Purpose Of Resolving Objections Raised By May 29 Written Submissions. Parties recommend that the CRT may request further argument or information from the parties concerning the disputed issues.

The Tribunal adopts these recommendations.

June 14, 1985—CRT Issues Ruling On All Objections Raised By May 29 Submissions.

Parties recommend that the CRT may not order the production of any documents but shall refuse to admit into evidence any testimony or exhibits or portions thereof to which it sustains an objection.

The Tribunal adopts these recommendations.

June 17, 1985—MPAA May Amend Its Direct Case Solely To Meet Objections Sustained By CRT.

June 19, 1985—Remaining Parties May Amend Their Direct Cases Solely To Meet Objections Sustained By CRT.

Phase I Evidentiary Hearings On Direct Cases Commence. Parties recommend that:

(1) Parties will present their direct cases in the following order, subject to any necessary accommodations which arise during the hearings: (a) MPAA; (b) Sports; (c) PBS; (d) NAB; (e) Music; (f) Devotionals; (g) Canadians; (h) NPR.

(2) Witnesses may summarize, highlight or read their written direct testimony. However, they may not materially supplement or alter this testimony except to correct it.

(3) No exhibit may be introduced on direct examination unless previously exchanged. However, documents used during cross examination or redirect examination need not be exchanged in advance.

(4) All direct testimony and exhibits will be received into evidence except that to which the CRT sustains an objection, including an objection based upon the failure to provide underlying documentation.

(5) Any party is entitled to make an offer of proof with respect to that evidence to which the CRT sustains an objection.

(6) Parties are entitled to raise objections to evidence on any proper ground during the course of the evidentiary hearing, including that an opposing party has not furnished non-privileged underlying documentation. However, they may not raise objections which could have been raised prior to the evidentiary hearing in accordance with the above schedule.

(7) No documents or exhibits may be received into evidence during cross-examination or redirect examination without a sponsoring witness, except where official notice is proper. However, this shall not preclude any party from examining a witness with regard to any relevant and material document or exhibit.

(8) Parties are entitled to cross-examination and redirect examination. Cross-examination is limited to matters raised on direct. Redirect is limited to matters raise on cross.

(9) Each claimant group may present an opening statement during the evidentiary hearings in connection with the presentation of its direct case.

The Tribunal adopts these recommendations. Tribunal cautions that the presentation of the direct case should be clear, concise and precisely reflect the direct written case. The Tribunal reserves the right to limit direct cases to a question and answer format or any other format to curb abuse.

August 10—September 3, 1985—Recess.

Parties recommend that at the conclusion of the recess the proceeding will resume with the remainder of the parties' direct cases. If the direct cases are completed prior to the August recess, the proceeding will resume with the rebuttal portion of Phase I. A schedule for rebuttal similar to the above schedule for direct shall be worked out with the CRT and among the parties at the conclusion of the direct case.

The Tribunal adopts these recommendations. The Tribunal further recommends that each claimant shall have an allotment of 30 minutes time for closing arguments which 30 minutes may be used at various breaks in testimony or in total at the end of all testimony.

Dated: April 3, 1985.

Marianne Mele Hall,

Chairman.

[FR Doc. 85-8337 Filed 4-5-85; 8:45 am]

BILLING CODE 1410-15-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Requirement for Foreign Currency Agreement; Services Sought

The U.S. Air Force has a continuing requirement for a foreign currency arrangement to fulfill agreements for European coproduction of the F-16 aircraft. The agreement with the current operator expires August 31, 1985, and there is a requirement to execute a new agreement for a five-year period commencing September 1, 1985.

The agreement involves the Air Force Accounting and Finance Center, Denver, Colorado and the countries of Belgium, Denmark, the Netherlands and Norway. Currencies involved in the arrangement will be the respective currencies of the said four countries. There will be one or more accounts established for each foreign currency and maintained in the respective country. The foreign currency accounts will be used to accept deposits from the European governments and contractors and the U.S. Government to make disbursements to European subcontractors and vendors, and to make currency exchanges for European contractors. A qualified financial institution will have:

a. Correspondent relationships and communication networks to permit execution and reporting of banking transitions in Belgium, Denmark, the Netherlands, Norway, and the U.S.;

b. Capability to promptly record and confirm foreign currency deposits and disbursements; and

c. Capability of centrally accounting and reporting for all transactions.

Interested financial institutions may obtain additional information, including specifications and requirements for maintaining the accounts, projected deposits, and procedures for submitting bid proposals by contacting Mr. James B. Sandidge, Assistant for Banking and Contract Financing (SAF/FMB), Department of the Air Force, telephone: (202) 697-2647, not later than May 1, 1985.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-8309 Filed 4-5-85; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for a Navigation Safety Project at Lock and Dam 3 on the Upper Mississippi River

AGENCY: U.S. Army Corps of Engineers, St. Paul District, DoD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: *1. Proposed Action.* Lock and dam 3 (L/D 3) is on the Upper Mississippi River, approximately 797 miles above the mouth of the Ohio River, 6 miles above Red Wing, Minnesota, and 42 miles below St. Paul, Minnesota. The upper approach to the lock is on the outside of a sharp bend, which creates a crosscurrent in the navigation channel. Navigation conditions for downbound tow boats approaching the lock are difficult and hazardous, because of the crosscurrent, which pushes tow boats away from the lock and towards the dam.

Accidents have occurred as a result of barge tows losing control while maneuvering for the approach to the lock. The proposed action is to develop a solution to the navigation safety problem at L/D 3.

2. Alternatives. Both structural and nonstructural alternatives will be evaluated. During the 1970's, 20 alternatives were evaluated by hydraulic model studies at the Corps of Engineers Waterways Experiment Station in Vicksburg, Mississippi. These hydraulic model studies identified a parted cell-type guardwell or a rock guard dike as the most practical alternatives studied. Additional alternatives will likely be identified and, along with the "no action" alternative, will be addressed during the scoping and planning of the project.

3. Significant Issues. Significant issues identified to date include the following: the effect of the project on the regionally

important tailwater fishery at L/D 3, the effect of the project on riverine and floodplain habitats in the project area, and the benefits of the project to the structural integrity of L/D 3 and to navigation.

4. Scoping. An agency scoping meeting will be held at a time and a place to be announced. A public scoping meeting would be held if sufficient justification for one develops.

5. Public Involvement. A public notice will be prepared for the project early in the planning process. Public meetings would be held if public concern indicates the need for them.

6. Review and Coordination. Review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations (40 CFR Parts 1500–1508), and applicable Corps of Engineers regulations and guidelines. There will be no cooperating agencies (as defined in 40 CFR 1508.5) for the DEIS. The St. Paul District will request information for the DEIS from the U.S. Fish and Wildlife Service, the Wisconsin Department of Natural Resources, the Minnesota Department of Natural Resources, and the Minnesota Pollution Control Agency.

7. Schedule. The DEIS is currently scheduled to be available for public distribution in January 1986.

8. Distribution. Copies of the DEIS will be provided to all concerned Federal, State, and local agencies; affected Indian tribes; private organizations; and individuals. Anyone else who is interested in reviewing this DEIS is invited to do so. They should contact the St. Paul District, Corps of Engineers, to assure that they are included on the mailing list.

9. Inquiries. Questions concerning the proposed action and DEIS can be directed to Colonel Edward G. Rapp, District Engineer, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Customs House, St. Paul, Minnesota 55101–1479.

John O. Roach,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 85–7778 Filed 4–5–85; 8:45 am]

BILLING CODE 3710-CY-M

Intent To Prepare a Regulatory Permit Draft Environmental Impact Statement (DEIS) for the Virgin Islands Port Authority Third Port Project, Limetree Bay, St. Croix, VI

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS, a regulatory permit action.

SUMMARY: *1. Proposed Action:* The Jacksonville District, U.S. Army Corps of Engineers, intends to prepare an Environmental Impact Statement (EIS) on the permit application of the Virgin Islands Port Authority to construct deepwater port facilities and channels at Limetree Bay on St. Croix. This regulatory action is pursuant to authorities found in section 10 of the River and Harbor Act of 1899 and section 404 of the Clean Water Water Act.

2. Alternatives: The following alternatives are being considered:

a. No action (denial of permit);

b. Granting of permit;

c. Granting of permit with conditions;

d. Proposed port facilities at another site on St. Croix;

e. Proposed port facilities located at existing facilities in the area.

3. Scoping: a. The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, Territory, local agencies and other interested persons and organizations. A scoping letter (December 31, 1984) has been sent to interested Federal, Territory, and local agencies requesting their comments and concerns. Other interested persons and organizations wishing to participate in the scoping process should contact the Corps of Engineers at the address below. Significant issues anticipated include concern for:

Coral reefs
Marine seagrasses
Mangroves
Freshwater wetlands
Endangered and threatened species
Water quality
Navigation channels

Identification of significant issues to be addressed in the EIS will be determined through the scoping process.

b. Coordination with the U.S. Fish and Wildlife Service and National Marine Fisheries Service will be accomplished with section 7 of the Endangered Species Act. Coordination required by applicable Federal and Territory laws and policies will be conducted. If discharge of material into waters of the United States is involved, the discharge will be specified by application of the criteria of section 404(b) of the Clean Water Act.

4. DEIS Preparation: It is estimated that the DEIS will be available to the public in August 1985.

ADDRESS: Questions concerning the proposed DEIS can be answered by: Mr. Paul Schmidt, Environmental Resources Branch, U.S. Army Engineer District, Jacksonville, P.O. Box 4970, Jacksonville, Florida 32232–0019; telephone (904) 791–1691 (FTS 946–1691).

John O. Roach,

Department of the Army Liaison Officer with the Federal Register.

[FR Doc. 85–8243 Filed 4–5–85; 8:45 am]

BILLING CODE 3710-AJ-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 85–04–NG]

Northern Natural Gas Co., Division of Internorth; Order Granting Authorization to Temporarily Increase Daily Import of Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of opinion and order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on March 26, 1985, the ERA Administrator issued an Opinion and Order granting Northern Natural Gas Company, Division of Internorth, Inc. (Northern) authority to temporarily increase its daily imports of natural gas from Canada. The approval authorizies Northern to import up to 100,000 Mcf of natural gas per day during the period March 1, 1985 through March 31, 1985, in addition to the 200,000 Mcf per day currently authorized for import from Consolidated Natural Gas Limited. Beginning April 1, 1985, imports will revert to the daily rate previously authorized.

FOR FURTHER INFORMATION CONTACT:

Olga T. Ronkovich (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9482

Diane J. Stubbs (Office of General Counsel), Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6667

Issued in Washington D.C. on March 28, 1985.

James W. Workman,

Director, Office of Fuels Programs Economic Regulatory Administration.

Order Granting Authorization to Temporarily Increase Daily Import of Natural Gas From Canada

In the matter of Northern Natural Gas Co. Division of Internorth, Inc., ERA Docket No. 85-04-NG, DOE/ERA Opinion and Order No. 75A.

March 26 1985.

I. Background

On February 25, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to section 3 of the Natural Gas Act, for emergency interim authorization to import up to 100,000 Mcf of natural gas per day during the period March 1, 1985, through March 31, 1985, in addition to the 200,000 Mcf per day currently authorized for import from Consolidated Natural Gas Limited (Consolidated). The additional volumes were to be imported on a best-efforts, interruptible basis, at a price of not more than $3.50 (U.S.) nor less than $2.70 (U.S.) per MMBtu in accordance with the terms of Northern's gas purchase contract, as amended November 1, 1984.

According to the application, the emergency authorization of these increased volumes would allow Northern to minimize its take-and-pay and take-or-pay exposure with its Canadian suppliers and to reduce the chance of a related, possible shutdown of its domestic gas production fields in the summer, thereby avoiding the negative impacts of these situations on the cost of its gas supplies in 1985.

In an import authorization issued August 29, 1980,[1] the ERA authorized Northern to import from Canada for the period November 1, 1981, through October 31, 1987, up to 200,000 Mcf of natural gas per day and up to 73,000,000 Mcf of natural gas per year through pipeline facilities near Emerson, Manitoba, minus whatever volumes Northern elected to import through pipeline facilities at Monchy, Saskatchewan, under a separate order issued by the Federal Energy Regulatory Commission (FERC) on June 27, 1980, in Docket No. CP80-22.[2] The additional volumes requested were to be imported at Emerson through facilities of Northern's transporter of the gas, Great Lakes Gas Transmission Company.

In support of its application, Northern stated that it serves a temperature-sensitive market with significantly greater winter requirements than summer requirements. The company stated that because of annual contract obligations, it was necessary for them to be able to import maximum volumes during the heating period (November through March) so that summer production cut-backs can be managed to avoid operational problems such as possible shut-ins of domestic producing fields, while still enabling Northern to meet minimum purchase requirements. Under its contract with Consolidated, Northern has a minimum purchase obligation of 40.15 Bcf of natural gas for the 1984-85 contract year. The mid-January approval by the Canadian National Energy Board of Northern's renegotiated contract with Consolidated precluded Northern from maximizing its imports under the contract during the early part of the winter heating season and thus jeopardized its ability to fulfill its minimum purchase obligation for the 1984-85 contract year. The proposed increase would enable Northern to accelerate its daily purchases of Canadian gas under the authorization without increasing the annual authorized volumes. As of April 1, 1985, imports were to revert to the daily rate previously authorized.

Based on the above facts, the ERA issued an order on February 28, 1985, authorizing on an emergency interim basis the requested increase in volumes during the month of March 1985 in advance of public notice.[3]

II. Interventions and Comments

A notice of the application and the emergency order was also issued on February 28, 1985.[4] The notice invited protests and petitions to intervene, which were to be filed by March 20, 1985. A joint motion to intervene was filed late by Northern States Power Company of Minnesota, Northern States Power Company of Wisconsin and Lake Superior District Power Company which neither opposed the application nor requested the right to be heard further. Since this late filing does not delay the proceeding, prejudice Northern's rights, or otherwise adversely affect the issuance of a decision in this docket, the ERA accepts the late filing and grants intervention to the movants.

III. Decision

Northern's application has been evaluated in accordance with the Administrator's authority to determine if the proposed import meets the public interest requirements of Section 3 of the Natural Gas Act. The Administrator is guided by the Secretary of Energy's policy relating to the regulation of natural gas imports.[5] Under this policy the competitiveness of the arrangement is the primary consideration for meeting the public interest test, with security of the supply and need being other considerations.

It has been determined that approval of Northern's request to increase its daily imports, on a temporary basis, is not inconsistent with the public interest. The authorization for an increased daily volumetric rate is for a short period of time on a best efforts, interruptible basis, with no change in the annual or the total volumes under the existing import authorization. This decision rests primarily on the finding that increasing the daily volumes enables Northern to minimize its take-and-pay and take-or-pay exposure with its Canadian supplier while at the same time permitting it operational flexibility to manage its overall gas supply. Further, it appears that the additional imports at this time may lower the overall cost of gas to Northern's customers in 1985. Finally, no one objected to the proposed amendment.

Accordingly, I find that approving Northern's application to increase its daily volume limitation to 300,000 Mcf for the limited term of March 1, 1985, to March 31, 1985, is not inconsistent with the public interest and should be granted.[6]

Order

For the reasons set forth above, pursuant to section 3 of the Natural Gas Act, it is ordered:

A. Ordering Paragraph A of DOE/ERA Opinion and Order No. 19 (Order 19) is hereby amended to authorize Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), to import up to 300,000 Mcf per day of Canadian

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[1] *Northern Natural Gas Company*, DOE/ERA Opinion and Order 19, issued August 29, 1980 (3 ERA ¶ 70,518).

[2] *See* FERC order issued June 27, 1980 (11 FERC ¶ 61,340). In DOE Delegation Order No. 0204-8 (42 FR 61491, December 5, 1977), the Secretary of Energy delegated to the FERC authority under Section 3 of the Natural Gas Act to approve importation of natural gas in connection with the construction and operation of the Alaska Natural Gas Transportation System (ANGTS). The pipeline facilities at Monchy connect the Canadian segment of the ANGTS prebuilt system with pipelines in the United States. That authority was redelegated to the ERA in DOE Delegation Order No. 0204-111 (49 FR 6090, February 22, 1984).

[3] *Northern Natural Gas Company*, DOE/ERA Opinion and Order No. 75, issued February 28, 1985, in ERA Docket No. 85-04-NG.

[4] 50 FR 8772, March 5, 1985.

[5] 49 FR 6684, February 22, 1984.

[6] Because the additional volumes will be transported through existing pipeline facilities, DOE has determined that granting this application clearly is not a Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and therefore an environmental impact statement or environmental assessment is not required.

natural gas at a point near Emerson, Manitoba, for the period March 1 to March 31, 1985, consistent with the pricing and the other terms of the amending agreement.

B. Except as modified by Ordering Paragraph A, all other terms and conditions in Order 19 shall continue to apply to the imports authorized herein.

C. The motion for leave to intervene by Northern States Power Company of Minnesota, Northern States Power Company of Wisconsin and Lake Superior District Power Company, is hereby granted, subject to such rules of practice and procedures as may be in effect, provided that participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their motion for leave to intervene and not herein specifically denied, and that the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order issued in these proceedings.

Issued in Washington, D.C., March 26, 1985.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 85-8312 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to United Refining Co., United Refining Co. of Pennsylvania and United Refining, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to United Refining Company, United Refining Company of Pennsylvania, and United Refining, Inc.—ERA Case No. 340S00445.

SUMMARY:

I. Introduction

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order (PRO) which was issued to United Refining Company, United Refining Company of Pennsylvania and United Refining, Inc. (hereinafter referred to collectively as "United"), Bradley Street and Dobson Avenue, Warren, Pennsylvania 16365.

II. Issuance of Proposed Remedial Order

ERA has completed an audit of United's compliance with the mandatory petroleum price regulations formerly contained in 6 CFR Part 150, Subpart L and now contained in 10 CFR Part 212 (the regulations) during the period August 1973 through December 1974 (audit period). Specifically, ERA audited the increased costs which United reported as being available for pass-through in the audit period. ERA's audit revealed that during the audit period United violated the regulations in four material respects: (1) United improperly calculated its increased costs for imported Canadian crude oil, resulting in an overstatement of crude costs for the months of August 1973 through December 1974; (2) United improperly retroactively reallocated certain costs associated with distillates and gasoline to other covered products, which had the effect of masking an overrecovery in the other covered products category during November and December 1974; (3) United improperly included unsubstantiated crude costs in its other covered products category for 1974, resulting in an overstatement of such costs; and (4) United improperly recovered increased non-product costs for the month of December 1974. As a result of the above-discussed regulatory violations, the PRO alleges that United overcharged its customers during the period August 1973 through June 1976 by $12,680,191. Interest through August 1983 totalling $16,190,060 is computed in the PRO.

III. Proposed Remedy

ERA has proposed that within thirty (30) days after the effective date of a final Remedial Order, United shall deliver a certified check, made payable to the United States Department of Energy, in the amount of the overcharge plus interest. Delivery shall be to the Controller, Office of Washington Financial Services, Cash Management Division, P.O. Box 500, Germantown, Maryland 20874-0500. The ERA shall direct that these monies be deposited in a suitable account in order that the monies may be distributed in a just and equitable manner.

IV. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to any or all aspects of the proposed Remedial Order described above with DOE's Office of Hearings and Appeals, within 15 days after the date of this publication. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order. The Notice must be filed, in duplicate, by 4:30 p.m. e.s.t. on or before the fifteenth day after publication of this Notice, or the first federal workday thereafter. No data or information which is confidential shall be included in any Notice of Objection.

All Notices of Objection, Statements of Objections, Responses, Replies, Motions, and other documents required to be filed with the Office of Hearings and Appeals shall be sent to: Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of all Notices of Objection, Statements of Objections and all other documents filed by an aggrieved person or other participants shall be served on the same day as filed, on the following person pursuant to 10 CFR 205.193(c): Carl A. Corrallo, Chief Counsel for Administrative Litigation, Economic Regulatory Administration, United States Department of Energy, 1000 Independence Avenue, S.W., Room 3H-017, Washington, D.C. 20585.

Requests for a copy of the proposed order with confidential information deleted, should be identified by ERA Case No. and be directed to: Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585.

Issued in Washington, D.C. this 26th day of March 1985.

Carl A. Corrallo,

Chief Counsel for Administrative Litigation, Economic Regulatory Administration.

[FR Doc. 85-8311 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of February 4 Through February 8, 1985

During the week of February 4 through February 8, 1985, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Motion for Discovery

Transco Trading Company, Billy Ray Jones. 2/4/85; HRD-0125; HRD-0206

On December 21, 1982, the Economic Regulatory Administration (ERA) issued a Proposed Remedial Order (PRO) to Transco Trading Company (Transco) alleging that the firm violated the anti-layering provisions of 10 CFR Part 212, Subpart L. That regulation prohibits a reseller from charging a price for crude oil in excess of its actual purchase price unless the reseller provided some

service or other function traditionally and historically associated with the resale of crude oil. In a Motion for Discovery, Transco sought contemporaneous construction and administrative record discovery to support its claims that the layering regulation is ambiguous, has not been interpreted in a consistent manner, and is procedurally and substantively invalid. Transco also sought audit workpapers in order to support its claim that ERA had not supplied it with sufficient information to understand the PRO.

The Office of Hearings and Appeals (OHA) examined the attachments to the PRO and found that they contained all the information necessary to understand and challenge the allegations made in the PRO. OHA denied administrative record and contemporaneous construction discovery because Transco failed to present any basis for the grant of such discovery. However, OHA did grant discovery of those portions of the official record that were unavailable to Transco, and allowed Transco to submit documentation to support its claim that it provided historical and traditional reseller services. The Motion for Discovery submitted by Billy Ray Jones was denied, since the request for discovery set forth no issues and did not specify what information was sought.

Supplemental orders

Vickers Energy Corporation, 2/5/85; *HFX-0115*

The Office of Hearings and Appeals (OHA) issued a Supplemental Decision and Order in which it found that the State of Mississippi was twice inadvertently listed, in lieu of the State of Michigan, as one of the 16 states where Vickers Energy Corportion (Vickers) marketed motor gasoline. *See Vickers Energy Corporation,* 12 DOE ¶ 85,164 (1985). The earlier Vickers decision established procedures for distribution of the consent order funds remitted to DOE by Vickers that remained after the conclusion of the first stage of the refund proceeding. Since OHA will apportion the remaining funds among the 16 states where Vickers sold motor gasoline, and since each state must submit a plan that will provide restitutionary benefits to consumers within its jurisdiction, the State of Michigan will be substituted for the State of Mississippi to correct the error.

Webster Oil Company, Inc., 2/5/85; *HFX-0114*

A supplemental order was issued amending the Decision and Order in *Webster Oil Co., Inc.* (Case No. HFX-0501), January 28, 1985, to reflect the modified terms of a consent order which requires the firm to remit $40,566.30, rather than $110,304, in settlement of alleged overcharges. Webster has now paid the consent order amount in full.

Implementation of Special Refund Procedures

Westates Petroleum Liquidation Trust, 2/5/85; *HEF-0457*

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the funds obtained as the result of the consent order which DOE entered into with Westates Petroleum Liquidation Trust. The funds will be available to identifiable purchasers of crude oil who were injured by Westates Petroleum Company's alleged violations. Applications for refund must be postmarked within 90 days of the publication of the decision in the **Federal Register.** Specific information to be included in refund applications is discussed in the decision.

Refund Applications

Conoco, Inc./FISCA Oil Company, et al., 2/7/85; *RF34-00024 et al.*

The DOE issued a Decision and Order concerning Applications for Refund filed by five resellers of motor gasoline. The applicants purchased Conoco products directly from M&A Petroleum Company or Foremost Petroleum Company, and applied for refund procedures. *Office of Special Counsel,* 11 DOE ¶ 85,226 (1984). Each of the claimants submitted evidence to establish injury by Conoco's alleged overcharges. After examining the statements and supporting information submitted by the applicants, the DOE approved refunds totalling $347,498, including interest.

Colonial Car Wash Standard, Northpoint Car Wash Standard, 2/4/85; *RF21-12371; RF21-12372*

The DOE issued a Decision and Order concerning two Applications for Refund filed by Louis Bosco, a retailer of Amoco motor gasoline. Bosco elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). In considering the Bosco applications, the DOE concluded that the applicant should receive a refund based upon the total volume of Amoco motor gasoline purchased. The refunds granted in this proceeding total $486.02.

Standard Oil Co. (Indiana)/North Carolina, et al. 2/6/85; *RQ21-145 et al.*

The states of North Carolina and Michigan and the Inter-Tribal Council of Michigan, Incorporated (Inter-Tribal Council) filed proposed second-stage refund plans with respect to funds remitted to DOE escrow accounts pursuant to consent orders with Standard Oil Company (Indiana) (Amoco) and Belridge Oil Company (Belridge). North Carolina proposes to use $753,034, plus accrued interest, from the Amoco and Belridge refunds for car care clinics, traffic light synchronization and van-pool, furnace tune-up, and passenger marketing programs. Michigan plans to use $4,125, plus interest, from the Belridge fund to expand its used motor oil recycling program. The Inter-Tribal Council proposes to spend $3,561 of the Amoco fund to build bus stop shelters and to clear roadways of snow at the four reservations represented by the Council. The OHA found that the beneficiaries of these plans would be those consumers that were injured as a result of their purchases of motor gasoline and middle distillates sold by the consent order firms. Accordingly, the refund applications were granted.

Dismissals

The following submissions were dismissed:

Company name and Case No.

Cloverleaf Gulf—RF40-802
Pembroke Gulf, Inc.—RF40-625
Ute Indiana Tribe—RQ21-54

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 29, 1985.

[FR Doc. 85-8314 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of February 11 Through February 15, 1985

During the week of February 11 through February 15, 1985, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Dickstein, Shapiro & Morin, 2/15/85; *HFA-0270*

Dickstein, Shapiro & Morin (DSM) filed an Appeal from a determination issued by the Director of the Program Support Division of the DOE Office of Military Application in response to a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). DSM had submitted the initial request to the FBI which had referred a document to DOE for evaluation. In considering the Appeal, the DOE found that a search for the requested documents had never been conducted by the DOE since DSM had never filed a FOIA request directly with the DOE. Accordingly, the DOE found that the Appeal should be treated as an initial FOIA request and that the Program Support Division should conduct a search for the requested documents.

Z. Reytblatt, 2/15/85; *HFA-0269*

Z. Reytblatt filed an Appeal from a denial by the Assistant Manager of the Oak Ridge Operations Office of a request for information which Reytblatt had submitted under the Freedom of Information Act. In his Appeal, he challenged the Assistant Manager's determination that the DOE does not possess any documents responsive to his request. In considering the Appeal, the DOE found that the search conducted by the Assistant Manager was thorough, and that Reytblatt had not presented any evidence that the Assistant Manager's determination

was incorrect. Accordingly, the Appeal was denied.

Remedial Orders

Pester Derby Oil Company, 2/11/85; BRO-1329

Pester Derby Oil Company (Pester) objected to a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on September 12, 1980. In the PRO, the ERA found that Pester had violated the pricing regulations applicable to motor gasoline and No. 2 diesel fuel. The ERA alleged that during the audit period the firm incorrectly increased its prices based upon increased costs of product which the firm had ordered from its supplier but had not yet received. The ERA also alleged that Pester incorrectly imputed May 15, 1973 prices for a blend of gasoline called "Super Bonus" which the firm had not sold on that date. In addition, the ERA alleged that Pester had not justified increases in prices that the firm claimed reflected increased non-product costs. Subsequently, the ERA determined that the firm could justify some increased prices based upon increased non-product costs, but not to the maximum extent permitted by the regulations in effect during the audit period. Finally, the ERA alleged that Pester had overcharged certain wholesale customers. In its Statement of Objections, the firm primarily asserted that: (1) Pester was allowed to raise prices based on the product which it had not yet taken into inventory, (2) the firm's method for imputing May 15, 1973 prices for "Super Bonus" was correct, (3) the regulations did not require that the firm actually incur non-product costs in order to pass them through up to the maximums allowed, and (4) the ERA incorrectly determined overcharges regarding wholesale sale. The firm's arguments concerning the recovery of both product and non-product cost increases were rejected, as was Pester's contentions regarding overcharges to wholesale customers. However, the firm's objections to the allegations of overcharges in the pricing of "Super Bonus" gasoline were sustained as its pricing methodology was found to be acceptable. The PRO ws remanded to the ERA for action consistent with the Decision and Order.

Placid Oil Company, 2/11/85; BRO-1433

Placid Oil Company filed a Statement of Objections to a Proposed Remedial Order (PRO) which the Southwest District Office of the Economic Regulatory Administration of the DOE issued to the firm on March 30, 1981. In considering the firm's objections to the PRO, the DOE found that the Base Production Control Level (BPCL) for a crude oil producing property unitized after 1972 must be calculated by adding together the actual 1972 monthly production figures for each of the constituent tracts of the unit, and that the unit BPCL could not be recalculated based upon a regulatory amendment to 10 CFR 212.75(b), effective September 1, 1976, since that amendment was prospective only. The DOE also determined that a single property could not be segregated or subdivided to create more than one property on the basis of state-mandated drilling units. In addition, the DOE found that historical down time for purposes of calculating average daily production (ADP) in applying the stripper well exemption must be measured using figures from producing years prior to the year of measurement and not during or subsequent to the measuring year, and that the firm has the burden of presenting base sediment and water calculations in order to contest production figures used by the agency in calculating ADP. Placid was also found to have violated the crude oil price regulations by adding a gathering fee to the posted price of crude oil which the firm produced from its own properties and moved through its pipeline before selling the crude oil at its pipeline terminal. Lastly, the DOE determined that the royalty interest owner and severance tax exemptions were applicable to Placid's Louisiana Central property, and rescinded the portion of the PRO concerning this property. The remedial portions of the PRO were amended to provide that the overcharge funds remitted by Placid will be distributed pursuant to the special refund procedures of 10 CFR Part 205, Subpart V. Accordingly, Placid's Statement of Objections was granted in part, and the Proposed Remedial Order, as modified, was issued as a final Remedial Order.

Request for Modification and/or Rescission

Lunday-Thagard Oil Company, 2/15/85; BYR-0142

The Lunday-Thagard Oil Company filed a Motion for Reconsideration of a Supplemental Order which was issued to the firm on May 20, 1981. In the Supplemental Order we determined that on the basis of the *Delta-Beacon* standards for entitlements exception relief, Lunday-Thagard had received excessive entitlements relief for its 1979 fiscal year. As a result, the decision required Lunday-Thagard to purchase entitlements in order to restore the excessive relief. In its Motion, Lunday-Thagard argued on equitable grounds that the Supplemental Order should be rescinded. The Motion was denied, since the firm did not satisfy the procedural requirements applicable to Motions for Reconsideration and because the firm was a net seller of entitlements during its 1979 fiscal year and thus not eligible for relief under the *Delta-Beacon* standards. Important issues discussed in this case include (i) the procedural requirements for a Motion for Reconsideration, and (ii) the application of *Delta-Beacon* exception relief for a refiner which was a net seller of entitlements for a fiscal year.

Interlocutory Order

Economic Regulatory Administration, 2/11/85; HRZ-0196

The Economic Regulatory Administration (ERA) filed a motion to join Donald W. Dalziel as a party to the enforcement proceeding originally initiated against John M. Holland, Jr., Jack Holland & Son, Inc., John M. Holland Jr. d/b/a Jack Holland & Son, and P.H.D. Corp., Inc., Case Nos. HRO-0155 and HRO-0178. ERA sought to join Dalziel as a party to this proceeding because of his active role in the domination and control of the allegedly illegal corporate activities that were the subject of the original Proposed Remedial Orders (PROs). In granting ERA's motion, the Office of Hearings and Appeals found that the ERA has asserted a *prima facie* case of liability against Dalziel that arose out of the same regulatory violations alleged in the original PROs, thus satisfying the applicable standard for joinder.

Supplemental Orders

Navajo Refining Company, 2/13/85; BYX-0204

In the Decision and Order, the DOE took account of outstanding entitlements exception orders issued to Navajo Refining Company, and established the firm's final position under the Crude Oil Entitlements Program. Accounting to this determination, Navajo has a net entitlements sales obligation of $4,072,222. The DOE stated that this obligation shall be satisfied in accordance with the policies enunciated by the DOE in its Notice issued on January 9, 1985.

Oasis Petroleum Corporation/Research Fuels, Inc., 2/12/85; HEX-0110

Oasis Petroleum Corporation (Oasis) and Research Fuels, Inc. (RFI) filed a number of motions and requests relating to two Petitions for Special Redress pending before the Office of Hearings and Appeals (OHA). In considering the motions and requests, the DOE determined that the parties' requests for modification of previously established briefing schedules should be granted in part; that RFI's motion alleging that Oasis has made material misrepresentations of fact before OHA and other federal courts should be dismissed (except insofar as the motion relates to the manner in which Oasis utilized the base period asset purchase agreements); and that Oasis should be compelled to furnish OHA with complete copies of certain designated depositions. In addition, DOE concluded after an examination of the record generated in this proceeding that several relevant and material factual issues remain in dispute. Accordingly, DOE will convene an evidentiary hearing on a *sua sponte* motion.

Implementation of Special Refund Procedures

Pennzoil Company, 2/12/85; HQF-0024

The Department of Energy issued a Decision and Order providing for the second-stage disbursement of $2,037,328 in consent order funds made available by Pennzoil Company. The DOE found that the adverse effects of Pennzoil's pricing practices of refined products were regional in nature, because the firm sold refined products largely within 11 states and the Commonwealth of Puerto Rico. The DOE determined that the remaining consent order funds should therefore be channeled to the governments of those jurisdictions, whose citizens would have experienced the effects of the Pennzoil pricing practices. The DOE decided that the funds should be apportioned among the jurisdictions based on the proportion of Pennzoil product consumed. The DOE concluded that upon submission of an appropriate plan by an eligible jurisdiction for use of its share of the funds, the proportionate share of the Pennzoil fund would be disbursed.

Refund Applications

Standard Oil Company, (Indiana) South Dakota Belridge Oil Company/South Dakota, 2/12/85; RQ21-150; RQ8-149

The State of South Dakota filed a proposed second-stage refund plan with the Office of Hearings and Appeals (OHA), pursuant to DOE consent orders entered into with Standard Oil Company (Indiana) (Amoco) and Belridge Oil Company (Belridge). South Dakota proposed to use its share of the Amoco Belridge refunds to purchase equipment for the testing of overweight commercial haulers and the monitoring of gasoline pump meters and air leakage in weatherized residential buildings. The State also proposed to promote energy conservation techniques through public service announcements and to provide furnace tune-ups in residential buildings. The OHA found that the beneficiaries of this plan would be those consumers that were injured as a result of their purchases of motor gasoline and middle distillates sold by the consent order firms. Accordingly, the refund applications were granted. A portion of the refunds allotted to South Dakota were set aside for later distribution to federally-recognized Indian tribal reservations within the State.

Standard Oil Company (Indiana)/State of Iowa; Northwest Webster Community School District, 2/15/85; RF21-8352; RF21-11664

The DOE issued a Decision and Order concerning Applications for Refund filed by the State of Iowa and Northwest Webster Community School District in the Standard Oil Company (Indiana) special refund proceeding. Both applications concerned purchases of Amoco natural gas liquids from resellers for consumption by governmental entities. In considering the applications, the DOE concluded that the applicants should receive a refund based upon the total volume of their Amoco natural gas liquids purchases. The refunds granted in this proceeding total $511.

Standard Oil Company (Indiana)/Will Oil Company, 2/15/85; RF21-12375; RF21-12376

Will Oil Company, a wholesaler of Amoco motor gasoline and middle distillates, filed duplicate Applications for Refund and received duplicate refunds. The DOE determined that the second refund plus accrued interest totaling $1,144 should immediately be remitted to the DOE. The DOE also directed Will to explain the reason for the duplicate submissions and to submit purchase verification for the volumes of motor gasoline and middle distillates claimed in its application within 30 days. The DOE stated that failure to provide this additional information would result in the total rescission of Will's refund.

Dismissal

The following submission was dismissed:

Company name and Case No.

Victor & Mildred Calvert—RF40-1092

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 29, 1985.

[FR Doc. 85-8315 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of February 18 Through February 22, 1985

During the week of February 18 through February 22, 1985, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

Utex Oil Company, 2/19/85; HRO-0081

Utex Oil Company objected to a Proposed Remedial Order issued to the firm by the Economic Regulatory Administration (ERA) on June 16, 1982. In the Proposed Remedial Order, the ERA found that during the period from October 1975 through April 1980, Utex, as a producer of crude oil, had sold crude oil at prices exceeding the applicable ceiling prices under the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart D. The ERA also found that Utex had erroneously classified crude oil as stripper well crude oil, and had sold it at exempt prices. After considering Utex's objections, the DOE concluded that the ERA had miscalculated the violation amount by using an erroneous posted price. The DOE overruled the remaining objections, and revised the violation amount accordingly.

Request for Exception

Whitaker Oil Company, 2/22/85, HEE-0029

Whitaker Oil Company filed an Application for Exception which, if granted, would permit the firm to increase retroactively the selling prices for the refined petroleum products that it sold during the period November 1973 through March 1974. If the exception relief were granted, Whitaker would be relieved of an obligation to refund the excessive revenues that it received as a result of its resales of a number of refined petroleum products including motor gasoline. In a Proposed Order issued on July 8, 1983, the DOE tentatively determined that the firm was entitled to retroactive exception relief with respect to its sales of motor gasoline. In the July 8 Proposed Decision, the DOE also tentatively determined that exception relief was not warranted with respect to the other refined petroleum products. In its Statement of Objections, Whitaker maintained that the doctrine of laches is applicable in this case and, as a result, the firm should be relieved of any potential refund obligations for all of the refined petroleum products. In addition, Whitaker claimed that it had met the standards for the approval of retroactive relief with respect to all of its petroleum product resales. In considering Whitaker's Statement of Objections, the DOE found that the firm had not established a case for the approval of exception relief on the basis of laches. In addition, the DOE determined that Whitaker had not demonstrated any other reason for the approval of additional exception relief. The DOE concluded that the exception relief approved in the July 8 Proposed Order was appropriate. Accordingly, Whitaker's Statement of Objections was denied.

Motion for Discovery

Petrade International, Inc., 2/22/85; HRD-0206, HRH-0206

The PRO recipient, charged with violating the anti-layering regulation, 10 CFR 212.186, sought extensive administrative record and contemporaneous construction discovery concerning the promulgation and interpretation of that regulation. The firm also sought discovery of the opinion of the crude oil industry as to what services were traditionally and historically associated with the resale of crude oil. In view of the fact that the official administrative record of § 212.186 clearly reveals the regulations's meaning, all of the discovery sought was denied.

Petrade's request for an evidentiary hearing was denied, because the firm had failed to indicate either what evidence it wished to present, or why a hearing was necessary for its presentation.

Interlocutory Orders

Kenneth Walker, 2/21/85; HRZ-0234

On January 28, 1985, Kenneth Walker filed a Motion to Dismiss or Remand the Proposed Remedial Order (PRO) that the Economic Regulatory Administration issued jointly to Southwestern States Marketing Corporation (Southwestern) and Mr. Walker. In considering the request, the DOE found that (1) the PRO contained sufficient factual and legal findings to establish a *prima facie* case of a regulatory violation and liability therefor in accordance with 10 CFR Part 205, (2) that the proper forum for considering the legal bases of the PRO's findings is the administrative objection proceeding, and (3) that it was not necessary to making any determinations concerning the differences that may exist between the Notice of Probable Violation issued to Southwestern and the PRO issued jointly to Southwestern and Mr. Walker. Accordingly, the DOE denied Walker's Motion to Dismiss or Remand.

Office of Special Counsel/Texaco Inc., 2/21/85; HRZ-0232

Texaco Inc. filed a motion requesting that the Office of Special Counsel be deemed to have admitted certain factual contentions made by the firm in connection with its

objections to a May 1, 1979 Proposed Remedial Order. On December 18, 1984, the Office of Hearings & Appeals (OHA) issued a Decision and Order granting the motion in part. *Texaco Inc.*, 12 DOE ¶82,541 (1984). In the December 18 decision, the OHA deferred 32 of the admissions sought by Texaco and directed the parties to submit further briefs concerning those admissions. After consideration of these briefs, the OHA granted the majority of the deferred admissions.

Supplemental Order

Economic Regulatory Administration/ Marathon Oil Company, 2/22/85; HRX-0106

The Economic Regulatory Administration filed supplemental information pertaining to, and as directed in, a June 22, 1984 Remedial Order issued to Marathon Petroleum Company/Marathon Oil Company. *Marathon Petroleum Co.; Marathon Oil Co.*, 12 DOE ¶85,010 (1984). After considering the ERA's submission, the DOE determined that a Supplemental Remedial Order should be issued to Marathon based upon the firm's improper designation of a crude oil producing property as a stripper well property during the period September 1976 through December 1976.

Implementation of Special Refund Procedures

Seminole Refining, Inc., et al., 2/22/85; HEF-0221, et al.

The DOE issued a Decision and Order establishing special refund procedures for distributing a fund totaling $16,520,152.24, obtained through consent orders entered into with 26 firms. These firms engaged in diverse operations including production, refining and sale of natural gas liquids and crude oil, as well as sale of refined petroleum products. The DOE found that refunds should be granted to applicants that demonstrate that they made purchases from any of the consent order firms during the period covered by the relevant consent order, and establish that they were injured as a result of those purchases. However, the DOE found that applicants requesting refunds of $5000 or less would not be required to provide a separate, detailed showing of injury. The Decision discussed specific information to be included in refund applications.

Refund Applications

Conoco Inc. /Hadley Paul and Poul Investments/Martin Oil Marketing, Inc., 2/20/85; RF34-00027,RF34-00032

The DOE issued a Decision and Order concerning Applications for Refund filed by two resellers of motor gasoline. The applicants purchased to Conoco products directly from M&A Petroleum Company or Foremost Petroleum Company, and applied for refunds in accordance with the Conoco special refund procedures. *Office of Special Council*, 11 DOE § 85,226 (1984). Martin submitted evidence to establish that it was injured by Conoco's alleged overcharges, while Hadley Paul and Paul applied for a threshold level refund. After examining the statements and supporting information submitted by the applicants, the DOE decided to approve refunds totalling $18,362 including interest.

Standard Oil Co. (Indiana)/Three Affiliated Tribes; Belridge Oil Co./Three affiliated Tribes, 2/20/85; RQ21-153, RQ8-154

The Three Affiliated Tribes (Tribes) of North Dakota requested permission to change their OHA approved plan for $780 allotted to them pursuant to the *Amoco* and *Belridge* second-stage refund decisions. *Standard Oil Co. (Indiana)/Three Affiliated Tribes; Belridge Oil Co./Three Affiliated Tribes*, 12 DOE § 85,115 (1984). The Tribes sought to change their utilization plan from snow removal services to emergency services for low-income and homeless tribal members. The OHA issued a Supplemental Order approving the revised plan.

Dismissals

The following submissions were dismissed

Name	Case No.
Bob Ross, Inc.	RF1-376.
Dept. of Interior (Gladieux)	HEE-0077.
Environmental Policy Institute	HFA-0276.
Maryland State Penitentiary	RF78-0002.
Midway Oil Company	RF83-2

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 25, 1985.

[FR Doc. 85-8316 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of March 4 Through March 8, 1985

During the week of March 4 through March 8, 1985, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Crystal Oil Co./Farmland Industries, Inc., 03/05/85; RF62-2

The DOE issued a Decision and Order concerning an Application for Refund filed by an agricultural cooperative, Farmland Industries, Inc., in connection with the Crystal Oil Co. refund proceeding. In considering the application, the DOE found that Farmland purchased propane from Crystal. The DOE further found that since Farmland is an agricultural cooperative, it should not be required to provide a detailed demonstration of injury, as long as it certified that it would pass through to its member-customers the refunds received. The DOE therefore granted Farmland a refund based on 100 percent of its allocable share as determined by the volumetric methodology. The total refund granted to Farmland was $2,057.

Request for Exception

Adobe Refining Company, 03/05/85; BEE-1684

Adobe Refining Company filed an Application for Exception from the provisions of 10 CFR 211.69 (the Entitlements Program clean-up rule) in which the firm sought to file amended entitlements reports for several months prior to the October 1, 1980 through January 27, 1981 "reporting period" established by the clean-up rule. The firm claimed that it had overstated its crude oil receipts in the entitlements reports it filed for September 1979 and for January 1980 through September 1980 and that it was prevented by the clean-up rule from filing amended entitlements reports for that period. The DOE found that Adobe was not uniquely and unfairly affected by the application of the clean-up rule and that the firm had not demonstrated that it was experiencing any financial difficulties as a result of that provision. Accordingly, exception relief from the provisions of § 211.69 was denied.

Planet Engineers, Inc./ Farmland Industries, Inc., 03/06/85; RF85-1

The DOE issued a Decision and Order concerning an Application for Refund filed by an agricultural cooperative, Farmland Industries, Inc., in connection with the Planet Engineers, Inc. refund proceeding. In considering the application, the DOE found that Farmland purchased propone from Planet. The DOE further found that since Farmland is an agricultural cooperative, it should not be required to provide a detailed demonstration of injury, as long as it certified that it would pass through to its member-customers the refunds received. The DOE therefore granted Farmland a refund based on 100 percent of its allocable share as determined by the volumetric methodology. The total refund granted to Farmland was $22,442.

Standard Oil Company (Indiana / Elston-Kostner Standard, Inc., 03/06/85; RF21-12384

The DOE issued a Decision and Order concerning duplicate refunds received by Elston-Kostner Standard, Inc., a retailer of motor gasoline that applied for a refund in the Standard Oil Company (Indiana) refund proceedings. The DOE directed that Elston-Kostner return the second refund and accured interest, totaling $396, and also submit a written explanation of why it had not notified the DOE of the error. The DOE further provided that failure to file this additional information within 30 days would result in rescission of the original refund.

Standard Oil Company (Indiana)/Mayfair Amoco, 03/07/85; RF21-12383

The DOE issued a Decision and Order concerning duplicate refund applications filed by the owners of Mayfair Amoco, a retail gasoline outlet, in connection with the Standard Oil Company (Indiana) refund proceeding. The DOE determined that the owners of Mayfair Amoco should immediately remit $1,222, the sum of the duplicate refund received plus interest. The DOE further determined that unless an adequate explanation for the double filing was submitted to OHA, as well as records documenting the claimed volumes of Amoco motor gasoline purchases, the original refund would be rescinded. The DOE also indicated that after reviewing the information submitted, it might find it appropriate to refer the matter of the duplicate applications to the U.S. Department of Justice for further investigation.

Dismissals

The following submissions were dismissed:

Name	Case No.
Government Accountability Project	HFA-0279
International Petroleum Refining and Supply	HRO-0243
Paul Investments, Inc. and A.B. Holding Co.	HRO-0096
	HRO-0222

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 27, 1985.

[FR Doc. 85-8317 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures; Aminoil U.S.A., Inc. et al.

AGENCY: Office of Hearing and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $16,500,000 obtained as a result of a consent order which the DOE entered into with Aminoil U.S.A., Inc. and its subsidiaries, affiliates, and predecessors in interest, including Signal Oil & Gas Co., Amtane, Inc., Solar Gas, Inc. and the Burmah Oil Co., Ltd. During the consent order period Aminoil owned, operated, or had an interest in the production of natural gas liquids from plants in California, Louisiana, North Dakota, Oklahoma, and Texas.

DATE AND ADDRESS: Application for refund of a portion of the Aminoil consent order funds must be received within 90 days of publication of this notice in the Federal Register. All applications should conspicuously display a reference to Case Number HEF-0007 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Lawrence Rudolph, Deputy Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with 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 relates to a consent order entered into by the DOE and Aminoil U.S.A., Inc. The Aminoil consent order settled possible pricing violations in the firm's sales of natural gas liquid products to customers during the period September 1, 1973 through January 28, 1981. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from public concerning the distribution of the Aminoil consent order funds was issued on June 27, 1983. *See* 48 FR 30248 (July 1, 1983).

Today's Decision sets forth final procedures and standards that the DOE formulated to distribute the contents of the escrow account funded by Aminoil. The DOE has decided that Applications for Refund should be accepted from firms and individuals that were direct or indirect purchasers of natural gas liquid products (NGLPs) sold by Aminoil and its subsidiaries, affiliates, and predecessors in interest during the relevant consent order period, September 1, 1973 through January 28, 1981. This Decision and Order provides that it in order to receive a portion of the settlement funds, a purchaser must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for NGLPs charged by Aminoil. This evidence should include specific documentation concerning the date, place, price, and volume of product purchased, indicate whether the increased costs were absorbed by the claimant or passed through to other purchasers, and state the extend of any injury alleged to have been suffered. However, the Decision indicates that no separate, detailed showing of injury will be required of end-users of the relevant product, or of firms which file refund claims amounting to $5,000 of less. According to the Decision and Order, the amount of the refund will generally be a pro rata share of the funds made available by Aminoil, plus a pro rata share of any interest accrued on those funds. The DOE further indicated that it would determine at a future date the proper disposition of any funds remaining after all meritorious claims of purchasers has been paid.

Applications for refund must be filed within 90 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. Refund applicants should file two copies of their submission. All applications received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Ave., SW., Washington, D.C. 20585.

Dated: March 29, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

March 29, 1985.

Name of Firm: Aminoil U.S.A., Inc.

Date of Filing: October 27, 1982.

Case Number: HEF-0007.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds, in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Aminoil U.S.A., Inc. (Aminoil) and its subsidiaries, affiliates, and predecessors in interest.[1] Pursuant to the consent order, Aminoil agreed to make refunds for alleged violations of the DOE price regulations in the amount of $16,500,000. The funds have been paid to the DOE and are now

[1] For purposes of this proceeding, any reference to Aminoil includes its subsidiaries, affiliates, and predecessors in interest.

being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their final distribution.[2]

I. Background

Aminoil is a "gas plant operator" and "gas plant owner" as those terms are defined in 10 CFR 212.162. During the relevant time periods, Aminoil was therefore subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR. Part 150, Subpart L and 10 CFR Part 212, Supbarts E and K. Those regulations governed the maximum lawful prices that could be charged in the first sales of natural gas liquid (NGLs) and products (NGLPs). The funds involved in this proceeding were obtained as a result of a consent order agreed to in settlement of alleged overcharges in the sales of NGLPs by Aminoil.

In its audit of Aminoil, the Office of Enforcement (OE) (now the Office of Special Counsel) found possible overcharges with respect to the first sales of NGLPs during the period from September 1, 1973 through October 31, 1978. During this period Aminoil owned, operated, or had an interest in the production of NGLs from plants located in California, Louisiana, North Dakota, Oklahoma, and Texas. In order to settle all claims and disputes between the parties during the period September 1, 1973 and through January 28, 1981, Aminoil and OE entered into a Proposed Consent Order on April 6, 1981, whereby Aminoil agreed to pay $16,500,000 to DOE. The parties further agreed that the funds were to be distributed by the DOE pursuant to 10 CFR Part 205, Subpart V. Notice of the Proposed Consent Order was published in the **Federal Register** at 46 FR 23,970 (April 29, 1981), and it was finalized without modification and published in the **Federal Register** at 46 FR 31,321 (June 15, 1981).

II. Jurisdiction and Authority To Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured as a result of alleged regulatory violations resolved by a DOE consent order or remedial order or where the DOE is unable to readily ascertain the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement* 9 DOE ¶82,553 (1982); *Office of Enforcement*, 9 DOE ¶82,508 (1981); *Office of Enforcement*, 8 DOE ¶82,597 (1981).

On June 27, 1983, the Office of Hearings and Appeals issued a Proposed Decision and Order in which we concluded that the implementation of a Subpart V proceeding was appropriate with respect to Aminoil. *Office of Special Counsel*, No. HEF-0007 (June 27, 1983) (proposed decision); 48 FR 30,428 (July 1, 1983). We found that there was a significant degree of difficulty in locating most of the persons who were injured by the alleged overcharges. Since we have received no comments challenging our authority to fashion special refund procedures with respect to the funds provided by Aminoil, the ERA Petition will be granted.

III. Proposed Refund Procedures

In the June 27, Proposed Decision we stated that, to the maximum extent practicable, the available funds should be distributed to direct or indirect purchasers of product sold by Aminoil. We tentatively determined that successful refund applicants would generally be entitled to a pro rata share of the refund pool. We indicated that we would multiply the number of gallons of product purchased by a successful applicant by a factor using the total amount of the consent order fund provided by the gas plant operator as the numerator and using the total sales in gallons of all products covered by the consent order as the denominator (the volumetric amount).

We further indicated that all successful applicants must establish that they have experienced some economic harm as a result of the alleged overcharges. However, we suggested in the Proposed Order that a separate, detailed showing of injury would not be necessary with respect to applicants who were ultimate consumers of the relevant product. We stated that these applicants would be required to demonstrate that they purchased a specific volume of product sold by Aminoil during the relevant time period. We also stated that a detailed showing of injury would not be necessary for reseller applicants claiming refunds based on relatively small purchases of product, *i.e.*, less than 600,000 gallons per year. We have successfully utilized a small claim threshold of this type in many other cases. *E.g., Office of Enforcement*, 10 DOE ¶85,056 (1983); Office of Enforcement, 8 DOE ¶82,597 (1981). Its use was based on our concern that the cost to the applicant in preparing and submitting information demonstrating injury not be out of proportion to the benefit obtained. We specifically requested comments on this issue in the Proposed Decision.

The purpose of this Decision is to address the comments received regarding the June 27 Proposed Order and to establish procedures to be used for filing and processing claims in the first stage of the refund process relating to Aminoil. The Decision sets forth the information that a purchaser must submit in order to establish eligibility for a portion of the available fund.

IV. Analysis of Comments

We have received a number of comments from NGL purchasers regarding our proposed refund mechanism.[3] Several states and a trade association also filed comments regarding the June 17 Proposed Decision.[4] We shall address in turn the issues raised in the comments.

As previously noted, we suggested in our proposed Decision that a separate, detailed showing of injury would not be necessary for any firm claiming a refund based on purchases of 50,000 gallons per month, or 600,000 gallons annually. Pennington LP-Gas, Inc. submitted specific and thorough comments regarding the threshold levels and per gallon amounts that should apply to purchases of Aminoil products.[5] Initially, the firm asserts that the volumetric amounts of refund should be based on the comparative significance of alleged overcharges with respect to each NGL product sold by Aminoil, *i.e.*, propane, butane and natural gasoline, and that threshold levels of purchases for which a firm need not make a detailed showing of injury should also be applied with respect to each product. Pennington argues that such a product-

[2] As of March 1, 1985, the $16,500,000 principal deposited in Aminoil's Consent Order account had accrued $7,943,263.09 in interest, bring the total amount in the account to $24,443,263.09.

[3] Comments were received from Pennington LP-Gas, Inc., Gengnagel Fuel Co., Small's LP Gas Co., Bootheel LP-Gas Co., Inc., The Rural Natural Gas Co., Michael O'N. Barron, and Gulf Oil Corporation.

[4] The states which filed comments, either through their energy departments or Attorneys General, are Delaware, Florida, Iowa, Kansas, Louisiana, Minnesota, New Mexico, North Dakota, Oregon, Rhode Island, Texas, Virginia, and West Virginia. Comments were also received from the National LP-Gas Association.

[5] Pennington LP-Gas, Inc. filed comments on July 28, 1983 and February 14, 1984. References to its comments in this Decision are directed to the second submission.

by-product analysis of refund applications recognizes the different markets and historical margins for each of the involved products, and that "OHA would not be burdened with any particular difficulties in utilizing a procedure that segregated the three products for Subpart V refund procedures." Pennington also argues that a flat 5 million gallon annual threshold level for propane is a more appropriate threshold for small NGL purchasers or, in the alternative, that a seasonally adjusted monthly threshold for propane equalling an annual threshold of 5 million gallons be adopted.

The National LP-Gas Association (NLPGA) supports these recommendations made by Pennington. NLPGA similarly argues that a 50,000 gallon per month threshold, as discussed in the Proposed Decision, has little relationship to the relative size differences between small and large propane resellers. Gengnagel Fuel Co., on the other hand, does not object to the proposed threshold level of purchases of 50,000 gallons per month or 600,000 gallons per year for smaller firms and individuals.

In our Proposed Decision, we suggested the threshold approach in order to facilitate the refund process for firms claiming relatively small refunds. We believe that in such cases, a complex refund process might discourage small firms from applying for refunds, because the amount of the refund they could expect to receive might be less than the cost of preparing a complex and detailed submission supporting their claims of injury. Thus, the benefits of the refund would be outweighed by the cost of preparing the application. These considerations are present with respect to this proceeding, and we continue to believe that it is appropriate to adopt a presumption of injury for smaller firms and to establish a threshold refund level below which an applicant will not be required to submit a further detailed showing of injury. 10 CFR 205.282(e).

However, it appears that using the gallon threshold as described in the Proposed Order may not enable us to effectuate our goal of facilitating disbursements to applicants applying for relatively small refunds. We no longer believe that a threshold based on gallons—regardless of how many—is now appropriate. Consequently, we have decided that an adjustment in that approach is warranted.

We have determined that it would best promote the above-stated goal to base our threshold for a detailed demonstration of injury on a dollar amount, rather than on a volumetric amount. Therefore, applicants who are claiming a refund of $5,000 or less will not be required to provide a separate detailed showing that they were injured by the alleged overcharges. *See Marion*, 12 DOE at 88,032. This approach was also adopted in several recent NGL Subpart V proceedings. *Seminole Refining, Inc.*, 12 DOE ¶ ——, No. HEF-0221 (February 22, 1985); *Peoples Energy Corp.*, 12 DOE ¶ 85,129 (1984); *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1985). Applicants must, of course, still provide detailed documentation regarding purchase volumes and dates of purchase.

Pennington also argues that threshold levels, as well as the calculation of the per gallon volumetric amount of refund, should be based on each individual product. We do not agree. The consent order reflects a settlement reached with respect to the sales of all NGLPs sold by Aminoil. There is nothing in the consent order or Petition which suggests that the consent order was negotiated on the basis of separate amounts attributable to alleged overcharges of individual product sales, and NGLPs have consistently been treated in Subpart V proceedings as a singular group of products derived from natural gas liquids. Even though the audit papers do indicate a breakdown of alleged overcharge violations based on sales of propane, butane, and natural gasoline, it must be reiterated that such data are based on allegations only, and do not constitute any finding that violations occurred in the stated amounts. Since there is nothing in the record to allow us to determine that a specific portion of the consent order funds was, in fact, attributable to the sales of either propane or one of the other NGLPs, we will not necessarily presume that a relationship between the amount of alleged overcharges and the amount of the consent order funds exists. This is particularly true when the consent order period is greater than the underlying audit period, and no formal enforcement document, such as a Notice of Probable Violation or Proposed Remedial Order, was issued. Accordingly, the threshold level and volumetric calculation that will be applied to refund applications will be based on the total sales of Aminoil NGLPs during the consent order period.[6]

Several commenters, including Small's LP Gas Company, Bootheel LP-Gas Company, and Michael O'N. Barron, object to any procedure which uses a volumetric calculation to determine the amount of per gallon refund. They argue that applicants should receive refunds based on 100 percent of the amount of actual injury.

It has been our consistent position that refund applicants are not limited to a refund based on the presumption that alleged overcharges were distributed on a pro rata basis over all gallons of covered products sold, *i.e.*, volumetrically, in instances in which there is a reasonable basis for establishing alleged overcharges at a greater level. *E.g., Pennzoil Co./Gulf Oil Corp.*, 12 DOE ¶ 85,057 (984); *Standard Oil Co. (Indiana)/Army & Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). Accordingly, such customers may submit information establishing alleged overcharges in an amount greater than the volumetric level. These applicants will, of course, be required to establish injury in accordance with the principles discussed in this decision. No applicant is precluded, therefore, from proving that it incurred injury and should be refunded 100 percent of its claim.[7]

In this regard, we stated in our proposed decision that unless the applicant was an ultimate consumer, a party claiming that it is entitled to a refund must demonstrate that it was injured by an increase in costs resulting from the alleged overcharges. We further suggest that such injury could be demonstrated in a number of ways, *e.g.*, lost customers, decreased market share, decreased profit margins on the product resold or manufactured from the NGLs, or any other showing that may substantiate a claim of injury related to the alleged overcharges.

The State of Minnesota expressed some concern with our description of the types of evidence that could demonstrate injury. It stated that a number of factors not related to the overcharges may result in a firm's

[6] The volumetric amount has been calculated from information contained in the audit workpapers. During the audit period, Aminoil's sales of covered products totalled 424,454,249 gallons. We extrapolated the sales of covered products during the entire consent order period, and divided the consent order funds ($16.5 million) by that number (1,111,071,416.5 gallons). The volumetric amount for purposes of this proceeding, therefore, is $.014851 per gallon.

[7] We reject the idea, however, that all of the consent order funds should be distributed only to those applicants who file claims. To distribute all of the consent order funds to first-stage claimants would create a windfall to those applicants at the expense of injured parties who did not apply, particularly since some parties may choose not to file because of the small amounts of refund involved, lack of resources, or other reasons. Our use of a volumetric methodology in those instances where the injured claimants cannot be determined, therefore, is fair to all purchasers in the distribution chain. *See* Klepper Oil Co. v. DOE, 3 Fed. Energy Guidelines ¶ 26,513 at 29,704 (1984).

reduced market share or lost customers, and that permitting such evidence would create a significantly weaker standard for proof of damages than has been established in previous cases. Minnesota urges that reduced profit margins is the only reliable evidence of injury that can be directly attributed to the alleged overcharges. In view of these comments, we set forth below more specific information as to what type of data will be required for a showing of injury.

We have decided to adopt the approach used in several prior Subpart V proceedings involving consent order funds related to NGLs. *National Helium Corp./Farmland Industries, Inc.*, 11 DOE ¶ 85,257 (1984); *Aluminum Co. of America/Tenneco Oil Co.* 11 DOE ¶ 85,253 (1984); *Palo Pinto Oil & Gas/Gulf Oil Corp.*, 10 DOE ¶ 85,049 (1983). In these cases we used a three-step competitive disadvantage analysis, in which we first examined whether the applicant was charged prices by the consent order firm which were above prices paid by the applicant's competitors. If so, we inferred that the applicant was at a competitive disadvantage with respect to those purchases and was therefore injured. In order to enable us to perform this type of analysis, refund applicants in the present proceeding should submit quarterly prices and purchase locations for the entire period for each product for which a refund is claimed. In addition, resellers will be expected to demonstrate that they maintained a bank of unrecovered costs, in order to establish that the alleged overcharges were not subsequently recovered through price increases.

As we stated above, we suggested in our Proposed Decision that a separate, detailed showing of injury would not be required of refund applicants who were ultimate consumers of the product involved. However, crude oil refiners that purchased NGLs or NGLPs consumed as fuel or as raw material in a refining process will not be considered as "consumers" for this purpose. Rather, the exception from the requirement of a separate, detailed showing of injury for end-users or ultimate consumers will be limited to those whose business operations were unrelated to the petroleum industry and whose prices were therefore not subject to the DOE regulatory scheme. The fuel costs of this group are only one, indistinguishable component of their prices for goods and services. Further, this group was generally not subject to price controls during the consent order periods. Therefore, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum products and services would be beyond the scope of a refund proceeding. *Marion Corp.* 12 DOE ¶ 85,014 (1984); *Ada Resources, Inc./Rapid Transit Lines, Inc.*, 11 DOE ¶ 85,047 (1983). On the other hand, a refund applicant that was subject to the DOE regulatory program will re required to provide a detailed demonstration of injury with respect to the purchase of NGLPs of which it was an end-user, with the exception for small claims discussed above.[8]

V. Application for Refund Procedures

After having considered all of the comments received concerning the proposed procedures tentatively adopted in our June 27 Proposed Decision, we have concluded that applications for refunds should now be accepted from parties that purchased NGLPs sold to them either directly or indirectly by Aminoil or its subsidiaries, affiliates, or predecesors in interest, during the relevant consent order period, September 1, 1973 through January 28, 1981.[9] Applications must be filed within 90 days after publication of this Decision and Order in the **Federal Register.** *See* 10 CFR 205.283. An application must be in writing, signed by the applicant, and specify the name and case number of the consent order firm, *i.e., Aminoil U.S.A., Inc.*, No. HEF-0007.

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 1E-234, 1000 Independence Avenue, SW., Washington, D.C. Any applicant that 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 which 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 the OHA for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284 and the procedures set forth in this Decision and Order.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following subjects should be covered in each application:

A. Each applicant should provide data establishing the volumes of product that it purchased which were sold by Aminoil and the dates of those purchases. The applicant should indicate the types of business records currently in existence from which the figures were derived, and should also indicate the gas plant from which the product originated. However, if this latter data is unavailable, the applicant shall explain why it is unable to retrieve this information. If the product was not purchased directly from the consent order firm, the applicant should state the manner in which it determined that the product originated from the consent order firm.

B. Each applicant should specify the type of business it operated, including how it used the products—*e.g.*, whether it was reseller, a refiner using the products in its own operations, or an ultimate consumer.

C. If the applicant is a reseller or refiner that wishes to claim a refund in excess of $5,000, it must also provide the following information:

(i) The applicant shall state whether it maintained banks of unrecouped product cost increases from the date of

[8] Gulf Oil Corporation's objection to these procedures was previously rejected in Palo Pinto Oil and Gas/Gulf Oil Corp., 10 DOE ¶ 85,049 (1983), and nothing further has been submitted that warrants reconsideration of Gulf's arguments here.

[9] The following firms were subsidiaries, affiliates, or predecessors in interest of Aminoil during the audit period September 1, 1973 through October 31, 1978: Signal Oil & Gas Co.; Amtane, Inc.; and Solar Gas, Inc. In addition, Aminoil acquired the U.S. properties of The Burmah Oil Co., LTD. in June of 1976, which earlier had purchased Signal Oil & Gas Co. in January of 1974. Consequently, purchases of NGLPs from any of these firms during the consent order period shall qualify refund applicants to be eligible for a refund in this proceeding. NGLPs include propane, butane, and natural gasoline. In some instances a gas plant operator may have sold small quantities of other products, such as condensate. We will also consider Applications for Refund filed by purchasers of these other products. We note, however, that applicants cannot claim a refund for any butane purchases subsequent to January 1, 1960, the date butane was decontrolled.

the alleged violation until the product was decontrolled and, if so, furnish OHA with quarterly bank calculations. If a claimant is unable to develop bank data, it may submit other persuasive evidence that it was unable to pass through the alleged overcharges. Specifically, an applicant shall submit evidence of the quarterly prices it paid during the applicable periods for the products for which it is claiming a refund and locations of such purchases.

(ii) The applicant shall provide sufficient corporate information to identify its parent corporation, the corporation selling or processing the product, and the corporation actually purchasing the product, and describe their corporate relationship.

(iii) The applicant shall state whether it or any of its affiliates filed any other applications for refund in which it has referred to its banks to demonstrate injury.

D. The applicant should report whether it is or has been involved as a party in any DOE or private section 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).

We will also establish a minimum amount of $15 for first stage refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds of less than $15 are sought 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). Successful applicants will also receive a pro rata portion of any interest accrued on the consent order fund.

V. Second Stage Refund Procedures

As a final matter, in the Proposed Order we stated that we would consider at a future date the appropriate disposition of any funds remaining after refunds to all successful purchasers have been effected. Several states filed comments regarding the Proposed Order and have suggested methods for distributing any funds remaining after refunds to identifiable purchasers have been completed. These comments generally advocate that state governments, rather than the United States Treasury, are the appropriate recipients of these funds. In several refund proceedings we have adopted just such an approach. *E.g., Belridge Oil Co.*, 11 DOE ¶ 85,197 (1983); *Palo Pinto Oil & Gas*, 11 DOE ¶ 85,034 (1983). However, it is the DOE's position currently that legislative guidance should be sought from the Congress on the question of ultimate disposition of second-stage consent order funds, provided the impact of the alleged overcharges was national rather than local or regional in scope. In any case, it would be premature at this time to reach a determination regarding disbursement of second state refund monies, since we cannot foresee the size of the pool available for refund after all meritorious refund claims of purchasers have been satisfied. Consequently, we will not adopt the states' suggestion at this time.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by Aminoil U.S.A., Inc. may not be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: March 29, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-8388 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Period of February 25 throught March 8, 1985

During the period of February 25 through March 8, 1985, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in finals form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

March 25, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Northrup Oil Company, Chillicothe, Illinois: HEE-0112, Reporting Requirements

On January 15, 1985, Northrup Oil Company (Northrup), a reseller, retailer of refined petroleum products, filed an Application for Exception from the requirement to file Form EIA-782B each month. On March 6, 1985, the Department of Energy issued a Proposed Decision and Order which determined that Northrup be granted modified exception relief to allow the firm to file Form EIA-782B using estimated data.

[FR Doc. 85-8329 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Week of March 11 through March 15, 1985

During the week of March 11 through March 15, 1985, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wished to contest a determination made in a

proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 27, 1985.

Ozona Gas Processing Plant, Dallas, Texas; HEE-0080, crude oil

Ozona Gas Processing Plant filed an Application for Exception from the provisions of 10 CFR 212.131. The exception request, if granted, would permit Ozona to retroactively increase the price of certain quantities of crude oil produced during the months of December 1980 and January 1981. On March 15, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 85-8390 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of March 18 Through March 22, 1985

During the week of March 18 through March 22, 1985, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

Dated: March 27, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Delaware County Oil Company, Manchester, Iowa; HEE-0118

Delaware County Oil Company filed an Application for Exception from the provisions of the EIA reporting requirement for the Form EIA-782B. If granted, the exception request would relieve Delaware of its responsibility to file Form EIA-782B. On March 20, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

Dell Oil Ltd., Des Moines, Iowa; HEE-0120

Dell Oil Ltd. filed an Application for exception from the Provisions of the EIA reporting requirement for the Form EIA-782B. If granted, the exception request would relieve Dell of its responsibility to file Form EIA-782B. On March 20, 1985, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 85-8387 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $499,097 (plus accured interest) obtained as the result of Consent Orders which the DOE entered into with 48 California gasoline retailers. The funds will be available to customers who purchased gasoline from any of these retailers during periods ranging from August 1, 1979 through January 6, 1981. A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public was issued on December 18, 1984, 50 FR 147 (January 2, 1985).

DATE AND ADDRESS: Applications for refund must be filed on or before July 8, 1985 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. Each application should refer to the Case Number from HEF-0509 to HEF-0556 which has been assigned to the gasoline retailer from which the applicant is claiming a refund (See Appendices).

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director or Irene Bleiweiss, Attorney Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2400.

SUPPLEMENTARY INFORMATION: In accordance with § 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 relates to Consent Orders entered into by 48 gasoline service station owners who settled possible pricing violations with respect to their sales of gasoline during the periods ranging from August 1, 1979 to January 6, 1981. Under the terms of the Consent Order, $499,097 has been remitted by the service station owners and is being held in an interest-bearing escrow account.

The Decision and Order published with this Notice sets forth the final procedures and standards that the DOE has formulated to distribute funds remitted by the gasoline retailers and being held in escrow pursuant to the consent orders. The DOE has decided that the funds should be distributed in a two step refund proceeding. The first stage will attempt to refund moneys to customers of any of the 48 gasoline retailers who can document their purchases. The Decision and Order provides for the general allocation of funds among successful claimants using a volumetric distribution based on the number of gallons of product purchased. After meritorious claims are paid in the first stage, second-stage refund procedures may become necessary to distribute any remaining funds.

Applications for Refund may now be filed by customers who purchased motor gaoline from any of the 48 retailers listed in the Appendices to the Decision and Order. Applications will be accepted provided they are received no later than 90 days after the Appendices to the Decison and Order. Applications will be accepted provided they are received no later than 90 days after

publication of this Decision and Order in the **Federal Register**. The specific information required in an application for refund is set forth in the Decision and Order.

Dated: March 27, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Edward Mantz, d/b/a/ A–1, Arco, *et al.*

Date of Filing: September 18, 1984.

Case Numbers: HEF–0509 through HEF–0556.

On September 18, 1984, the Economic Regulatory Administration (ERA) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) pursuant to 10 CFR Part 205, Subpart V. The Petition requests that the OHA formulate and implement procedures for the distribution of the funds received pursuant to consent orders entered into with 48 motor gasoline retailers.

Each of the 48 retailers operated one or more [1] retail gasoline service stations in the State of California during the settlement period and was a "reseller-retailer" of motor gasoline as that term was defined in 10 CFR 212.31. The firms were therefore subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR, Part 212, Subpart F. An ERA audit of each firm's operations revealed possible pricing violations by each firm in sales of motor gasoline during the period from August 1, 1979 through January 6, 1981. (**See** Appendix B). Each of the retailers and the Department of Energy (DOE) entered into consent orders to settle all claims and disputes between them regarding the prices which they charged in sales of motor gasoline. Pursuant to these consent orders, each retailer agreed to pay a sum of money to the DOE. These payments total $499,097 and were deposited in an escrow account for ultimate distribution to parties who may have been injured by the alleged overcharges.

[1] Bubble Machine, Montclair Chevron, Ken Betts Towing Service and Pinole Valley Chevron, Case Number HEF–0514, are all owned by the same person. Pacifica Shell and Pacifica Manor Shell, Case Number HEF–0540, are also under common ownership. CP Marketing Chevron Car Wash was sold by one owner to another during the audit period. (Case Numbers HEF–0518 and HEF–0519). Therefore, although this Decision and Order involves 48 consent orders with 48 retailers, these consent orders actually affect 51 gasoline service stations.

I. Jurisdiction and Authority To Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily the persons who may have been injured as a result of alleged or adjudicated violations or to ascertain readily the amount of each person's injuires. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtains as a part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

On December 18, 1984, the OHA issued a Proposed Decision and Order tentatively setting forth procedures for distributing refunds to parties who were injured by any of the 48 retailers' alleged pricing violations during the consent order period. *Edward Mantz, d/b/a A–1 Arco, et al., 6* Fed. Energy Guidelines ¶ 90,067, 50 Fed. Reg. 147 (January 2, 1985) (Proposed Decision). In addition to publishing the Proposed Decision in the Federal Register, we sent copies to various organizations which represent small California businesses, including Chambers of Commerce, and to each of the 48 retailers.

In the Proposed Decision, we described a two-stage process for distribution of the funds made available pursuant to the 48 consent orders. Specifically, we proposed to disburse funds in the first stage to eligible claimants who were injured by the alleged overcharges of any of the 48 gasoline retailers. We stated that the money available after payment of refunds to eligible claimants in the first stage would be distributed during a second-stage process and that the ultimate disposition of those second-stage funds will not be determined until after completion of the first stage.

The purpose of this Decision is to establish procedures to be used for filing and processing claims in the first stage of the refund process. This Decision sets forth the information that a purchaser of motor gasoline from any of the 48 retailers should submit in order to establish eligibility for a portion of the consent order funds. This Decision will not address the final disposition of any funds remaining after the first stage is completed. Procedures for that dispositon will necessarily depend on the size of the fund. *Marion Corp.*, 12 DOE ¶ 85,014 (1984).

II. Comments by Interested Parties

In response to a summary of the Proposed Decision which appeared in a trucking industry newsletter, we were contacted by truckers who wanted to determine whether they had purchased gasoline from any of the 48 retailers. Many of the truckers who contacted us regularly purchased gasoline from large suppliers. In this regard we believe that it is necessary to clarify that the 48 retailers in this case operated small retail service stations. We also were contacted by one of the service station owners who stated that the United States Post Office in Almo, California purchased gasoline from him on a regular basis and may therefore be entitled to a refund.

In addition, we received comments from the Controller of the State of California and the Attorneys General of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island and West Virginia. These comments generally advocate that state governments, rather than the United States Treasury, are the appropriate recipients of any funds remaining after refunds to identifiable purchasers have been completed. It would be premature to establish second stage refund procedures at this time. Therefore, we will not adopt the states' suggestion at this time.

III. First-Stage Refund Procedures

A. Method for Calculating Refund Amounts

In the Proposed Decision, we proposed that refunds be calculated according to a volumetric method. Under this method, refunds would be computed by multiplying an applicant's total purchase volumes by a per gallon volumetric refund amount contained in the Appendices to this Decision. The volumetric refund amount was computed by dividing the consent amount for a particular service station by the number of gallons which that firm sold during the period covered by the consent order.[2] Successful claimants

[2] As we pointed out in footnote 1 above, the 48 consent orders in this case affect 51 gasoline service stations. To derive the consent order fund for CP Marketing Chevron Car Wash, which had two owners during the audit period, we added the amounts of the consent orders entered into with each owner. (Case Numbers HEF–0518 and HEF–0519). To determine the consent order fund for a single station whose owner entered into a consent order covering more than one service station, we divided the consent order amount equally among the owner's stations. (Case Numbers HEF–0514 and HEF–0540).

will receive refunds based on their eligible purchase volumes multiplied by the volumetric refund amount, plus accrued interest. However, we also recognize that the impact of a firm's pricing practices on an individual purchaser could have been greater. Any purchaser may file a refund application based on a claim that he suffered a disproportionate share of the overcharges. In this situation the purchaser will have the burden of demonstrating a larger than volumetric proportion of the alleged overcharges.

As in previous cases, we will establish a minimum refund amount of $15.00. We have found through our experience in prior refund cases that the cost of processing refund applications for less than that amount outweighs the benefits of distributing those refunds. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

B. Injury Requirement

In the Proposed Decision, we stated that persons claiming refunds must show that they were injured by the alleged pricing violations (e.g., that they did not pass the increased costs along to others). However, we proposed that customers who were ultimate consumers (end-users) of the motor gasoline purchased from the 48 retailers should be presumed to have been injured by the retailers' pricing practices and would only be required to submit documentation of purchase volumes to be eligible for a refund. *See* 10 CFR 205.282(e). In contrast, we proposed that resellers (e.g., car rental companies) who purchased gasoline from any of the 48 retailers, would be required to establish that they absorbed the alleged overcharges. Under the proposed procedures, resellers seeking refunds of up to $5,000.00 would not be required to document the extent of injury, and would be presumed to have incurred injury as a result of the alleged overcharges.

Our experience in prior refund proceedings has convinced us that it is not appropriate to require end-users to provide the same documentation of injury that we generally require of resellers. *See, e.g., Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984) (*Thornton*). Consumers of petroleum products generally fall into four categories: commercial end-users, regulated entities (e.g., public utilities), governmental agencies, and the general public (e.g., motorists). As we have stated recently, each of these categories of end-users should not be required to prove injury:

> Commercial end-users which use petroleum products to manufacture and provide other goods and services do not resell the petroleum products in the same form. Their fuel costs are only one indistinguishable component of their prices for goods and services. Furthermore, these commercial end-users of petroleum products were not under price controls during the consent order period and were not required to maintain records showing the petroleum product cost justification for their prices. In the past we have found that an anlaysis of the impact of the increased cost of petroleum products in the final prices of products and services sold outside the petroleum industry would be beyond the scope of DOE refund proceedings. *Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM*), and also that there is no practicable method for determining the extent to which individual end-users may have passed through any alleged overcharges to their own customers. *See Marion*, 12 DOE at 88,030, and cases cited therein. In the case of regulated entities we have stated that these types of end-users would not be required to demonstrate that they absorbed alleged overcharges on the grounds that they are generally required to pass on to their customers the benefits of any refund received. *See PVM*, 10 DOE at 88,387. With respect to governmental purchasers of petroleum products, we presumed that the taxpayers who would have been ultimately injured by the consent order firm's pricing practices would correspondingly benefit from a refund to the governmental body. In the case of individuals who purchase refined petroleum products for their own use (motoring, home heating), these ultimate consumers' inability to pass through any overcharges is obvious, since there are no down-stream purchasers from whom such a consumer could recover increased costs.

Thornton, 12 DOE at 88,330. In view of the foregoing, we have determined that end-users absorbed the full impact of any overcharges. Therefore, end-users will only need to document the specific quantities of motor gasoline they purchased from any of the 48 retailers during the consent order period.

We also recognize that the expensive and time consuming process of gathering the types of data needed to support a claim of injury may discourage many small claimants from filing refund applications. Failure to allow simplified application procedures for small claims could operate to deprive injured parties of the opportunity to obtain a refund. Therefore, we will adopt a presumption in this case, as we have in the past, that claimants seeking refunds up to $5,000.00 were injured by the alleged overcharges. *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984).

IV. First Stage Refund Application Procedures

We have determined that the first stage procedures described above are the best means of distributing the consent order funds obtained from the 48 gasoline retailers. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline during the consent order period from any of the 48 retailers listed in the Appendix.

Each application should include a statement detailing the applicant's motor gasoline purchases from one of the 48 retailers during the consent order period. Although the best forms of documentation are receipts showing the number of gallons purchased, we recognize that many customers may not have such receipts. If a customer has receipts but no gallonage is recorded on them, the customer can extrapolate purchase volumes by estimating per gallon prices. If the customer does not have receipts, the customer may submit an estimate of purchase volumes accompanied by an explanation of how the estimate was derived. This explanation should include any pertinent information which supports the application claim, e.g., the type and number of vehicles owned, the number of miles driven, the location of the retailers from which gasoline was purchased, etc.

All first stage applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the OHA. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential. 10 CFR 205.283(a). 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 the name and telephone number of a person whom this Office may contact for additional information concerning the application. If an applicant is claiming a refund based on purchases from more than one retailer, the applicant must file a separate application for each retailer. Each application should refer to the case number assigned to the particular retailer from which the applicant purchased gasoline. (*See* Appendices). Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585.

V. Second Stage Refunds

We will use second-stage refund procedures to distribute any money remaining after first-stage refund procedures are completed. However, we will not establish second-stage procedures at this time because such procedures will depend on the size of the fund remaining.

It Is Therefore Ordered That:

(1) First stage Applications for Refund may now be filed to claim a portion of the funds which the Department of Energy received pursuant to consent orders with the 48 California gasoline retailers listed in the Appendices.

(2) All first stage applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

(3) If second stage refund procedures become necessary, the DOE will determine appropriate second stage procedures and notify the public of these procedures.

Dated: March 27, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A.—CASES HEF-0509 THROUGH HEF-0556

City, state and ZIP	Street address	Business name	Case no.	Dollar refund per gallon
Almo, CA 94507	3177 Danville Blvd	Hal Abel's Chevron	HEF-0510	.015799
Concord, CA 94520	2484 Olivera Rd	Terry McGovern's Shell	HEF-0552	.028749
Danville, CA 94526	485 San Ramon Valley Rd	CP Marketing Chevron Car Wash	HEF-0518 & HEF-0519	.021402
Danville, CA 94526	530 San Ramon Valley Blvd	Walt's Danville Chevron, Inc	HEF-0555	.031749
Fairfax, CA 94930	1942 Sir FRancis Drake Blvd	Robert J. Heald Shell	HEF-0529	.005267
Fremont, CA 94538	5300 Mowry Ave	Mowry Chevron	HEF-0538	.026382
Half Moon Bay, CA 94019	375 Cabrillo Hwy	Ken's Chevron Service	HEF-0532	.037180
Hayward, CA 94544	26115 Hesperian Blvd	Bud's Exxon Service	HEF-0511	.039255
Jamestown, CA 95327	18151 Highwary 108	Chip's Chevron Service	HEF-0517	.029607
Labec, CA 93243	Star Route, Box 23	Grapevine Shell	HEF-0526	.029673
Labec, CA 93243	Int. Hwy 5 & Grapevine	Grapevine Texaco	HEF-0527	.020064
Livermore,, CA 94550	1253 Portola Ave	Steve's Exxon	HEF-0550	.015627
Menlo Park, CA 94025	125 Sharon Park Dr	Sharon Heights Shell	HEF-0545	.003891
Mill Valley, CA 94941	105 Tiburon Blvd	Don Skilling Chevron Service	HEF-0547	.034252
Milpitas, CA	1490 S. Park Victoria	Parktown Chevron	HEF-0541	.026687
Milpitas, CA 95035	12 N. Park Victoria	Jerry's Shell Service	HEF-0530	.023351
Milpitas, CA 95035	27 S. Park Victoria	Union Park Service	HEF-0553	.051905
Oakland, CA 94605	3101 98th Ave	Kim's Mobil	HEF-0533	.009720
Oakland, CA 94607	889 W. Grand Ave	A-1 Arco	HEF-0509	.024006
Oakland, CA 94607	10th and Webster	Ken Betts Towing Service	HEF-0514	.039755
Oakland, CA 94610	3500 Lakeshore Ave	Steve Horner Chevron Service	HEF-0549	.011661
Oakland, CA 94611	6550 Moraga Blvd	Montclair Chevron	HEF-0514	.024283
Oakland, CA 94607	609 Oak St	Bubble Machine	HEF-0514	.026178
Orinda, CA 94563	9 Orinda Way	Dietrich Orinda Shell	HEF-0522	.015456
Pacifica, CA 94044	Aura Vista & Palmetto	Pacific Manor Shell	HEF-0540	.003826
Pacifica, CA 94044	4475 Court Highway	Pacifica Shell	HEF-0540	.019862
Petaluma, CA 94952	5153 Old Redwood Hwy	Jim's Texaco Service	HEF-0531	.001531
Pinole, CA 94564	2695 Pinole Valley Rd	Pinole Valley Chevron	HEF-0514	.028198
Pinole, CA 94564	700 Tennent Ave	Ye Olde Pump House	HEF-0556	.033722
Pleasant Hill, CA	2252 Morello Ave	Suds Machine Chevron Car Wash	HEF-0551	.021488
Sacramento, CA 93454	8099 Folsom Blvd	Walt Freeman Chevron	HEF-0524	.018734
Sacramento, CA 95825	2105 Arden Way	Harv's Sacramento Car Wash	HEF-0528	.014304
Sacramento, CA 95827	3300 Bradshaw Rd	Jerry Bullard Chevron	HEF-0515	.034095
Salina, CA 94590	151 N. Kern	Paul Provost Chevron	HEF-0542	.014544
San Bruno, CA 94066	2901 Sneath Lane	George's Circle Service	HEF-0525	.013915
San Bruno, CA 94066	2101 San Bruno Ave	Shelter Creek Chevron	HEF-0546	.024065
San Francisco, CA 94123	377 6th St	Lazar Super Shell	HEF-0535	.015960
San Fmacisco, CA 94123	1790 Lombard St	Lombard Chevron Service	HEF-0536	.033818
San Francisco, CA 94123	2301 Lombard St	Marina Chevron Service Center	HEF-0537	.015558
San Jose, CA 95111	3151 Senter Rd	Ben Sosbee's Chevron Service	HEF-0512	.028092
San Jose, CA 95129	1699 Saratoga-Sunnyvale Rd	Lee Kreger's Chevron	HEF-0534	.026929
San Lorenzo, CA 94580	15526 Hesperian Blvd	Car Wash Services	HEF-0516	.025501
San Ramon, CA 94583	2735 Crow Canyon Rd	Crow Canyon Shell	HEF-0520	.011276
San Ramon, CA 94583	2747 Crow Canyon Rd	Nelson's Service Center, Inc	HEF-0539	.017601
Santa Cruz, CA 95060	805 Ocean St	Bob's Chevron Service	HEF-0513	.030766
Santa Maria, CA 93454	734 E. Main St	Doug Meyers Chevron Service	HEF-0523	.020372
Santa Maria, CA 93454	16111 S. Broadway	Santa Maria Chevron	HEF-0544	.033980
Santa Rosa, CA 95405	164 Calistoga Rd	St. Francis Texaco	HEF-0548	.010101
Vallejo, CA 94590	4375 Sonoma Blvd	Bill Pendergast & Son Chevron	HEF-0543	.057185
Vallejo, CA 94590	3288 Sonoma Blvd	Vale Vista Chevron	HEF-0554	.014194
Walnut Creek, CA94596	2900 N. Main St	Howard DeRoven Shell	HEF-0521	.021173

APPENDIX B

Case No.	Proprietor	Audit period	Consent order	Gallons sold	Per gallon refund amount
HEF-0509	Mantz, Edward G	8/1/79-7/31/80	$6,500	270,767	.024006
HEF-0510	Abel, Harold J	8/1/79-4/14/80	7,500	474,702	.015799
HEF-0511	Adams, Bud	8/1/79-11/13/79	6,163	157,001	.039255
HEF-0512	Sosbee, Ben	5/1/80-10/30/80	9,700	345,296	.028092
HEF-0513	DiCiana, Robert J	8-1-79-1/31/80	9,950	323,408	.030766
HEF-0514	Betts, Ken	8/1/79-6/25/80	24,500	616,281	.039755
HEF-0514	Betts, Ken	8/1/79-7/18/80	24,500	868,865	.028198
HEF-0514	Betts, Ken	8/1/79-6/26/80	24,500	1,008,949	.024283
HEF-0514	Betts, Ken	8/13/79-7/17/80	24,500	935,884	.026178
HEF-0515	Bullard, Jerry	8/1/79-8/21/80	30,000	879,886	.034095
HEF-0516	Brooke, Richard E	8/1/79-1/31/80	12,500	490,172	.025501
HEF-0517	Sooter, Cecil	8/1/79-1/6/81	18,700	631,607	.029607

APPENDIX B—Continued

Case No.	Proprietor	Audit period	Consent order	Gallons sold	Per gallon refund amount
HEF-0518 & 0519	Stuart, James & Vernco, Inc	9/20/79-5/31/80	12,100	565,342	.021403
HEF-0520	Krissovich, Andrew R	8/1/79-4/11/80	4,500	399,077	.011276
HEF-0521	DeRowen, Howard	12/15/79-6/10/80	5,400	255,039	.021173
HEF-0522	Dietrich, Bud	8/1/79-9/18/79	3,800	245,852	.015456
HEF-0523	Myers, Doug	8/1/79-4/24-80	6,000	294,521	.020372
HEF-0524	Freeman, Walter	5/1/80-9/30/80	5,458	291,240	.018734
HEF-0525	Cravines, George D	8/1/79-11/13/79	1,000	71,863	.013915
HEF-0526	Mynk, Robert	8/1/79-6/9/80	15,200	512,256	.029673
HEF-0527	Beagley, Steven	8/1/79-1/29-80	14,883	741,784	.020064
HEF-0528	Miller, Harvey M	8/1/79-7/31/80	4,000	279,644	.014304
HEF-0529	Gregory, Robert	7/1/80-11/30/80	1,000	189,872	.005267
HEF-0530	Anderson, Jerry	8/1/79-11/8/79	4,300	184,147	.023351
HEF-0531	Daniels, Jim	12/15/79-6/10/80	200	130,639	.001531
HEF-0532	Lord, Kenner G	8/1/79-11/8/79	11,000	295,859	.037180
HEF-0533	Kim, Young H	8/1/79-4/10/80	3,500	360,090	.009720
HEF-0534	Kreger, Lee	6/1/80-11/26/80	6,600	245,089	.026929
HEF-0535	Lazar, Sam	8/1/79-1/11/80	3,500	219,299	.015960
HEF-0536	Kim, Sun S	8/1/79-1/11/80	2,800	82,796	.033818
HEF-0537	Pietsch, Don	8/1/79-1/11/80	3,150	202,470	.015558
HEF-0538	Haavisto, Vincent J	12/15/79-5/21/80	17,500	663,329	.026362
HEF-0539	Nelson, William L	8/1/79-4/11/80	18,500	1,051,072	.017601
HEF-0540	Sossikian, Vacane	8/1/79-11/13/79	2,550	128,389	.019862
HEF-0540	Sossikian, Vacane	8/1/79-3/31/80	2,550	666,495	.003826
HEF-0541	Bushman, Gerald	8/1/79-9/26/80	36,000	1,348,996	.026687
HEF-0542	Provost, Paul	8/1/79-1/30/80	4,700	323,164	.014544
HEF-0543	Pendergast, Bill	8/1/79-1/30/80	9,450	165,254	.057185
HEF-0544	Agergaard, Jens	8/1/79-4/25/80	9,700	285,463	.033980
HEF-0545	Oyster, Robert	8/1/79-11/8/79	1,112	285,811	.003891
HEF-0546	Tuite, Bud	8/1/79-11/13/79	7,800	323,851	.024085
HEF-0547	Skilling, Don	8/1/79-11/13/79	16,200	472,966	.034252
HEF-0548	Donahoe, Carl	4/1/80-9/30/80	750	74,252	.010101
HEF-0549	Horner, Steve	8/1/79-10/19/79	3,450	295,859	.011661
HEF-0550	Asman, Steve	8/1/79-11/13/79	2,000	127,982	.015627
HEF-0551	Campbell, James	8/1/79-6/10/80	24,000	1,116,899	.021488
HEF-0552	McGovern, Terry	12/15/79-7/7/80	6,293	218,864	.028749
HEF-0553	Neiman, Edward	8/1/79-11/8/79	9,300	179,174	.051905
HEF-0554	Terrassas, Frank	8/1/79-1/30/80	2,500	176,128	.014194
HEF-0555	Macor, Walter	12/1/79-5/22/80	8,240	259,532	.031749
HEF-0556	Toiretta, Al	8/1/79-12/7/79	9,100	269,853	.033722

[FR Doc. 85-8389 Filed 4-5-85; 8:45 am]

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Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a consent order fund of $5,577.96 to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving Crystal Petroleum of Corpus Christi, Texas. (Case Number HEF-0059).

DATE AND ADDRESS: Comments must be filed on or before May 8, 1985 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. All comments should conspicuously display a reference to the above case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Crystal Petroleum (Crystal) of Corpus Christi, Texas. The consent order involves a particular audit period and a distinct consent order fund as set forth in the Proposed Decision. The consent order settled possible pricing violations in Crystal's sales of refined petroleum products to customers during the period June 13, 1973 through March 31, 1980.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow account funded by Crystal pursuant to the consent order. The DOE has tentatively decided that the consent order fund should be distributed to those customers of Crystal who establish that they were injured by Crystal's alleged overcharges. Such customers will receive refunds proportionate to the volume of petroleum products they purchased from Crystal. However, Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in the proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, D.C. 20585.

Dated: March 28, 1985.

George B. Breznay,

Director Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Crystal Petroleum.
Date of Filing: October 13, 1983.
Case Number: HEF–0059.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged or adjudicated violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983, requesting that the OHA implement a proceeding to distribute the funds received pursuant to a Consent Order entered into by the DOE and Crystal Petroleum (Crystal) of Corpus Christi, Texas.

I. Background

Crystal is a "reseller-retailer" of "refined petroleum products," as these terms were defined in 10 CFR 212.31. An ERA audit of Crystal's operations during the period June 13, 1973 through March 31, 1980 (the audit period) revealed possible violations of the price regulations promulgated under the Economic Stabilization Act of 1970 and of the Mandatory Petroleum Price Regulations. In order to settle all claims and disputes between Crystal and the DOE regarding sales of motor gasoline and No. 2 diesel fuel during the audit period, the firm entered into a Consent Order with the DOE on September 29, 1981. Under the terms of the Consent Order, the firm agreed to refund $98,603.33 directly to its end-user customers by cash payments or credit memoranda and $4,998.01 to the DOE for deposit in an interest-bearing escrow account pending distribution by the DOE. The Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. In addition, the Consent Order states that Crystal does not admit that it committed any such violations.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured by alleged or adjudicated violations, or unable to ascertain the amounts of such persons' injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). After reviewing the record in the present case, we have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Crystal consent order fund. We therefore propose to grant the ERA's petition and assume jurisdiction over distribution of the fund.

III. Proposed Refund Procedures

Insofar as possible, the consent order fund should be distributed to those customers who were injured by Crystal's alleged price violations. We therefore propose to establish a claims procedure in which we will accept applications for refund from customers who can demonstrate that they were injured as a result of any overcharges made by Crystal during the consent order period.[1] Since the end-user customers who were injured by Crystal's alleged overcharges were to receive direct refunds from Crystal under the terms of the Consent Order, we believe that all of the customers who will be eligible for refunds in the present proceeding are petroleum product resellers, i.e., retailers and wholesalers.

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges on which the Consent Order fund is based were dispersed equally in all of Crystal's sales of motor gasoline and No. 2 diesel fuel to resellers during the Consent Order period. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumetric refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser will therefore be allowed to file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon and Gasoline Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

In the present case, although the ERA's audit records identify some resellers who purchased motor gasoline or No. 2 diesel fuel from Crystal, it is impossible from those records to identify all of Crystal's reseller customers. Moreover, the audit records do not list any alleged overcharge amounts by customer. Consequently, the available information in this case is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. We therefore propose to use the volumetirc method to allocate the consent order fund. To determine the volumetric factor, the escrowed consent order funds ($5,577.96) will be divided by the estimated total volume of motor gasoline and No. 2 diesel fuel sold by Crystal to resellers during the audit period (6,955,444 gallons), resulting in a per gallon refund amount of $0.0008020.[2]

[1] In the present case, the consent order period is coterminous with the audit period (June 13, 1973 through Mar. 31, 1980).

[2] Although the Consent Order required Crystal to pay $4,998.01 to the DOE, Crystal paid a total of $5,577.96 to the DOE escrow account as a result of interest which had accrued on that amount prior to payment. The volumetric factor has been calculated based on this figure. In addition, since the ERA audit files do not list the volumes of motor gasoline and No. 2 diesel fuel sold by Crystal to resellers during the entire consent order period, we have

Continued

The interest which has accrued on the money in the escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

The second presumption we propose to establish involves small claims made by resellers. In general, resellers who file refund claims in Subpart V proceedings are required to demonstrate that they absorbed the alleged overcharges. *See, e.g., Vickers.* While there are a variety of ways to make this showing, they must generally demonstrate that at the time they purchased petroleum products from a consent order firm, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. *Vickers Energy Corp./ Standard Oil Co. (Indiana),* 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./ Koch Industries, Inc.,* 10 DOE ¶ 85,038 (1982). However, in this case, as in prior refund proceedings, we will adopt a presumption that reseller claimants seeking smaller refunds were injured by the pricing practices settled in the Consent Order. *See, e.g., Uban Oil Co.,* 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions for small claims is also desirable from an administrative standpoint because it allows the OHA to process a large number of refund claims quickly and use its limited resources more efficiently. Finally, we know that these smaller claimants purchased covered petroleum products from Crystal and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The small claims presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the small claims presumption we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below $5,000.[3] *See Marion Corp.,* 12 DOE ¶ 85,014 (1984). Since the entire consent order amount to be distributed in the present proceeding is only slightly more than $5,000, we find it extremely likely that all reseller claimants will fail within the threshold level.

We further proposed to establish a minimum amount of $15 for refund 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 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).

Refund applications in this proceeding should not be filed until issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim. We will publish copies of the proposed and final Decisions in the **Federal Register.** If appropriate, we also intend to publicize this proceeding in local newspapers in the areas wher Crystal conducted business.

In the event that money remains after all first stage claims have been disposed of, these funds could be distributed in various ways. We will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Crystal Petroleum pursuant to a Consent Order executed on September 29, 1981 will be distributed in accordance with the foregoing Decision.

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BILLING CODE 6450-01-M

calculated the total sales volume figure by extrapolating sales figures from the available audit data.

[3] We also propose that resellers who made only spot purchases from Crystal be presumed to have suffered no injury. They would therefore be ineligible for any refund, even a refund below the threshold level. As we have previously stated with respect to spot purchasers:

[T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased price unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396-97. *See Office of Special Counsel,* 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise considerable discretion as to where and when they made the purchase(s) on which their refund claims are based.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $14,450.18 (plus accrued interest) obtained as the result of Consent Orders which the DOE entered into with J.E. DeWitt, Inc. (DeWitt) of South El Monte, California, and Hines Oil Company (Hines) of Murphysboro, Illinois. The funds will be available to customers who purchased motor gasoline from DeWitt or Hines during the relevant consent order period.

DATE AND ADDRESS: Applications for refund must be postmarked on or before July 8, 1985 and should be addressed to either DeWitt Consent Order Refund Proceeding (Case No. HEF-0062) or Hines Consent Order Refund Proceeding (Case No. HEF-0092), Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C 20585. All applications should conspicuously display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 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 relates to Consent Orders entered into by J.E. DeWitt, Inc. (DeWitt) of South El Monte, California and Hines Oil Company (Hines) of Murphysboro, Illinois. The Consent Orders settled possible pricing and allocation violations with respect to sales of motor gasoline by DeWitt and Hines during the relevant consent order periods. Under the terms of the Consent Orders, $13,450.18 has been remitted to the DOE

by DeWitt, and $1,000.00 has been remitted to the DOE by Hines. These funds are being held in interest-bearing escrow accounts pending determination of their proper distribution.

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 two consent order funds. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on January 10, 1985. 50 FR 4782 (February 1, 1985).

As the Decision and Order indicates, applications for refunds from the consent order 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 motor gasoline from DeWitt during the period May 1, 1979 through July 31, 1979, or from Hines during the period March 1, 1979 through July 31, 1979. The specific information required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: March 27, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Names of Firms: J.E. DeWitt, Inc.; and Hines Oil Company.

Date of Filing: October 13, 1983.

Case Numbers: HEF-0062; and HEF-0092

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to Consent Orders entered into by the DOE and the following parties: J.E. DeWitt, Inc. (DeWitt) of South El Monte, California and Hines Oil Company (Hines) of Murphysboro, Illinois (hereinafter collectively referred to as the consent order firms).

I. Background

Each of the consent order firms is a "reseller-retailer" of motor gasoline, as this term was defined in 10 CFR 212.31. ERA audits of the consent order firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of refined petroleum products. Each Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. In addition, each Consent Order states that the consent order firm does not admit that it committed such violations.

Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability regarding sales to their respective customers during the consent order periods. The firms' payments are currently being held by the DOE in separate interest-bearing escrow accounts pending distribution by the DOE. The names and locations of the firms, the settlement amounts, the products covered by the Consent Orders, and the dates of the consent order periods are set forth in Appendix A to this Decision and Order.

On January 10, 1985, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order funds. 50 FR 4782 (February 1, 1985). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of any overcharges made by one of the consent order firms during the relevant consent order period.

A copy of the PD&O was published in the **Federal Register** on February 1, 1985, and comments were solicited regarding the proposed refund procedures. While none of the consent order firms' customers filed comments on the proposed procedures, comments were filed on behalf of the State of California. These comments, however, discuss the distribution of any residual funds that might remain after refunds have been made to first stage claimants. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceedings. This Decision sets forth the information that a purchaser of petroleum products from one of the consent order firms should submit in an Application for Refund in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement,* 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by California's comments concerning the disposition of any funds remaining after all the meritorious first stage claims have been paid. Since we have received no other comments regarding the issues raised in the PD&O, we will adopt the proposed refund procedures.

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured by alleged or adjudicated violations, or unable to ascertain the amount of such person's injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982); *Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding as an appropriate mechanism for distributing the two consent order funds. We will therefore grant the ERA's petition and assume jurisdiction over the distribution of these funds.

III. Determination of Injury and Refund Amounts

As proposed in the PD&O, reseller claimants will be required to demonstrate that they did not pass on to their customers the price increases implemented by one of the consent order firms. *See, e.g., Vickers.* Accordingly, in order to qualify for a refund, resellers of refined petroleum products purchased from one of the consent order firms must show that

during the consent order period market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers must show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices.[1] As we noted in the PD&O, however, the maintenance of a bank will not, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

We will also adopt certain presumptions proposed in the PS&O which have been used in many prior refund cases. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of motor gasoline made by the consent order firms during the relevant consent order periods. The OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we will adopt in this case are used to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The volumetric refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.[2]

In the PD&O, we stated that the information available in the ERA audit files is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. In the case of DeWitt, the ERA audit files do not identify any customers who purchased motor gasoline from DeWitt during the consent order period. In the case of Hines, the ERA audit files identify a number of customers who purchased motor gasoline directly from Hines during the audit period (*see* Appendix B), but do not set forth any specific alleged overcharge amounts for these customers. Accordingly, we will use the volumetric method to allocate the consent order funds. The volumetric refund amounts, determined by dividing each consent order fund by the estimated total volume of petroleum products sold by the consent order firm during the relevant consent order period, are set forth in Appendix A. In each case, a successful applicant will receive a volumetric refund amount for each gallon of motor gasoline which it purchased from the consent order firm.[3] The interest which has accrued on the money in each escrow account will be added to the refund of each successful applicant in proportion to the size of its refund.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in each Consent Order is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expenses involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost to the firm of gathering this factual information and the cost to the OHA of analyzing it may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows the OHA to process a large number of refund claims quickly, and use its limited resources more efficiently. Finally, we know that these smaller claimants did purchase motor gasoline from one of the consent order firms and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level.[4] Previous OHA refund decisions

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[1] Some of the motor gasoline sales covered by the Consent Orders occurred subsequent to the amendment of the retailer price rule that eliminated the bank requirement for motor gasoline retailers. *See* 10 CFR 212.93(a)(2), 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly, retailers will not be required to submit bank information concerning any purchases of motor gasoline they may have made after July 15, 1979.

[2] We recognize, however, that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser is allowed to file a refund application based on a claim that it suffered a disproportionate injury as a result of the pricing practices of one of the consent order firms during the relevant audit period. A refund application for an amount greater than that calculated using the volumetric presumption must document the disproportionate impact of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶85,073 at 88,233–34 (1984).

[3] The Hines Consent Order required Hines to refund $6,897.69 to its end-user (consumer) customers through price rollbacks. The monies to be paid to the DOE by Hines were designated for distribution to resellers. Accordingly, we have based the volumetric refund level for Hines solely on Hines' sales volumes to resellers, which we have extrapolated from total sales volumes shown in the ERA audit files. In view of the elimination of motor gasoline price controls less than a month after the Hines Consent Order was executed, it is unlikely that Hines' end-user customers received significant refunds through the price rollbacks provided for in the Consent Order. We are therefore permitting end-users to apply for refunds in this proceeding. We will not, however, make any adjustments to the per gallon volumetric level, since we expect that few, if any, end-users will be eligible for refunds. (*see* footnote 6).

[4] Resellers who made only spot purchases from one of the consent order firms will be presumed to have suffered no injury. Accordingly, they will be ineligible for any refund, even a refund at or below the threshold level. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimants who were spot purchasers must submit additional evidence to establish that they were unable to exercise considerable discretion as to where and when they made the purchase(s) on which their refund claims are based.

have expressed the threshold either in terms of a ceiling on purchases from the consent order firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. As proposed in the PD&O, the same approach will be followed in this case. The adoption of a threshold level below which a claimant is not required to submit any further evidence of injury beyond volumes purchased is based on several factors. As noted above, we are especially concerned that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In the present case, where the volumetric refund amounts are fairly low, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable.[5] *See id.; Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the Consent Orders. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein. We have therefore concluded that end-users of motor gasoline purchased from one of the consent order firms need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges.

We shall also adopt our proposal to establish a minimum amount of $15 for refund claims.[6] 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 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).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the two consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased motor gasoline from one of the consent order firms during the relevant consent order period.

In order to receive a refund, each applicant will be required to report the monthly volume of motor gasoline purchased from one of the consent order firms for which it is claiming a refund. The applicant must also state how it used the motor gasoline, i.e., whether it was a reseller or an ultimate consumer. Retailers and resellers who request refunds in excess of the $5,000 threshold amount must submit evidence to establish that they did not pass on the alleged overcharges to their customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the relevant audit period and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE enforcement proceedings. If these proceedings have terminated, the applicant should furnish a copy of the final order issued in the matter and indicate the status of any remedial action required by the order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. *See* 10 CFR 205.9(d).

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. Each application must be in writing, signed by the applicant, and specify that it pertains to either the DeWitt Consent Order Fund, Case No. HEF-0062 or the Hines Consent Order Fund, Case No. HEF-0092. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. 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 and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from funds remitted to the Department of Energy by the consent order firms listed in Appendix A to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: March 27, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[5] In the case of Hines, the entire consent order amount is less than $5,000. We will therefore presume that all reseller customers of Hines gasoline during the consent order period were injured by the pricing practices settled in the Hines Consent Order. Accordingly, these customers will not be required to submit additional evidence of injury beyond purchase volumes in order to qualify for a refund. In the case of DeWitt, any reseller whose potential refund exceeds the threshold level may elect to apply for a refund based on the threshold amount.

[6] Under the volumetric refund level set forth in Appendix A, a customer of Hines gasoline would have to have purchased more than 6,000 gallons of motor gasoline during the Hines consent order period in order to be eligible for a refund above the $15 minimum refund amount. It is therefore unlikely that any end-user will be eligible for a refund. However, any end-user who purchased more than 6,000 gallons of Hines gasoline during the House consent order period may apply for a refund.

APPENDIX A

Name of firm	Consent order period	Consent order amount	Product covered	Volumetric amount
J.E. Dewitt, Inc., P.O. Box 3867, South El Monte, CA 91733	May 1, 1979 to July 31, 1979	$13,450.18	Motor gasoline	$0.001414
Hines Oil Co., 207 23d St., Murphysboro, IL 62966	May 19, 1979 to July 31, 1979	$1,000.00	Operation by periods	0.002467

Appendix B.—List of Customers

DeWitt Oil, Inc.

No identified customers

Hines Oil Company

Hill's Sunoco, Walnut Street, Murphysboro, IL 62966
Kincaid Boat & Motor, Walnut Street, Murphysboro, IL 62966
Kincaid Village Marina, Linkaid Lake, Murphysboro, IL 62966
Interstate Shell,[1] Interstate 57 & Youngs Street Exit, Marion, IL 62959
Mark-Jerry's Sunoco, [1] Route 51, Tamaroa, IL 62888
Rod's-Stern's S.S., Route 51, Elkville, IL 62932
Royal's Sunoco, Route 149, Royalton, IL 62983
Ted Brown's S.S., Route 149, Hurst, IL 62949
Vergennes Petroleum, Route 13 & 127, Vergennes, IL 62994
West End Sunoco, Route 51, Dubois, IL 62831
Westown Shell, Route 13, Carbondale, IL 62901
White's Sunoco, 127 South, Murphysboro, IL 62966
Wright Tire S.S., 14 Street, Murphysboro, IL 62966

[FR Doc. 85-8386 Filed 4-5-85; 8:45 am]
BILLING CODE 6450-01-M

Southeastern Power Administration

Proposed Rate Adjustment, Public Forum, and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate adjustment for Georgia-Alabama System of Projects, notice of public forum and opportunity for review and comment.

SUMMARY: Southeastern proposes to revise existing schedules of rates and charges applicable to the sale of power from the Georgia-Alabama System of Projects effective for a five-year period, October 1, 1985, through September 30, 1990.

Opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a forum and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before July 9, 1985. A public information and comment forum will be held in East Point, Georgia, on May 16, 1985. Persons desiring to speak at the forum should notify Southeastern at least 3 days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public information and comment forum for the Georgia-Alabama System of Projects will begin at 10 a.m. on May 16, 1985, in the Hartsfield Conference Room at the Holiday Inn, North Atlanta Airport, 1380 Virginia Avenue, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Director, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC) by order issued December 17, 1984, in Docket No. EF84-3011, confirmed and approved Wholesale Power Rate Schedules GAMF-1-D, GAMF-2-D, ALA-1-D, MISS-1-D, SC-1-D, SC-2-D, CAR-1-E, and CAR-2-D applicable to Georgia-Alabama System of Projects' power for a period ending September 30, 1985.

Southeastern is proposing to establish long-term rates which adhere to the principles contained in the negotiated contracts that implement the written power marketing policy for the Georgia-Alabama System of Projects which was issued October 1, 1980, 45 FR 65140.

Discussion

Existing rate schedules are predicated upon a June 1984 repayment study and other supporting data all of which are contained in FERC Docket No. EF84-3011. The current repayment study prepared in March of 1985 shows that existing rates are not adequate to recover all costs required by present repayment criteria.

A revised repayment study with revenue increases varying from $16,230,000 in FY 1986 to $41,559,000 in FY 1990 and future years over the current repayment study demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to revise existing rates so as to recover these additional increases which average $26,444,000 for the 5-year evaluation period. The increase is primarily due to escalated costs at the generating projects, the inclusion of the conventional units of the Richard B. Russell Project, and increased wheeling costs. The overall increase in rates averages 44 percent. Southeastern is proposing to establish a capacity charge and an energy charge which collectively recover the costs at the generating projects, a transmission charge which passes the transmission costs directly to affected customers, and an integration charge which spreads the cost of tandem transmission over all of the preference customers. It is proposed that revised rate schedules applicable to customers purchasing power from the Georgia-Alabama System of Projects contain the following unit rates:

PROPOSED UNIT RATES

(Capacity charge per kilowatt per month)

Preference Customers in:	
—Duke area	$1.94
—South Carolina Electric and Gas Area (this rate may be adjusted for reserves or losses if necessary)	1.59
—Southern Company area for the period:	
Oct. 1985 through May 1988	1.59
June 1988 through Sept. 1990	1.74
—Alabama Electric Cooperative, South Mississippi Electric Power Agency and South Carolina Public Service Authority	1.59
—South Carolina Public Service Authority area	1.66
Investor owned utilities	1.59
Energy charge mills/kWh	4.66
Integration charge per kilowatt per month	.22

[1] Copies of the PD&O were sent to these firms at the above addresses, but were returned to this Office unclaimed. Accordingly, we will not send copies of the final Decision and Order to these firms, but they may still submit an application for refund in the present proceeding.

TRANSMISSION CHARGES

	Sept. 1985 through May 1986	June 1986 through May 1987	June 1987 through May 1988	June 1988 through May 1989
Preference Customers in:				
Georgia Power Co. area	$0.50	$0.79	$1.00	$1.33
Alabama Power Co. area	.29	.46	.58	.78
Mississippi Power Co. area	.19	.29	.37	.49
Gulf Power Co. area	.36	.56	.72	.95
SMEPA	.14	.23	.31	.42

Transmission rates for the Georgia Power, Alabama Power, Mississippi Power, Gulf Power areas and SMEPA for the period June 1989 through September 1990 will be the "cost of service" charge that the wheeling utility charges SEPA, less $.11 per kilowatt for use of facilities revenues from the Southern Companies.

Transmission rates for the other preference customers in the South Carolina Public Service Authority area, and for the preference customers in the Duke area and the South Carolina Electric and Gas area will be the "cost of service" charge that the wheeling utility charges SEPA. These rates will be subject to revision periodically and will be passed directly to the preference customer at the time that the utility increases the charge to SEPA.

The referenced March 1985 current repayment study along with a revised repayment study dated March 1985 and previous system repayment studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635. Proposed Rate Schedules GA-1-A, GA-2-A, ALA-3-A, MISS-2-A, GU-1-A, GAMF-2-E, ALA-1-E, MISS-1-E, SC-1-E, SC-2-E, CAR-1-F, and SCE-1-A are also available.

Issued at Elberton, Georgia, March 28, 1985.

Kenelm E. Rucker,

Acting Administrator.

[FR Doc. 85-8313 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Mead-Northwest Intertie; Discussion on Study Report Entitled Completing the Intertie; Correction

AGENCY: Western Area Power Administration, DOE.

ACTION: Correction to date of public information forum on Spring Canyon Pumped Storage Project, mentioned in 50 FR 12619, March 29, 1985 (FR Doc. 85-7487).

SUMMARY: In the referenced **Federal Register** notice, reference was made to a public information forum to be held by the Bureau of Reclamation and the Western Area Power Administration on the transmission and marketing of the Bureau's Spring Canyon Pumped Storage Project. In the third column, second paragraph, fourth line, change "April 15, 1985" to "April 23, 1985."

Further information about that forum can be found in the **Federal Register** of March 29, 1985 (50 FR 12622).

Issued in Washington, D.C., April 1, 1985.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 85-8392 Filed 4-5-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-2-FRI-2813-7]

Draft General NPDES Permit for Individual Dischargers into La Parguera Bay, PR

AGENCY: Environmental Protection Agency.

ACTION: Notice of Draft General NPDES Permit.

SUMMARY: The Regional Administrator of Region II is today giving Notice of a Draft General NPDES Permit for certain dischargers of domestic waste into La Parguera Bay in Lajas, Puerto Rico.

Activities covered by a draft general permit involves similar types of operations which discharge the same types of wastes and require the same discharge (effluent) limitations and monitoring requirements. In the La Parguera area of Puerto Rico, Region II, there are currently over 175 private dwellings discharging untreated wastewater without an NPDES permit.

For these reasons, Region II believes that discharges from these activities are more appropriately controlled under a general permit than under individual permits. To obtain approval to discharge under this general permit Region II is requiring owner/operators to submit an NPDES permit application or a notice of intent to be covered.

DATES: Public comments on this general permit may be sent to the address below no later than May 23, 1985. During this time, any interested person may request a public hearing on the draft general permit. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

ADDRESS: Public comments and hearing requests, if any, should be sent to: Dr. Richard A. Baker, Chief, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: For further information and copies of the draft general permit and fact sheets contact: Mr. Weems L. Clevenger, Director, Caribbean Field Office, U.S. Environmental Protection Agency, P.O. Box 792, San Juan, Puerto Rico 00902-0792, or by telephone at, (809) 725-7825.

The fact sheet sets forth the principal facts and the significant factual, legal, and policy questions considered in the development of the draft general permit. A copy of the proposed permit is reprinted as required in this Notice.

FACT SHEET

I. Background Information

A. General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. Although such permits to date have generally been issued to individual dischargers, EPA's regulations authorize the issuance of "general permits" to categories of discharges. See 40 CFR 122.59 (45 FR 33447, May 19, 1980). EPA may issue a single general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollutant control measures.

The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same type of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Regional Administrator, are more appropriately controlled under a general permit than under individual permits.

Violation of a condition of a general permit constitutes a violation of the Clean Water Act and subjects the discharger to the penalties specified in section 309 of the Act.

Any onwer or operator authorized by a general permit may be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting an NPDES permit application, together with reasons supporting the request, no later than 90 days after publication by EPA of the final general permit in the Federal Register. The Regional Administrator may require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Regional Administrator to take this action. However, individual permits will not be issued for direct dischargers into La Parguera Bay covered by a general permit unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Regional Administrator may consider the issuance of individual permits when:

1. The discharge(s) is a significant contributor of pollutants;
2. The discharge(s) is not in compliance with the terms and conditions of the general permit;
3. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
4. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general permit;
5. A Water Quality Management plan containing requirements applicable to such point sources is approved; or
6. The requirements listed in the previous paragraphs are not met.

B. General Permit Covering Individual Homes

In the La Parguera area of Puerto Rico there are currently approximately 175 dwellings built along the shore discharging untreated wastewater without an NPDES permit. The large number of existing unpermitted dischargers into La Parguera Bay with similar effluent characteristics has prompted EPA to prepare this draft general permit for public review and comment. When issued, this permit will enable those facilities to maintain compliance with the Act and will extend environmental and regulatory controls to a larger number of dischargers. This permit does not allow discharges into the bioluminescent bays adjacent to the La Parguera Bay. The discharge limitations in this permit are mandated by approved Commonwealth Water Quality Standards. La Parguera Bay has been designated as SB waters.

II. Nature and Effect of Discharge

This permit will not allow any discharge which would violate State Water Quality Standards. Section 309(a)(5)(A) Administrative Orders will be issued to individual dischargers which will include a schedule for ceasing discharge or providing treatment and complying with the permit within one year of issuance.

Presently, the "Casetas" ("Casetas" are defined as the homes along the shore of La Parguera Bay) discharge untreated domestic wastewater. Depending whether the discharge is "grey water" (i.e., bath, shower and galley waste) or black water (i.e., sanitary waste) the BOD_5, total suspended solids and settleable solids would range from very low to relatively high.

III. Ocean Discharge Criteria

Section 403 of the Act requires that an NPDES permit for a discharge into ocean waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The final 403(c) Ocean Discharge Criteria guidelines published on October 3, 1980, set forth specific criteria for a determination of unreasonable degradation that must be addressed prior to the issuance of an NPDES permit.

The Regional Administrator has determined that the discharges authorized by this permit will not cause unreasonble degradation of the marine environment. The majority of the discharges are inside the baseline of the territorial sea and are therefore not subject to section 403(c) review. Those discharges outside of the baseline meeting the terms and conditions of this permit will meet Commonwealth water quality standards, therefore, these discharges will not cause unreasonable degradation of the marine environment.

IV. Environmental Fate and Effects

The discharge of untreated domestic waste results in increased suspended solids, turbidity, settleable solids, floating solids, oil and grease which is presently causing local water quality deterioration and may also have adverse impact on the neighboring bioluminescent bay. In order to comply with local water quality standards the current untreated discharges must cease.

V. Conditions in the General Permit

Facilities which are not covered by either a general permit or an individual permit are not authorized to discharge into navigable waters, and enforcement action may ensue for discharging without an NPDES permit under the Clean Water Act.

A. Geographic Area

The proposed general permit will authorize discharges from Casetas within the area defined on page 1 of the permit to the "waters of the United States" as defined at 40 CFR 122.2.

B. Request To Be Covered by General Permit

Owners or operators of Casetas located in the permit area must make a written request to the Regional Administrator for authorization to discharge under the general permit. Unless otherwise notified in writing by the Regional Administrator within 45 days after submission of their request, these owners or operators will be authorized to discharge under the general permit.

Owners or operators of existing Casetas must submit their written request within 45 days of issuance of the final general permit. Those owners or operators which have already submitted an NPDES permit application will be covered under the general permit and therefore need not submit a written request. Facilities constructed after the effective date of the permit will not be covered under the general permit. Facilities constructed after the effective date of the general permit must apply for an individual NPDES permit. All requests shall include the name and legal address of the owner or operator, the name and location of the Caseta and a description of sewage disposal method proposed to be used.

C. Effluent Limitations and Best Management Practices

All permits issued or effective after July 1, 1984, are required by section 301(b)(2) of the Act to contain effluent limitations representing Best Conventional Pollutant Control Technology (BCT) for all categories and classes of point sources. BCT effluent limits apply to conventional pollutants (pH, BOD, oil and grease, suspended solids, and fecal coliform). Permits effective or issued after July 1, 1984, are also required to contain effluent limitations which control toxic (40 CFR 401.15) pollutants to the level achievable by means of the Best Available Technology Economically Achievable (BAT).

D. Monitoring and Reporting Requirements

The general permit will require annual monitoring of the discharge when the Caseta is in use. Discharge Monitoring reports are due on January 15 of each year. A report notifying EPA of the method used to comply with the permit is due 45 days after the effective date of the permit.

VI. Other Legal Requirements

A. State Certification

Under section 401(a)(1) of the Act, EPA may not issue an NPDES permit until the state in which the discharge will originate grants or waives certification to ensure compliance with appropriate requirements of the Act and State law, including water quality standards.

B. Water Quality Standards

Section 301(b)(1)(c) of the Act requires that NPDES permits contain limitations necessary to ensure compliance with water quality standards established pursuant to State law or regulations, or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. This proposed general permit contains effluent limitations which, in EPA's opinion, meet the requirement of section 301(b)(1)(c) including the water quality standards of the Commonwealth of Puerto Rico.

The Puerto Rico Environmental Quality Board (EQB) has determined that most if not all of the discharges covered by this general permit are Class SB waters. Although the EQB has declined to provide a water quality certificate for this general permit the effluent limitations included in the general permit are identical to effluent limitations for other permits for discharge to Class SB waters. These effluent limitations are consistent with Article 2 of EQB's recently revised water quality standards.

C. Endangered Species

The Endangered Species Act (ESA) requires that each Federal Agency shall ensure that any of its actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modifications of their habitat.

Based on available information on endangered species to be found in the geographic area of this permit, including environmental impact statements for other activities in the area, EPA has determined that this action will not endanger the species involved, nor result in destruction of their habitats. The following rare and endangered species are known to occur in La Parguera: the West Indian Manatee, the hawksbill sea turtle, the leatherback sea turtle and the brown pelican.

EPA is requesting comments from the National Marine Fisheries Service and the U.S. Fish and Wildlife Service and will consider all comments received in making the final permit decision. EPA will initiate consultation should new information reveal impacts not previously considered, should the activities be modified in a manner beyond the scope of the original consultations, or should the activities affect a newly listed endangered species.

D. Coastal Zone Management

The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally licensed or permitted activity affecting the coastal zone of a State with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with that CZMP (section 307(c)(3)(A) Subpart D).

EPA has determined that the activities authorized by this general NPDES permit are consistent with the Puerto Rico Coastal Zone Management Plan. The proposed permit and consistency certification will be submitted to the Commonwealth of Puerto Rico for review at the time of public notice issuance. The requirements for State Coastal Zone Management review and approval must be satisfied before this general permit may be issued.

E. The Marine Protection, Research, and Sanctuaries Act

The Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972 regulates the dumping of all types of materials into ocean waters and establishes a permit program for ocean dumping. The discharges authorized by this permit are Clean Water Act section 402 point source discharges, not discharges covered by the MPRSA. In addition, the MPRSA establishes the Marine Sanctuaries Program implemented by the National Oceanic and Atmospheric Administration (NOAA), which requires NOAA to designate ocean waters as marine sanctuaries for the purpose of preserving or restoring their conservation, recreational, ecological, or aesthetic values.

The Agency has contacted the appropriate NOAA office and has been informed that the proposed permit area is an active candidate for marine sanctuary designation. EPA has determined that the activities authorized by this general NPDES permit are consistent with NOAA regulations concerning marine sanctuaries. NOAA has indicated to EPA that as long as the permit is consistent with state water quality standards it has no objections to the issuance of the permit.

F. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general NPDES permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. The information collection and notification requirements of this permit have already been approved by the Office of Management and Budget under submissions made for the NPDES permit program under provisions of the Act. The final general NPDES permit determination will include a response to any OMB or public comments on information collection requirements in the permit.

The final general NPDES permit determination will include a response to any OMB or public comments on information collection requirements in the permit.

G. Executive Order 12291

The Office of Management and Budget (OMB) has exempted this action from the review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

H. Regulatory Flexibility Act

The general permit is for private dwellings. The private dwellings are not small entities under the Small Business regulations for the purpose of the Regulatory Flexibility Act. Therefore, the provisions of that Act do not apply to this permit.

Dated: March 8, 1985.

Christopher J. Daggett,

Regional Administrator, U.S. Environmental Protection Agency Region II.

[FR Doc. 85-8332 Filed 4-5-85; 8:45 am]

BILLING CODE 6560-50-M

[OSWER-FRL-2813-8]

Supplemental Procedures for Establishing Start Dates of Comment Period for Superfund Activities Subject to Executive Order 12372

On December 6, 1983, EPA published a notice (48 FR 54692) stating that documents to be reviewed under the intergovernmental review process for activities under the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (CERCLA) would differ from those reviewed for other EPA programs. EPA identified the major activities under the CERCLA program that were to be subject to those procedures. The activities identified were Remedial Investigation/Feasibility Study (RI/FS), and Remedial Design/Remedial Action (RD/RA). This notice advises affected parties that EPA is adding Preliminary Assessments (PAs) and Site Inspections (SIs) to the list of activities subject to the procedures. This notice also identifies the documents to be reviewed under the intergovernmental review process for PA and SI activities.

The procedures for intergovernmental review of PA/SI will be the same as those detailed in the Federal Register notice of December 6, 1983, for RI/FS: As is the case for RI/FSs, the sixty (60) day comment period for the PA/SI program will begin five (5) days after the date that the appropriate State pollution control agency or EPA Regional Office sends a letter to the State Process explaining the proposed activity. The letter will describe the purpose and the tasks involved in conducting the activity, the number of PAs and/or SIs to be undertaken, and the estimated cost of each activity. In situations where a State Process does not exist or the State Process does not include the CERCLA activities, the letter must be sent to officials of directly affected government entities (i.e., the Governor of the State, officials of directly affected areawide and Regional planning agencies and officials of directly affected local governments). If there are substantial differences between the work described in the letter and the work described in the State's application or in the EPA field investigation team's PA/SI accomplishment plan for the year, either the State agency or EPA will provide another 60-day comment period for intergovernmental review.

For Further Information Contact: Ms. Cristina Griffin, Office of Emergency and Remedial Response, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone: (202) 382-2443.

Dated: March 29, 1985.

Jack W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 85-8328 Filed 4-5-85; 8:45 am]

BILLING CODE 6560-50-M

[A-2-FRL-2813-6]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that between July 1, 1984, and January 31, 1985, the United States Environmental Protection Agency (EPA), Region II Office issued two final determinations relative to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21. this notice also announces final actions taken by PSD delegated states of New York and New Jersey with respect to the PSD program for the same period. The New York State Department of Environmental Conservation (NYSDEC) issued thirteen final PSD determinations and the New Jersey Department of Environmental Protection (NJDEP) issued three final PSD determinations.

DATES: The effective dates for the above determinations are delineated in the chart below (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT:

EPA Actions

Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, United States Environmental Protection Agency, Region II Office, 26 Federal Plaza—Room 432, New York, NY 10278, (212) 264-4711

NYSDEC Actions

Mr. James B. Harrington, P.E., Senior Sanitary Engineer, Source Review and Regional Support Section, Division of Air Resources, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233-0001, (518) 457-2018

NJDEP Actions

Mr. William O'Sullivan, Bureau of Engineering and Technology, Division of Environmental Quality, New Jersey Department of Environmental Protection, John Fitch Plaza, CN 027, Trenton, New Jersey 08625, (609) 984-6721.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA NYSDEC, and NJDEP have made final determinations relative to the sources listed below:

Name of applicant	Location	Project proposal	Reviewing agency	Final action	Date of final action
E.I. duPont De Nemours & Company, Inc.	Gibbstown, New Jersey	Installation of two Babcock and Wilcox boilers.	NJDEP	PSD non-applicability determination.	July 12, 1984.
Corps of Engineers	Fort Drum Jefferson, New York	Construction of 3 wood/oil-fired stationary combustion sources.	NYSDEC	do	July 18, 1984.
Joseph L. Mancuso and Sons, Inc.	Batavia, New York	Construction of a new coal/oil/gas-fired boiler.	NYSDEC	do	Sept. 5, 1984.
Buffalo General Hospital	Buffalo, New York	Installation of a coal-fired boiler.	NYSDEC	do	Sept. 19, 1984.
Foster Wheeler Energy Corp.	North Dansville, New York	Construction of a petroleum coke and a coal-fired combustion test facility.	NYSDEC	do	Sept. 26, 1984.
Crucible Specialty Metals	Geddes, New York	Installation of control devices to reduce fugitive emissions.	NYSDEC	do	Oct. 10, 1984.
Gernatt Asphalt Products, Inc.	Collins, New York	Construction of a drum-mix asphalt plant.	NYSDEC	do	Do.
Westchester County Industrial Development Agency.	Charles Point Peekskill, New York	Construction of 3 mass burning refuse incinerators.	EPA Region II	PSD permit modification approval.	Oct. 16, 1984.
General Electric Research and Development Center.	Schenectady, New York	Construction of 1 oil-fired boiler.	NYSDEC	Final PSD permit approval.	Nov. 25, 1984.
Islip Resource Recovery Project.	Islip, New York	Resource recovery facility (2 incinerators).	NYSDEC	do	Dec. 4, 1984.
Buffalo Crushed Stone, Inc.	Cheektowaga, New York	Operation of an additional aggregate separator screen at the existing stone crushing facility.	NYSDEC	PSD non-applicability determination.	Dec. 5, 1984.
IBM Corporation	Poughkeepsie, New York	Installation of an emergency generator.	NYSDEC	do	Dec. 26, 1984.
Dutchess County	do	Construction of a resource recovery facility (2 incinerators).	NYSDEC	Final PSD permit approval determination.	Jan. 2, 1985.
Ciba-Giegy Corporation	Summit, New Jersey	Cogeneration system (gas turbine).	NJDEP	PSD non-aspplicability Determination.	Jan. 3, 1985.
City of Vineland	Vineland, New Jersey	Conversion from oil burning to coal burning in Unit 9, Howard Down Station.	NJDEP	do	Jan. 4, 1985.
Seneca Foods, Corp.	East Williamson, New York	Operation of an existing No. 6 oil-fired boiler.	NYSDEC	do	Jan. 16, 1985.
Jamestown Macadam, Inc.	Cassadaga, New York	Construction of a drum-mix asphalt plant.	NYSDEC	do	Jan. 23, 1985.
American Motor Inns, Inc. (Frenchman's Reef Holiday Inn Beach Resort).	St. Thomas, U.S. Virgin Islands	Construction/operation of several diesel engines.	EPA Region II	Final PSD permit approval.	Jan. 25, 1985.

[1]The NYSDEC issued a PSD permit to Dutchess County on January 6, 1984. This permit was subsequently appealed to the EPA Administrator by Ms. Joan Ferretti on behalf of the South Road Civic Association on January 19, 1984. The appeal stayed the "effectiveness" of the permit. The Office of the Administrator reviewed the issues raised by the petitioners and on December 4, 1984, the Administrator issued an order denying the petition on all grounds. The order directed the NYSDEC to issue the final permit decision and the EPA Region II Office to publish the final permit decision in the FEDERAL REGISTER. On January 2, 1985, the NYSDEC issued the final permit decision thereby making the permit immediately effective (Reference: Letter from Ralph Manner Jr., Regional Permit Administrator, (NYSDEC) Region 3, to Ms. Lucille Pattison, County Executive, Dutchess County, Office of the Executive). This FEDERAL REGISTER notice announces the final NYSDEC permit decision on Duichess County.

This notice lists only the sources that have received final PSD determinations. Copies of these determinations and related materials are available for public inspection at the aforementioned reviewing agencies/locations.

If available pursuant to the Consolidated Permit Regulations (40 CFR Part 124), judicial review of these deteminations under section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register**. Under section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: March 22, 1985.

Christopher J. Daggett,

Regional Administrator.

[FR Doc. 85-8333 Filed 4-5-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee for the 1987 ITU World Administrative Radio Conference for the Mobile Service; Meeting

April 2, 1985.

The second meeting of the Federal Advisory Committee for the 1987 Mobile World Administrative Radio Conference will be held on Tuesday, May 28, 1985, at 9:30 a.m., in the Theater of COMSAT Headquarters, 950 L'Enfant Plaza South, SW, Washington, D.C.

The meeting agenda is:

1. Approval of meeting agenda.
2. Approval of the summary record of May 7, 1985 meeting.
3. Prepare and approve comments relative to items recommended for inclusion on the 1987 Mobile WARC agenda.
4. Other business.
5. Selection of next meeting date.

Anyone desiring further information should contract Gordon Hempton, FCC/OST at (202) 632-7073. These meetings are open to the public.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-8344 Filed 4-5-85; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee Resumes Meeting April 2, 1985

The technical subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Tuesday April 2, 1985, at 10:45 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to preparations for the upcoming Region 2 Conference on expansion of the AM band.

The subgroup also may discuss matters relating to the ongoing discussions between the United States and Mexico looking toward the development of a new bilateral AM Agreement. In addition, the Subgroup also may consider other relevant matters of concern to the participants at the meeting.

The meeting, a continuing one, will be resumed after the April 2, 1985, session at such time and place as is decided at that session.

All meetings of the Technical Subgroup are open to the public. All interested parties are invited to participate in these meetings.

For further information, please call the Subgroup Chairman, Mr. Wallace E. Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communication Commission.

[FR Doc. 85-8343 Filed 4-5-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-429]

Worth Federal Savings & Loan Association, Sylvester, GA; Final Action Approval of Conversion Application

Date: March 29, 1985.

Notice is hereby given that on January 29, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Worth Federal Savings and Loan Association, Sylvester, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, Post Office Box 56527, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 85-8296 Filed 4-5-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

BNH Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14) of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 2, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *BNH Bancshares, Inc.*, New Haven, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of New Haven, New Haven, Connecticut.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *CNB Corporation*, Conway, South Carolina; to become a bank holding company by acquiring 95 percent or more of the voting shares of The Conway National Bank, Conway, South Carolina.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Cumberland Bancorp, Inc.*, Crossville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Cumberland County Bank, Crossville, Tennessee.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Desoto Banschares, Inc.*, Desoto, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Desoto, Desoto, Illinois.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Independent Investment Group, Inc.*, Vancouver, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of First Independent Bank, Vancouver, Washington.

Board of Governors of the Federal Reserve System.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8304 Filed 4-5-85; 8:45 am]

BILLING CODE 6201-01-M

Baybanks, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage de novo, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activites will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting woud be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 30, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *BayBanks, Inc.*, Boston, Massachusetts; to engage *de novo* through its subsidiary, BayBanks Life Insurance Company, Phoenix, Arizona, in the activity of underwriting, as a reinsurer, credit, life insurance that is directly related to extensions of credit by the banking subsidiaries of BayBanks, Inc. This activity would be conducted in the Commonwealth of Massachusetts.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle, Chicago, Illinois 60690:

1. *Republic Bancorp Co.*, Chicago, Illinois; to engage *de novo* directly in the activities of making, acquiring and servicing commercial loans or other extensions of commercial credit to others, including the Bank, for the Applicant's account or for the account of others, including issuing letters of credit and accepting drafts; offering commercial mortgage services; and purchasing and selling of participations in commercial loans and extensions of commercial credit and letter of credit.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Pacific Financial Corporation*, Bremerton, Washigton; to engage *de novo* through its subsidiary, First Pacific Mortgage Corporation, Bremerton, Washington, in the activity of making, acquiring or servicing loans or other extensions of credit for the company's account or for the account of others, such as would be made by mortgage companies.

Board of Governors of the Federal Reserve System, April 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8301 Filed 4-5-85; 8:45 am]

BILLING CODE 6210-01-M

Barclays PLC and Barclays Bank PLC, Barclays USA Inc., Barclays U.S. Holdings, Inc. and Barclays American Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted troughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays PLC* and *Barclays Bank, PLC*, both of London, England and *Barclays USA Inc.*, New York, New York, to acquire 100 percent of the voting shares of Barclays Bank of Delaware, N.A., Wilmington, Delaware. In connection with this application, Applicant has also applied to establish *Barclays U.S. Holdings, Inc.*, New York, New York and *Barclays American Corporation*, Charlotte, North Carolina; which will become bank holding companies by acquiring 100 percent of Bank.

Additionally, Barclays U.S. Holdings, Inc., New York ("BUSH"), and Barclays American Corporation, Charlotte, North Carolina ("BAC"), to engage inthe activities of making, acquiring, or servicing loans or other extensions of credit for the company's account or for the account of others, such as would be made by a consumer finance, credit card, mortgage, commercial finance, or factoring company; the sale as agent through offices of BAC and its subsidiaries of credit insurance directly related to extensions of credit by BAC and its subsidiaries, including decreasing term credit life insurance, credit accident and health insurance, credit employment insurance and credit property insurance designed to protect the borrower's property which serves as collateral for loans from BAC and its subsidiaries. The expansion of BAC's insurance agency business will be limited by applicable laws, including the Garn-St Germain Depository Institutions Act of 1982; underwriting or reinsuring credit life and credit accident and health insurance sold by BAC and its subsidiaries as agent; the issuance and sale at retail of money orders having a face value not exceeding $1,000 (or such other amount as may from time to time be permitted by the Federal Reserve Board) through consumer finance offices of BAC and its subsidiaries; the issuance and sale at retail of travelers checks at consumer finance offices of BAC and its subsidiaries; and the planning, development, establishment, administration and marketing of an electronic data processing and communications systems for interchanging financial transactions inititated at automated teller machines operated by participating depository institutions through BUSH's direct investment in the New York Switch Corporation.

Board of Governors of the Federal Reserve System, April 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8302 Filed 4-5-85; 8:45 am]

BILLING CODE 6210-01-M

Commercial Bancshares Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than May 2, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Commercial Bancshares Inc.*, Jersey City, New Jersey; to acquire NA Home Investors Mortgage Corporation, Hackensack, New Jersey, thereby engaging in the activities of making, acquiring and servicing loans and other extensions of credit such as would be made by a mortgage banking company. These activities would be conducted in the States of New York, New Jersey, and Delaware, and the Commonwealth of Pennsylvania.

2. *Manufacturers Hanover Corporation*, New York, New York; to acquire Rainier Equipment Finance, Inc., Seattle, Washington, thereby engaging in the activity of commercial financing and leasing of personal property.

Board of Governors of the Federal Reserve System, April 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8303 Filed 4-5-85; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp; Proposal To Engage in the Purchase and Sale of Gold and Silver Upon Order of and for the Account of Customers

PNC Financial Corp., Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage in the purchase and sale of gold and silver upon the order of and as nominee for the account of customers. These activities would be performed through Applicant's subsidiary, BHC Securities Inc.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has previously determined by order that activities similar to those proposed by the applicant are closely related to banking. *Standard and Chartered Banking Group Ltd.*, September 27, 1973 (38 FR 27,552, October 4, 1973). Applicant believes that its proposed activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto.

Interested persons may express their views on whether the proposed activities or purchasing and selling precious metals for nonaffiliated customers are "so closely related to

banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 24, 1985.

Board of Governors of the Federal Reserve System, April 24, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-8305 Filed 4-5-85; 8:45 am]

BILLING CODE 6210-01-M

FCS Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Banking Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 1, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *FCS Financial Corporation,* Martinez, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First Columbia Bank (formerly First Columbia Savings and Loan Association), Martinez, Georgia.

2. *Louisiana Bancshares, Inc.,* Baton Rouge, Louisiana; to merge with Guaranty Bancshares Inc., Lafayette, Louisiana, thereby indirectly Guaranty Bank & Trust Company, Lafayette, Louisiana.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Cynthiana Bancorporation,* Cynthiana, Indiana; to become a bank holding company by acquiring 80 percent of the voting shares of the Cynthiana State Bank, Cynthiana, Indiana.

2. *United Community Bancorp, Inc.,* Greenfield, Illinois; to merge with First Bunker Hill Bancshares, Inc., Bunker Hill, Illinois, thereby indirectly acquiring First National Bank of Bunker Hill, Bunker Hill, Illinois. Applicant also proposed to acquire at least 51 percent of the voting shares of Chatham Community Bank, Chatham, Illinois.

Board of Governors of the Federal Reserve System, April 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8369 Filed 4-5-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Criteria for Conversion of Items From Multiple Award to Single Award

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Special notice.

The General Services Administration, Office of Federal Supply and Services (GSA/FSS) has developed the following draft procedures for the criteria for conversion of items from Multiple Award to Single Award. These are internal GSA/FSS guidelines. The procedures are to be implemented by GSA/FSS personnel. The purpose of issuing these draft procedures in a special notice is to solicit comments from interested Federal agencies and industry.

Conversion Procedures

a. To the maximum extent feasible, items will be removed from Multiple Award Schedules and procured through use of Single Award Schedules, Stock Program or Special Order Program.

b. GSA technical support staffs for contracting offices having responsibility for Multiple Award Schedules should continuously examine the Special Item Numbers (SIN's) for development of specifications, purchase descriptions, Commercial Items Descriptions, or such other purchase documents that are suitable for single award procurement. GSA procuring directors shall establish management goals which will identify a percentage of reduction in the number of Special Item Numbers and/or basic equipment included in assigned Multiple Award Schedules. These potential conversions shall be coordinated within GSA/FSS by the Office of Procurement.

c. When the decision has been made to review a Multiple Award Schedule for possible conversion to a single award, a notice will appear in the **Federal Register** and the Commerce Business Daily (CBD). The CBD notice will be sent to 433 West Van Buren St., Room 1304, Chicago, IL 60607. Thirty (30) days will be allowed for comments from interested parties.

d. The **Federal Register** Notice will allow 30 days for comment.

e. The following criteria shall be used in selecting items for consideration of conversion to single award:

(1) SINs with a dollar value over $25,000.

(2) SINs that already have matrices developed.

(3) SINs with two or more contractors where design/technology is stable.

(4) Where there are two or more vendors offering similar items and where sales are not dominated by one vendor.

(5) Items where there has not been a previous attempt to write a Commercial Item Description (CID).

(6) Items with two or more vendors which have models with common characteristics and selectivity among users is not important.

f. Priority for developing CID's will be given to the highest dollar potential and ease of CID development.

g. Coordination with agency and industry should be to the maximum extent feasible. After GSA's technical staff has developed a draft commercial item description, a notice will appear in the **Federal Register** and the Commerce

Business Daily making the draft available to industry. It is recommended that user panels be established to provide an exchange of information prior to the implementation of the new CID.

h. Contracting offices shall document on GSA Form 1649 the results of efforts expended to identify potential conversion candidates and the actions taken to accomplish the conversion. This documentation will be made on the Advance Procurement Plan. The Advance Procurement Plan will state the particular actions taken since issuance of previous solicitations to comply with requirements to reduce the Multiple Award Schedule (MAS) items.

FOR FURTHER INFORMATION CONTACT: Comments may be sent to: Walter L. Eckbreth, Director, Policy and Review Division (FCP), Washington, DC 20406.

Dated: March 27, 1985.

W.L. Eckbreth,

Director, Policy and Review Division.

[FR Doc. 85-8358 Filed 4-5-85; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85M-0054]

Barnes-Hind, Inc., Premarket Approval of HYDROCURVE II® Bifocal (Bufilcon A) Soft (Hydrophilic) Contact Lens

Correction

In FR Doc. 85-6788 beginning on page 11569 in the issue of Friday, March 22, 1985, make the following corrections:

On page 11569, second column:

1. In the twelfth line of the **SUMMARY**, "Station" should have read "Section".

2. In the second line of the **DATE** paragraph, "April 2, 1985" should have read "April 22, 1985".

BILLING CODE 1505-01-M

[Docket No. 85M-0055]

Precision-Cosmet Co., Inc.; Premarket Approval of SATURN II™ (Synergicon A) Rigid Center/Soft Hydrophilic Skirt Contact Lens

Correction

In FR Doc. 85-6792 beginning on page 11571 in the issue of Friday, March 22, 1985, make the following corrections:

1. On page 11571, third column, sixth line, "(21 U.S.C. 360(e)(F))" should have read (21 U.S.C. 360e(e)(1)(F))".

2. On the same page, in the third column, under the heading **Opportunity for Administrative Review**, in the second line, "360(e)(3)" should have read "360e(d)(3)"; and in the tenth line, "regulations of" should have read "regulations or".

BILLING CODE 1505-01-M

[Docket No. 84N-0102]

Cumulative List of Orphan Products Designations; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice that published a cumulative list of designated orphan drugs and biological products (50 FR 4914; Feb. 4, 1985). An "and" was inadvertenly omitted in the table. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Roger C. Gregorio, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: In FR Doc. 85-2736, appearing on page 4914 in the **Federal Register** of Monday, February 4, 1985, the following correction is made: On page 4915 in the second column under "DRUG PRODUCT DESIGNATIONS—Continued," in the last entry under "Proposed use," and "and" should appear after the word "hypocitraturia."

Dated: March 28, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-8293 Filed 4-5-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81D-0148]

Defect Action Levels for Canned Tomato Products; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of FDA Compliance Policy Guide 7114.30 which revises the defect action level (DAL) for catsup contaminated with mold and deletes the criteria for rot fragment counts for all tomato products.

ADDRESS: Written comments on these defect action levels and requests for single copies of FDA Compliance Policy Guide 7114.30 should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0175.

SUPPLEMENTARY INFORMATION: In 1983 in response to comments from small tomato catsup producers, FDA initiated a national survey of tomato catsup producers. This survey was conducted during fiscal year 1983 (FY-83) and was designed to assess the effects of various types of comminution on mold and rot levels in catsup and to determine an appropriate DAL for mold and rot in finished tomato catsup. The FY-83 survey was designed to take into account the geographic distribution of the proceeding plants as well as climatic factors that might contribute to the mold contamination of the fresh tomatoes used for making the catsup.

The survey results showed that the rot fragment counts, thought to be an indicator of whether or not a product had been milled, were not fulfilling that purpose. It had been assumed in the past that milling decreased the rot count, when, in fact, the survey showed that milling actually increased the rot count. Because the rot count DAL is not an indicator of milling as previously thought, it is being eliminated from the DAL for all tomato products.

The results of the FY-83 survey confirmed that, of the equipment used to process tomatoes into catsup, the mill caused the greatest increase in mold counts. The survey revealed that the mold count criterion for tomato catsup should be based on the assumption that all catsup samples are milled. Therefore, based on the survey data and assuming all samples are milled, the mold count DAL is raised from 35 to 55 percent. The new compliance policy guide does not contain a requirement that the analyst examine 12 subsamples to assess the Howard Mold Count. The DAL criterion for six subsamples, based on this survey, would provide comparable regulatory stringency. Updated Compliance Policy Guide 7114.30 contains the revised mold count DAL for tomato catsup and eliminates the limit for rot fragment count for all tomato products.

Background data supporting the revised DAL's are on file in the Dockets Management Branch. Requests for single copies of FDA Compliance Policy Guide 7114.30 should reference the docket number found in brackets in the heading of this document and should be

submitted in writing to the Dockets Management Branch (address above).

In accordance with the revised procedure for establishing and evaluation all new or revised DAL's (published in the **Federal Register** of September 21, 1982; 47 FR 41637), this DAL will remain in effect for an interim period following publication in the **Federal Register** or notification to the field. During the year following publication of this notice, FDA invites interested persons to submit relevant comments, data, and information showing why this DAL should be revised. FDA emphasizes that DAL's will be revised only on the basis of data and information that adequately support such changes. This DAL will remain in effect until FDA has evaluated all the available data and has published its decision in the **Federal Register.**

Interested persons may submit written comments (preferably two copies and identified with the docket number found in brackets in the heading of this document) regarding these DAL's. Received comments are available for examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 25, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-8295 Filed 4-5-85; 8:45 am]

BILLING CODE 4160-01-M

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), in concert with the Office of U.S. Senator David Durenberger, is announcing a forthcoming small business exchange meeting to be chaired by John Feldman, Director, FDA Minneapolis District.

DATE: Thursday, May 16, 1985, at 1 p.m.

ADDRESS: The meeting will be held at the University of Minnesota, Coffman Memorial Union, Rms. 307–8, 300 Washington Avenue SE., Minneapolis, MN.

FOR FURTHER INFORMATION CONTACT: Phillip Sheeler, Acting Small Business Representative, Food and Drug Administration, Rm. 1410, CNA Building, 55 East Jackson Boulevard, Chicago, IL 60604, 312–353–9406.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between FDA officials and small businesses involved in the manufacture and distribution of drugs, biologics, and medical devices. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: March 28, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 8294 Filed 4-5-85; 8:45 am]

BILLING CODE 4160-01-M

Food and Drug Administration

[Docket No. 84N-0418]

Determination of Regulatory Review Period for Purposes of Patent Extension; Amrinone Lactate

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revising a notice on the determination of the regulatory review period for the human drug product, amrinone lactate (49 FR 50112; December 26, 1984).

ADDRESS: Petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Frank Sasinowski, Officer of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (the act) (Pub. L. 98–417) generally provides that a patent may be extended for up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed.

Under the act, a product's "regulatory review period" forms the basis for determining the amount of extension an applicant may receive. A regulatory review period consists of two periods of time: a period during which the product is being tested (testing phase), followed by a period during which an application or petition for marketing approval is pending before FDA (approval phase). This latter period starts with the initial submission of the application or petition to FDA. For a human drug product, the approval phase begins when an application is initially submitted with relatively complete safety and effectiveness data.

In the original determination of the regulatory review period for amrinone lactate (49 FR 50112), the application for marketing approval was listed as having been initially submitted on November 2, 1981. Although manufacturing and controls information was submitted to FDA on that date, FDA does not regard an application for a human drug product as having been initially submitted for purposes of measuring the regulatory review period until relatively complete safety and effectiveness data have been submitted to and accepted by FDA. For amrinone lactate, that date was December 29, 1981. Consequently, the regulatory review period for amrinone lactate is being revised, as follows:

The total length of the regulatory review period was 2,462 days. Of this time, 1,516 days occurred during the testing phase of the regulatory review period while 946 days occurred during the approval phase. These periods of time derive from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* November 4, 1977.

2. *The date the application was initially submitted under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* December 29, 1981.

3. *The date the application was approved:* July 31, 1984.

The publication of this correction notice does not extend or otherwise alter the 180-day period for due diligence petitions which began when the original notice was published on December 26, 1984. Consequently, an interested person may petition FDA, on or before June 24, 1985, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an investigation by FDA. (See H. Rept. No. 98–857, Part 1, 98 Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format described in 21 CFR 10.30.

Petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Received petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 2, 1985.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 85-8292 Filed 4-5-85; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Blood Diseases and Resources Advisory Committee; Amended Notice of Meeting

Notice is hereby given of a change in the meeting, May 2-3, 1985, of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, which was published in the **Federal Register** on March 15, 1985, 50 FR 10545.

The Blood Diseases and Resources Advisory Committee was to have convened for two days starting at 9:00 a.m. on May 2, and 8:30 a.m. to adjournment on May 3, 1985. The meeting has been changed to convene for one day, May 3, 1985, 8:30 a.m. to adjournment at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205 in Building 31, Conference Room 7, C Wing.

The above one-day meeting will be open to the public.

Dated: April 1, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-8298 Filed 4-5-85; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Prevention and Control, Prevention Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Prevention Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, April 19, 1985, to be held in the Manager's Conference Room, Room 262, at National Airport, Washington, D.C. The entire meeting will be open to the public from 10:00 a.m. to adjournment, and the current and future programs of the Prevention Program will be discussed. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of meetings and rosters of subcommittee members upon request.

Mr. J. Henry Montes, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, Blair Building, Room 1A07, Bethesda, Maryland 20205 (301/427-8630) will furnish substantive program information.

Dated: March 27, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-8297 Filed 4-5-85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Public Lands in Lake County, OR

The parcels of public land described below have been previously offered for public auction sale by the Lakeview District, Bureau of Land Management pursuant to section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713) but remain unsold. The subject parcels have been reappraised to reflect current fair market value and sealed bids for these parcels will now be accepted at the Lakeview District Office. Bids may be submitted by qualified persons either by mail or delivered in person during regular business hours, (7:45 a.m. to 4:30 p.m.). Bids will not be accepted for less than the minimum bid listed below for each parcel and a separate sealed written bid should be submitted for each sale parcel desired.

All bids received will be opened June 19, 1985, and the first Wednesday of each subsequent month, thereafter. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening. Each bid must be accompanied by a certified check, postal money order, bank draft, or cashier's check, made payable to the U.S. Department of the Interior-BLM for not less than the bid deposit indicated for each parcel. Bids must be enclosed in a sealed envelope marked in the lower left-hand corner as follows: "Public Sale Bid, Serial No. XXX."

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be supplemental bidding. Tied high bidders will be notified immediately and be allowed twenty days, from the date of notification receipt, to submit a new bid. In all cases the highest sealed bid will determine the successful purchaser. The successful purchaser will be notified in writing and will be required to submit the remainder of the amount bid within 180 days from the date of sale. Failure to submit the full sale price within 180 days from the date of sale shall result in sale cancellation and forfeiture of the bidder's deposit. All unsuccessful bids will be returned.

The parcels will remain available for purchase as described above until sold or withdrawn from sale by the authorized officer. The parcels available for sale are described as follows:

Serial and parcel No.	Legal description/acreage, Willamette Meridian, OR	Acres	Minimum bid	Bid deposit
OR 34957C	T.27S., R.17E.	40	$3,400	$1,020
Parcel #1	Sec. 15: SW¼ SW¼.			
OR 34957D	T.27S., R.17E.	100	8,500	2,550
Parcel #2	Sec. 14: SE¼ SW¼.			
	Sec. 23: NE¼ NW¼, S½NW¼NW¼.			
OR 364957E	T.27S., R.17E.	160	13,600	2,720
Parcel #3	Sec. 23: S½ NW¼, N½ SW¼.			
OR 366015	T.25S., R.18E.	40	3,200	960
Parcel #4	Sec. 5: SE¼ SE¼.			
OR 366016	T.25S., R.18E.	40	3,200	960
Parcel #5	Sec. 17: NE¼ NE¼.			
OR 366017	T.26S., R.19E.	34.52	3,000	900
Parcel #6	Sec. 6: Lot 5.			
OR 366018	T.26S., R.18E.	160	13,600	2,720
Parcel #7	Sec. 25: SW¼.			
OR 366019	T.27S., R.17E.	237.46	19,000	3,800
Parcel #8	Sec. 31: SE¼ NE¼ E½SE¼ Sec. 32: S½ NW¼.			
	T.28S., R.17E.			
	Sec. 6: Lot 1			
OR 366020	T.28S., R.16E.	80	6,400	1,920, NW¼ SW¼
Parcel #9	Sec. 11: SW¼ SW¼.			
OR 366283	T.25S., R.19E.	40	3,200	960
Parcel #10	Sec. 29: SW¼ SW¼.			
OR 366284	T.25S., R.19E.	120	9,600	2,880
Parcel #11	Sec. 29: E½ SE¼ SW¼SE¼.			
OR 366285	T.25S., R.19E.	160	12,800	2,560
Parcel #12	Sec. 28: NE¼.			
OR 366286	T.26S., R.18E.	320	27,200	5,440
Parcel #13	Sec. 13: S½.			
OR 366287	T.28S., R.16E.	199.49	16,000	3,200

Serial and parcel No.	Legal description/acreage: Willamette Meridian, OR.	Acres	Minimum bid	Bid deposit
Parcel #14	Sec. 1: lots 1 thru 4, SW¼ NE¼, S½ NW¼,			
	Sec. 2: lot 1.			
OR 36857B	T 27S., R 17E	80	6,000	1,800
Parcel #15	Sec. 27., SW¼ SW¼,			
	Sec. 28: SE¼ SE¼.			

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation under the public land laws, including the mining laws.

Bids or requests for information on the above parcels should be directed to the Lakeview District Office, 1000 South 9th Street, PO Box 151, Lakeview, Oregon 97630, telephone (505) 947-2177.

Dated: March 27, 1985.

Ralph Culbertson,

Acting District Manager.

[FR Doc. 85-8359 Filed 4-5-85; 8:45 am]

BILLING CODE 4310-33-M

[C-0124534]

Hearing on Withdrawal; Colorado; Fort Carson-Pinon Canyon Military Reservation

Correction

In FR Doc. 85-6482 beginning on page 11015 in the issue of Tuesday, March 19, 1985, make the following correction.

In the heading, the date "March 11, 1969" should have read "March 11, 1985".

BILLING CODE 1505-01-M

[N-39502]

Issuance of Conveyance Document; Issuance of Land Exchange Conveyance Document; Exchange of Public and Private Lands in Lyon and Douglas Counties, NV

Correction

In FR Doc. 84-29994 beginning on page 45268 in the issue of Thursday, November 15, 1984, make the following correction:

On page 45268, third column, in the second entry for "Mount Diablo Meridian", second line, "E½ SE¼;" should have read "E½SW¼;".

BILLING CODE 1505-01-M

Oregon; Realty Action Direct/Modified Competitive Sale in Lake County, OR

The following described parcels of land have been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 2757, 43 USC 1713, 43 U.S.C. 1719) at no less than the appraised fair market value shown:

Serial and parcel No.	Legal description	Acreage	Fair market value	Bid deposit
OR 38040A	T. 39S., R. 18E., Willamette Meridian, OR			
Parcel No. 1	Sec. 13: W½SW¼SW¼, SE¼SW¼SW¼,	30	$5,150	$1,545
OR 38040B	T. 29S., R. 16E., Willamette Meridian, OR			
Parcel No. 2	Sec. 17: NE¼NE¼,	40	1,800	540
OR 38040C	T. 26S., R. 16E., Willamette Meridian, OR			
Parcel No. 3	Sec. 3: SW¼SW¼,	40	5,800	1,740

Except for the provisions of section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750; 43 U.S.C. 1713), the above described lands are hereby segregated from appropriation under the public land laws, including the mining laws.

The sale will be held on Wednesday, June 19, 1985, at 10:00 a.m., in the Bureau of Land Management, Lakeview District conference room, 1000 South Ninth Street, Lakeview, Oregon.

Sale bidding will be limited to sealed bids and must be for at least the appraised value. Individuals with a preference right to purchase a parcel must be present at the sale and must submit a sealed bid, appraised value or higher, in order to qualify to meet the high sealed bid. Direct sale candidate(s) need not be present at the sale, however, a sealed bid, for the appraised value or higher and the required bid deposit must be submitted by the designated purchased, to the Lakeview District Office, prior to the sale date and time specified.

Sale parcels OR 38040 A and C, will be offered through direct sale procedures with Mr. Ross Colahan and Mr. Charles Nofziger being the designated purchasers, respectively.

Sale parcel OR 38040 B, will be offered for sale at public auction through modified competitive bidding with Mr. and Mrs. Mack McDowell, given preference to meet the high selling bid. Refusal or failure by the preference holders to meet the high selling bid immediately after the close of bidding shall constitute a waiver of such right.

Direct and modified competitive sale procedures are being used to recognize the needs of adjoining land owners and historical use by these land owners. Direct and modified competitive sale procedures are authorized under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713).

This sale has been determined to be in conformance with existing land use plan developed in accordance with the department's planning regulations, public participation and in coordination with local governmental entities.

The sale involves isolated land that is different and uneconomical to manage as part of the public lands, and is not suitable for management by another federal department or agency. The public interest will be served by offering this land for sale.

Federal law requires that all bidders be U.S. citizens, 18 years of age or more, a state or state instrumentality authorized to hold property, or in the case of corporations, be authorized to own real estate in the state in which the sale land is offered.

Sealed written bids will be considered only if received by the Bureau of Land Management, Lakeview District Office, 1000 South Ninth Street, P.O. Box 151, Lakeview, Oregon 97630, prior to 10:00 a.m., Wednesday, June 19, 1985. A separate written bid should be submitted for each sale parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashiers check, made payable to the U.S. Department of the Interior-BLM for at least the bid deposit indicated for each parcel and shall be enclosed in a sealed envelope clearly marked, "Bid for Public Land Sale OR 38040 A, B or C, Lake County, Oregon, June 19, 1985". The written sealed bids will be opened and publicly declared at the beginning of each sale. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be by supplemental bidding. Tied high bidders will be notified immediately and be allowed twenty days, from the date of notification receipt, to submit a new bid.

The terms and conditions applicable to the sale are:

1. The apparent high bidder or designated purchaser, shall submit the remainder of the full bid price within 180 days from the date of sale. Failure to submit the full bid price within 180 days from the date of sale shall result in sale cancellation of the specific parcel and the bid deposit shall be forfeited.

2. The authorized officer may reject the highest qualified bid and release the bidder from his/her obligation and withdraw any tract from the sale, if he determines that consumation of the sale would be inconsistent with the provisions of any existing law, or collusive or other activities have hindered or restrained free and open bidding, or consummation of the sale would encourage or promote speculation in public lands.

3. The patents will contain a reservation to the United States for ditches and canals.

4. The patents will contain a reservation to the United States for all leasable minerals, including oil and gas (43 U.S.C. 1719).

5. The sales will be subject to all valid existing rights.

6. Acceptable bids will also constitute an application for non-leasable minerals. The declared high bidder will be required to deposit a $50 non-returnable filing fee (43 CFR 2720.1-2(c)) and the required bid deposit, immediately at the sale. Failure to deposit these sums will result in disqualification as the higher bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the parcel(s) from sale, or reoffer the parcel(s) for sale at a later date. The Bureau has determined that the mineral interests being offered have no known value.

Parcels not sold on the day of the sale will remain available for sale until sold or withdrawn. Sealed bids will be solicited on these parcels at the Lakeview District Office during regular business hours, (7:45 a.m. to 4:30 p.m.). The sealed bids will be opened July 3, 1985 and every first Wednesday of each subsequent month until the land is either sold, or withdrawn from sale.

Detailed information concerning the sale, including the planning documents, appraisals, environmental assessment and the record of public involvement, is available for review at the Lakeview District Office, Bureau of Land Mangement, 1000 South Ninth Street, Lakeview, Oregon.

For a period of 45 days from the date of issuance of this notice, interested parties may submit comments to the District Manager, Lakeview District Office, Bureau of Land Management, P.O Box 151, 1000 South Ninth Street, Lakeview, Oregon 97630. Any adverse comments received as a result of the Notice of Realty Action or notification to the congressional committees and delegations pursuant to Pub. L. 98-146, will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Dated: March 27, 1985.

Ralph Culbertson,

Acting District Manager.

[FR Doc. 85-8380 Filed 4-5-85; 8:45 am]

BILLING CODE 4310-33-M

Battle Mountain District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Battle Mountain District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR, Part 1780 that a meeting of the Battle Mountain District Advisory Council will be held on Thursday and Friday, May 16 and 17, 1985. The meeting will convene on May 16 at 12:30 p.m. at the BLM office in Eureka, Nevada.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Overview of oil and gas exploration in the District.

2. Discussion of environmental problems relating to oil field development.

3. Tour of Railroad Valley oil fields on Friday, May 17, 1985.

The meeting is open to the public. Interested persons may make oral statements between 4:00 and 4:30 p.m., Thursday, May 16, 1985, or file written statements for the council's consideration. If you wish to make an oral statement, please contact H. James Fox by 4:30 p.m., May 9, 1985.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820, or phone (702) 635-5181.

Dated: March 28, 1985.

H. James Fox,

District Manager

[FR Doc. 85-8323 Filed 4-5-85; 8:45 am]

BILLING CODE 4310-HC-M

North Fork Well, Park County, Availability of Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that a Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental impact statement (EIS) on the North Fork Well in Park County, Wyoming, and has made copies of the document available for public review.

The final EIS analyzes the environmental impacts that would result from drilling the proposed exploratary North Fork Well and alternatives.

ADDRESSES: A copy of the final EIS can be obtained from: Team Leader, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401.

The final environmental impact statement is available for inspection at the following locations: BLM District Office (Worland); Cody BLM Area Office (Cody), Shoshone National Forest Headquarters (Cody).

Chester E. Conard,

District Manager.

[FR Doc. 85-8308 Filed 4-5-85; 8:45 am]

BILLING CODE 4310-22-M

Bureau of Reclamation

Garrison Diversion Unit Pick-Sloan Missouri Basin Program, ND; Intent To Prepare a Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), the Department of the Interior proposes to prepare a supplemental draft environmental statement (DES) for the Garrison Diversion Unit (GDU), Pick-Sloan Missouri Basin Program (P–SMBP) in North Dakota. The supplemental DES will be a programmatic statement that will provide a site specific analysis of all project features not addressed in previous project NEPA documents or features changed since discussion in those documents. The supplemental DES will not address municipal and industrial (M&I) water or irrigation supply to 17,580 acres on Indian lands for which no cumulative project effects can be identified; site specific analysis for those areas will be provided in later documents. All project features that are adequately covered by previous NEPA documents will be referenced, but not reanalyzed in this supplemental DES. All features will be discussed pursuant to the Garrison Diversion Unit Commission's recommendations.

The purpose of the GDU is to deliver Missouri River water to agricultural and M&I users in North Dakota. The project will consist of three reservoirs, five canals, 25 or more pumping plants, 12 irrigation areas, up to 130 M&I water systems, and wildlife mitigation lands. Irrigation water will be delivered to 113,360 acres of non-reservation land, in addition to the 17,580 acres on Indian lands.

The GDU Commission determined the following project features areas to have been adequately discussed in previous NEPA documents: the Snake Creek Pumping Plant; the McClusky Canal; the New Rockford Canal; the James River Feeder Canal; the Jamestown Dam and Reservoir; the New Rockford Irrigation Area; the Robinson Coulee/James River Diversion; the LaMoure Irrigation Area; the West Oakes Irrigation Area; the West Oakes Pumping Plant and Irrigation Area; and the Wildlife Mitigation Plan. These features will not be reanalyzed in the supplemental DES.

Several features of feature functions have been changed significantly since being described in previous NEPA documents; therefore, a site specific analysis will be provided for each in the supplemental DES. Those features/functions are the water control structures and associated fluctuations in the McClusky Canal; fluctuations in the level of Audubon Lake; the return flow system for the Linclon Valley Irrigation Area; the operation of the Jamestown Dam and Reservoir; James River flows; project effects upon the James River and National Wildlife Refuges; and the James River water quality. The effects of providing municipal water supplies via the James River, as described by the GDU Commission, will also be discussed.

Several new features have been added to the GDU, and site specific discussion of those features will be provided pursuant to the GDU Commission recommendations. They include: the Sykeston Canal; the Glover Reservoir; and the Harvey Pumping, McClusky Canalside, New Rockford Canalside, Turtle Lake, and New Rockford Extension Irrigation Areas. The Sykeston Canal is now in the preliminary design stage. It will transport water from the existing McClusky Canal to the New Rockford Canal. Three major alternative canal routes are being studied at present, with variations on those routes. The canal will be 25 to 30 miles long, and will have an average right-of-way width of about 300 feet. Glover Reservoir will be a storage and regulatory reservoir for the Lower James River in North Dakota. The reservoir will be located in two adjacent natural basins on the James River. The basins can be operated together or separately, depending on water demands. A dike will be built across the mouth of each basin (approximate lengths 7,600 feet and 6,100 feet, up to 40 feet height), and a channel will be cut to connect the two basins.

An inlet-outlet channel approximately 0.5 miles long will supply water from the James River. A pumping plant will lift water into the channel. If Glover is used to full capacity, enlargements will be necessary to the Oakes Pumping Plant and Oakes Canal to handle the highest flows.

Alternatives under consideration include a second pumping plant at Oakes, and alternative irrigation acreages at the LaMoure Extension Area and the West Oakes Extension Area. Alternative canal alinements, irrigation system design, and specific irrigation service areas are also under consideration.

There will be one meeting to solicit information from all interested agencies, public entities and persons to assist in determining the scope of the supplemental environmental statement and to identify the significant issues. The meeting will be held at the Townhouse Motel in Bismarck, North Dakota, at 9:00 a.m. on April 24, 1985. The draft statement is scheduled to be completed and available for comment during February 1986.

The contact person for this suplemental statement will be: Richard D. McCabe, Supervisory Environmental Specialist, Missouri-Souris Projects Office, Bureau of Reclamation, P.O. Box 1017, Bismarck, North Dakota 58502 Telephine: (701) 255–4011, Ext. 721 or FTS 783–4721.

Dated April 2, 1985.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 85–8368 Filed 4–5–85; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Receipt of Application for Permit; Arizona-Sonora Desert Museum et al.

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–691828

Applicant: Arizona-Sonora Desert Museum, Tucson, AZ.

The applicant requests a permit to import tissue samples taken from wild San Esteban Island chuckwalla (*Sauromalus varius*) for scientific research.

PRT–691834

Applicant: Chris Cagle, Olathe, KS.

The applicant requests a permit to import one sport-hunted trophy of a bontebok (*Damiliscus dorcas dorcas*) culled from the captive herd of Charles Tinley, Tsolwana Game Ranch, Tarkastad, South Africa, for enhancement of the survival of the herd.

PRT–690800

Applicant: Joseph T. Juckel, Anchorage, AK.

The applicant requests a permit to import one sport-hunted trophy of a bontebok (*Damiliscus dorcas dorcas*) to be culled from the herd of F.W.M. Bowker, Thorn Kloof, South Africa, for enhancement of the survival of the herd.

PRT–678870

Applicant: U.S. Fish & Wildlife Service, Patuxent Wildlife Research Center, Laurel, MD.

The applicant requests an amendment to permit PRT–678870 to allow for the radio tagging of Puerto Rican parrots (*Amazona vittata*) for scientific research and enhancement of survival.

PRT-691487

Applicant: International Crane Foundation, Baraboo, WI.

The applicant requests a permit to export six eggs from captive-bred Siberian cranes (*Grus leucogeranus*) to the Oka State Nature Reserve Ryazan District, USSR, for scientific research and enhancement of propagation.

PRT-691723

Applicant: Fish & Wildlife Service, Regional Director, Newton Corner, MA.

The applicant requests a permit to take bald eagles (*Haliaeetus leucocephalus*) chicks from nests in MD and VA to release in NC for enhancement of propagation.

PRT-691727

Applicant: W. Michael Howell, Samford University, Birmingham, AL.

The applicant requests a permit to take (harass) if needed for reintroduction purposes, specimens of the watercress darter (*Etheostoma nuchale*) for scientific research and enhancement of propagation as indicated in his application.

PRT-691235

Applicant: San Diego Zoo, San Diego, CA.

The applicant requests a permit to import a pair of captive-born bactrian deer (*Cervus elaphus bactrianus*) from the Tierpark Berlin, East Germany for the purpose of enhancement of propagation.

PRT-691755

Applicant: San Diego Zoo, San Diego, CA.

The applicant requests a permit to import 2 pairs of captive Douc langur (*Pygathrix nemaeus*) from Centro per lo Studio e la Conservazione degli Psittaciformi, Rome, Italy, for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: April 1, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-8270 Filed 4-5-85; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting; Correction

This document changes the time of the meeting from 8:30 a.m. to 10:00 a.m. in the subject notice published on Thursday, March 28, 1985, Vol. 50, No. 60 on page 12419 in column 1 on line 8 (FR Doc. 85-7431).

Russell K. Olsen,

Federal Register Liaison Officer.

[FR Doc. 85-8291 Filed 4-5-85; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-43 (Sub-116)]

Rail Carriers; Illinois Central Gulf Railroad Co.—Abandonment—in Jackson County, IL; Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon its 31.15 mile rail line between (a) milepost 576.28 near Leahy (excluding Leahy) and milepost 554.00 at Carbon Lake (including Carbon Lake); (b) milepost 0.0 at Texas Junction (including Texas Junction), and milepost 1.31 at Carbon Lake (including Carbon Lake); and (c) milepost 82.44 at Murphysboro (including Murphysboro) and milepost 90.0 near Carbondale (excluding Carbondale), in Jackson County, IL.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 85-8393 Filed 4-5-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket Nos. AB-105 (Sub-7X) and AB-72 (Sub-7X)]

Rail Carriers; the Western Pacific Railroad Co.—Discontinuance of Service—in Sutter, Placer, and Sacramento Counties, CA; and Sacramento Northern Railway—Abandonment—in Sutter, Placer, and Sacramento Counties, CA; Exemption

The Western Pacific Railroad Company (WP), operator of the line to be abandoned, and Sacramento Northern Railway (SN), owner of the line, have filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights*. WP will discontinue service on and SN will abandon a line of railroad known as the Rio Linda Branch extending from milepost 102.935 near Rio Linda to milepost 108.161 near Sankey, a distance of approximately 6.226 miles in Sutter, Placer, and Sacramento Counties, CA.

Applicants have certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in California [1] has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on May 8, 1985 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by April 18, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by April 29, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicants' representative: Joseph D.

[1] California Public Utilities Commission.

Anthofer, 1416 Dodge Street, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, the use of the exemption is void ab initio.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: March 27, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-8320 Filed 4-5-85; 8:45 am]

BILLING CODE 7035-01-M

Rail Carriers; Western Pacific Railroad Co. and Union Pacific Railroad Co.; Intent To File an Application for the Construction and Operation of a Railroad Line in Alameda County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of intent to prepare an environmental assessment and invitation to comment.

SUMMARY: The Western Pacific Railroad Company (WP) and Union Pacific Railroad (UP) intend to file an application for authority to construct and operate approximately 980 feet of track in Freemont, California. The proposed rail line will run from WP's San Jose Branch to an automobile manufacturing facility at Warm Springs station. The proposed construction will enable WP & UP to provide competitive rail service to General Motors Corporation which is responsible for transporting the manufactured automobiles. The purpose of this notice is to announce our intention to prepare an environmental assessment and to invite comment.

DATE: Written comments are invited and should be submitted on or before May 8, 1985.

ADDRESS: Written comments should be addressed to: Interstate Commerce Commission, Section of Energy and Environment, Room 4143, 12th & Constitution Avenue, NW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Elaine Kaiser, (202) 275-0907.

SUPPLEMENTARY INFORMATION: Western Pacific Railroad Company (WP) and Union Pacific Railroad Company (UP) intend to seek Commission authority to construct 980.44 feet of single track rail line in Freemont, California. The proposed construction will provide General Motors Corporation (GM) with desired competitive rail service for transporting automobiles manufactured at a Warm Springs assembly plant by New United Motors Manufacturing, Inc., a joint venture between GM and Toyoto Motor Company.

The proposed construction will run from WP's San Jose Branch at Milepost 5.41 directly to the automobile manufacturing plant at Warm Springs station. The vacant land to be used for the line's construction is planned and zoned for industrial use. The trackage will cross three Southern Pacific Transportation Company (SP) tracks: (1) SP's Milpitas main line, (2) a passing track recently constructed by SP adjacent to its main line, and (3) a tail track from SP's Warm Springs yard. It will also cross a dead end public road that is located in this industrial area.

Under the Commission's environmental rules (49 CFR Part 1105), rail line construction projects normally require preparation of an environmental impact statement. In this case, however, based on our initial review of UP's and WP's submission and a preliminary investigation, we have identified no potentially significant or unmitigable environmental effects associated with the proposed line construction. Accordingly, we intend, at least initially, to evaluate the environmental ramifications of applicant's proposal in an assessment. Also, in conducting our assessment, we will coordinate and consult with other Federal and State agencies as needed.

Interested persons are invited to comment on our preliminary determination to prepare an environmental assessment as well as any specific environmental issues which may be relevant to the proposed construction and opreation.

Dated: April 1, 1985.

James H. Bayne,

Secretary.

[FR Doc. 85-8319 Filed 4-5-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-85-1-M]

AMAX Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

AMAX Chemical Corporation, P.O. Box 279, Carlsbad, New Mexico 88220 has filed a petition to modify the application of 30 CFR 57.4-61A (ventilation doors) to its AMAX Mine and Mill (I.D. No. 29-00174) located in Eddy County, New Mexico. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that ventilation doors be installed at or near shaft stations of intake shafts and at any shaft designated as an escapeway to prevent the spread of smoke or gas in the event of a fire.

2. As an alternate method, petitioner proposes to use ventilation doors installed around the shaft areas and throughout the mine shop areas between the two shafts that will permit short-circuiting of all intake air from the shafts and mine shop directly into the main exhaust. These doors will also short circuit contaminated air from shaft bottom areas. Petitioner believes that these control capabilities will prevent the spread of smoke or gas in the event of a fire.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8268 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-10-C]

Barnes & Tucker Co.; Petition for Modification of Application of Mandatory Safety Standard

Barnes & Tucker Company, P.O. Box 176, Marion Center, Pennsylvania 15759 has filed a petition to modify the application of 30 CFR 75.1100-3 (condition and examination of firefighting equipment) to its Tanoma Mine (I.D. No. 36-06967) located in Indiana County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all firefighting equipment be maintained in a usable and operative condition.

2. Petitioner states that due to extremely cold weather during the winter months, the waterline used for fire protection along the slope belt may freeze and become inoperative.

3. As an alternate method, petitioner proposes to maintain a dry waterline along the slope belt, equipped with an automatic actuating valve. This valve will be connected to the automatic fire sensors installed and maintained in accordance with 30 CFR 75.1103 through 75.1103-8. In addition, petitioner states that:

a. The automatic fire sensors, when actuated, will send a signal to the actuator valve, causing the valve to open, allowing the waterline to be pressurized with water for fire protection;

b. A manual bypass valve will be installed in the system to allow the waterline to be pressurized;

c. All persons in the area of the slope will be instructed as to the operation of the dry pipe system; and

d. Sufficient water will be available at all times for the dry pipe system.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8264 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-4-C]

Clinchfield Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Clinchfield Coal Company, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Moss No. 3A-2 Portal (I.D. No. 44-01642) located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges from 24 to 96 inches in height with undulations.

3. Petitioner states that the use of canopies in certain mining heights would result in a diminution of safety for the miners affected because the canopies could dislodge roof supports. In addition, the canopies decrease the operator's visibility and create discomfort to the operator, increasing the chances for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address:

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8255 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-2-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Arkwright No. 1 Mine (I.D. No. 46-01452) located in Monongalia County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that pumps are located along an older haulage, developed before 1970, that is congested with major falls and serve water problems. The haulage is ventilated with intake air and there are no effective return airways in the immediate vicinity. The intake air passing the pumps does not go directly to an active working section. The pumps are skid mounted, low horsepower (hp) ranging from one to ten hp and are moved at regular intervals.

3. As an alternate method, petitioner proposes that:

a. The pumps will be housed in a fireproof building;

b. An automatic fire suppression device will be installed in the pump station that will be activated by heat sensors over the pumps; and

c. No oil or combustible material will be stored in the pump station.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Person interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8266 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-11-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entities) to its Matthews Mine (I.D. No. 40-00520) located in Clairborne County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that the belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air in belt entries to ventilate active working places. In support of this request, petitioner proposes to install an early warning fire detection system. Carbon monoxide monitors will be used to monitor the air with specific safeguards outlined in the petition. The Monitors will be installed at each belt drive and tail piece at intervals not to exceed 2,000 feet along each conveyor belt entry.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office or or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8265 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-12-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation, minimum requirements) to its Matthews Mine (I.D. No. 40-00520) located in Clairborne County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to use belt air to ventilate the working sections and to install an early warning fire detection system. Carbon monoxide monitors will be used to monitor the air with specific safeguards as outlined in the petition. The monitors will be installed at each belt drive and tail piece at intervals not to exceed 2,000 feet along each conveyor belt entry.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8254 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-14-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Jenkinjones No. 4 Mine (I.D. No. 46-04533) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the belt haulage entries not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use air in belt entries to ventilate active working places. In support of this request, petitioner proposes to install an early warning fire detection system. Carbon monoxide monitors will be used to monitor the air with specific safeguards as outlined in the petition. The monitors will be installed at each belt drive and tail piece at intervals not to exceed 2,000 feet along each conveyor belt entry.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8253 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-15-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems: installation; minimum requirements) to its Jenkinjones No. 4 Mine (I.D. No. 46-04533) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. As an alternate method, petitioner proposes to use belt air to ventilate the working sections and to install an early warning fire detection system. Carbon monoxide monitors will be used to monitor the air with specific safeguards as outlined in the petition. The monitors will be installed at each belt drive and tailpiece at intervals not to exceed 2,000 feet along each conveyor belt entry.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address:

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8267 Filed 4-5-85; 8:45 am]

BILLING CODCE 4510-43-M

[Docket No. M-84-226-C]

Dixie Lee Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Dixie Lee Coal Company, Route 2, Box 850, Teaberry, Kentucky 41660 has filed a petition to modify the application of 30 CFR 75.1100 (fire protection) to its No. 1 Mine (I.D. No. 15-14229) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that each coal mine be provided with suitable firefighting equipment adapted for the size and conditions of the mine.

2. As an alternate method to having water in the water-line along the No. 2 belt and on the head drive, petitioner proposes to use a 500 gallon water tank for firefighting purposes. In support of this request, petitioner states that the belt is fireproof and runs in water.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8252 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-9-C]

Jim Walter Resources, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Jim Walter REsources, Inc., P.O. Box C-79, Birmingham, Alabama 35283 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its No. 7 Mine (I.D. No. 01-01401) located in Tuscaloosa County, Alabama. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

2. Petitioner is planning to install a longwall mining unit. A 500 horsepower (hp) shearing machine, an approximately 1,000 hp face conveyor and a stage loader with a crusher unit driven by a 150 hp motor will be used.

3. As an alternate method, petitioner proposes that 2300 A.C. high-voltage cables be located and used to supply power to permissible longwall face equipment in or inby the last open crosscut, with specific equipment and conditions as outlined in the petition.

4. Petitioner states that the proposed alternate method will provide no greater potential as an ignition source and will therefore provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8259 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-30-M]

Kaiser Aluminum & Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kaiser Aluminum & Chemical Corporation, P.O. Box 337, Gramercy, Louisiana 70052-0337 has filed a petition to modify the application of 30 CFR 55.4-27 (fire extinguishers on self-propelled mobile equipment) to its Gramercy Aluminum Mine (I.D. No. 16-00352) located in St. James Parish, Louisiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that whenever self-propelled mobile equipment is used, such equipment shall be provided with a suitable fire extinguisher readily accessible to the equipment operator.

2. Petitioner states that the fire extinguishers on the mobile equipment have been repeatedly stolen from the machines.

3. As an alternate method, petitioner proposes to locate 30 pound Ansul D/C and 150 pound D/C wheel unit fire extinguishers throughout the metals plant. Since there would be approximately 500 extinguishers located throughout the plant, petitioner states that the mobile equipment and vehicles in use would be no more than 50 feet from a working extinguisher. The extinguishers will be examined monthly and in the event of a fire, the trained fire brigade will be alerted to respond with the plant fire truck.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office or or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8251 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-3-C]

Kaiser Steel Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kaiser Steel Corporation, Sunnyside, Utah 84539 has filed a petition to modify the application of 30 CFR 75.1704 (escapeways) to its Sunnyside No. 3 Mine (I.D. No. 42-00092) located in Carbon County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that underground mines have at least two separate and distinct travelable passageways from each working section continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate. These passageways must be designated as escapeways, and at least one of them must be ventilated with intake air.

2. Petitioner seeks a modification of the standard as it applies to a portion of a secondary escapeway located on the right side of the mine.

3. As an alternate method, petitioner proposes to bring the secondary escapeway back into the primary escapeway at the First Right entry, 900 feet from the surface escape drift opening. Petitioner states that 750 of the 900 feet is noncombustible—700 feet is rock and 50 feet has been shock creted with fibercrete, a noncombustible type of mortar. Petitioner further states that this escape route will provide a much faster and safer escape route from the mine, especially if disabled miners are involved.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the peititon are available for inspection at that address.

Dated: March 28, 1985.

Patricia E. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8257 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-5-C]

L & R Fuels, Inc.; Petition for Modification of Application of Mandatory Safety Standard

L & R Fuels, Inc., HC72, Box 725, Ashcamp, Kentucky 41512 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-13718) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the No. 1 Elkhorn Seam ranging from 43 to 49 inches in height, with ascending and descending elevations.

3. Petitioner states that the use of a canopy on the mine's roof bolting machine would result in a diminution of safety for the miners affected because the canopy will restrict and cramp the operator's seating position and limit his or her field of vision, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8263 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-6-C]

Nowacki Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Nowacki Coal Company, Box 1308, R.D. 1, Tamaqua, Pennsylvania 18252 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Slope (I.D. No. 36-07592) located in Schuylkill County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternate method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8261 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-8-C]

Pickands Mather and Co.; Petition for Modification of Application of Mandatory Safety Standard

Pickands Mather and Company, 1100 Superior Avenue, Cleveland, Ohio 44114 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) as the authorized agent and operator for the Scott's Branch Mining Company's Scotts Branch Mine (I.D. No. 15-08079); Pikeville Coal Company's Chisholm No. 2 Mine (I.D. No. 15-12272); and Tuscaloosa Energy Corporation's Republic Mine (I.D. No. 15-02117) and Lick Creek Mine (I.D. No. 15-13480), all located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statments follows:

1. The petition concerns the use of padlocks to prevent mine scoop battery connector tightening rings from loosening and disconnecting the battery plugs.

2. Petitioner states that the use of padlocks results in a diminution of safety for the miners affected because the keys get lost and the key holes get plugged with mud. Should there be a fire on the scoop between the battery plug and main body of the scoop, and the breaker switch to the batteries were to malfunction, there would be no way to positively disconnect the power source (batteries) from the scoop to help diminish the fire. In addition, a proper tool may not be readily available to break off the lock.

3. As an alternate method, petitioner proposes that:

a. Metal locking devices, each consisting of a fabricated metal bracket and a metal locking screw, will be used in lieu of padlocks on permissible, mobile, battery powered machines used in the mines;

b. These locking devices will be designed, installed and used to prevent the threaded rings securing the battery plugs to the battery receptacles from unintentionally loosening;

c. The fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets. The locking screws will be securely attached to the brackets to prevent accidental loss of the screws; and

d. Operators of affected permissible, mobile, battery powered machines and other miners who couple and uncouple battery plugs on these machines will receive:

(1) Training in proper use of the locking devices;

(2) Training in the hazards of breaking battery plug connections under load; and

(3) Training in the hazards of breaking battery plug connections in areas of the mine where electric equipment is required to be permissible.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8258, Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-271-C]

Red Hawk Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Red Hawk Coal Corporation, Box 2237, Williamson, West Virginia 25667 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-10508) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam height ranges from 38 to 54 inches, with ascending and descending grades creating dips and rolls in the mining face areas.

3. Petitioner states that the use of canopies would result in a diminution of safety for the miners affected because the canopies restrict the equipment operator's visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8256 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-268-C]

The Youghiogheny and Ohio Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

The Youghiogheny and Ohio Coal Company, P.O. Box 1000, St. Clairsville, Ohio 43950 has filed a petition to modify the application of 30 CR 75.1100-2(e)(2) (quantity and location of firefighting equipment) to its Nelms No. 2 Mine (I.D. No. 33-00968) located in Harrison County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. As an alternate method, petitioner proposes to use one fire extinguisher with twice the capacity (ten pounds) as required at permanent electrical installations in lieu of providing both a five pound fire extinguisher and 240 pounds of rock dust at each temporary electrical installation.

3. In support of this proposed alternate method, petitioner states that the larger fire extinguisher could extinguish a larger fire in itself and more quickly than a five pound extinguisher and the rock dust. In addition, fire at a temporary electrical installation could be attacked at a greater distance by using a larger fire extinguisher rather than trying to apply rock dust in an effective manner.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8260 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-7-C]

Sand Fork Mining Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Sand Fork Mining Company, Inc., Route 4, Box 30, Beverely, Kentucky 40913 has filed a petition to modify the application of 30 CFR 75-1405 (automatic couplers) to its No. 8-B Mine (I.D. No. 15-11978) located in Bell County, Kentucky and its No. 11 Mine (I.D. No. 15-13455) and No. 12 Mine (I.D. No. 15-14160), both located in Leslie County, Kentucky. The petition is filed under seciton 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all haulage equipment be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment.

2. Coal is transported by a belt system and the track is used to transport supplies and personnel only. One car is used at a time on lightweight rails. The mines have narrow radius curves and much of the mine floor is uneven.

3. Petitioner states that the use of automatic couplers would result in a diminution of safety for the miners affected because:

a. The cars are too lightweight to guarantee coupling upon impact with automatic couplers. The stress and strain on these lightweight mine car chassis may cause structural failure and result in coupler misalignment, accidental uncoupling and supply car runaways; and

b. The automatic couplers lack the flexibility to negotiate the curves in the mines and the use of such couplers could result in derailments and runaways. Derailments could cause roof falls and runaway supply cars could cause injuries to mine personnel working along the track.

4. As an alternate method, petitioner proposes to use a pin, hook and looped-link coupling system. The supply cars will be brought to a complete stop before coupling or uncoupling. The person doing the actual coupling or uncoupling will be inside the railrunner at all times. At no time will any personnel be required to be between the car and the railrunner during the coupling or uncoupling procedure. In addition, the cars will be blocked to prevent movement and all employees will be trained in the procedures for coupling and uncoupling the cars.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 8, 1985. Copies of the petition are available for inspection at that address.

Dated: March 28, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-8262 Filed 4-5-85; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission; Revised Notice of Meeting

A notice regarding the 300th meeting of the NRC Advisory Committee on Reactor Safeguards to be held on April 11-13, 1985 in Washington, D.C. was noticed on March 19, 1985 in 50 FR 11024. A portion of this meeting on Friday, April 12, 1985 to discuss security measures regarding the GESSAR II nuclear power plant design was to be closed to public participation consistent with section 5 U.S.C. 552b(c)(3) of the Act. A portion of this session will also be closed under provision (1) of the Act to discuss National Security Information applicable to this type nuclear facility.

Dated: April 2, 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 85-8341 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-317]

Baltimore Gas & Electric Co.; Environmental Assessment and Findings of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR 50.55a to Baltimore Gas and Electric Company, the licensee for Calvert Cliffs Nuclear Power Plant Unit No. 1 located in Calvert County, Maryland.

Environmental Assessment

Identification of Proposed Action

10 CFR 50.55a(g)(4) requires that licensees update their inservice inspection (ISI) and testing (IST) programs to a newer edition of Section XI of the ASME Code each ten years. Since the regulations require these updates based on the 10-year anniversary of facility commercial operation, multi-unit sites often find that each unit has an ISI and IST program structured to a slightly different edition of the Code. The exemption would allow a common start date for ISI and IST for Calvert Cliffs Units 1 and 2. A common start date would be achieved by extending the present Unit 1 program expiration date from May 8, 1985 to April 1, 1987.

The proposed exemption is in response to the licensee's applications dated March 6, 1984 and January 28, 1985.

The Need for the Proposed Action

The proposed exemption is needed because ISI and IST at Calvert Cliffs would be accomplished for some period of time to two different ASME Codes if a common start date were not established. Although administratively possible, this situation could contribute to increased personnel errors in the performance of inspection and testing requirements to two different versions of the Code. This can create a substantial and additional administrative workload for what can be described as only nominal technical differences in the inspection and testing requirements.

Environmental Impact of the Proposed Action

The proposed exemption will provide a degree of ISI and IST that is

equivalent to that required by 10 CFR 50.55a(g)(4) such that there is no increase in the risk of failure for operational readiness of pumps and values whose function is required for safety at these facilites. Consequently, the probability of failure for operational readiness of components has not been increased, the radiological risk is not greater than determined previously, and the proposed exemption does not otherwise affect plant radiological effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect plant nonradiological effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Relating to Operation of Calvert Cliffs Nuclear Power Plant Units 1 and 2" dated April 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for exemptions dated March 6, 1984 and January 28, 1985, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland.

Dated: at Bethesda, Maryland this 1st day of April, 1985.

For The Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors Division of Licensing.

[FR Doc. 85-8355 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-317]

Baltimore Gas and Electric Co.; Extension

I

In the matter of Baltimore Gas and Electric Company, (Calvert Cliffs Nuclear Power Plant Unit No. 1).

The Baltimore Gas and Electric Company (the licensee) is the holder of Facility Operating License No. DPR-53 which authorizes operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1. This license provides among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility is located at the licensee's site in Calvert County, Maryland.

II

On February 22, 1983, the environmental qualification rule for electrical equipment important to safety for nuclear power plants, 10 CFR 50.49, became effective. Subsection (g) of 50.49 requires that each holder of an operating license issued prior to February 22, 1983, shall by May 20, 1983, identify the electrical equipment important to safety within the scope of the rule already qualified and submit a schedule for either the qualification or the replacement of remaining equipment subject to the rule. This schedule must establish a goal of final environmental qualification of the electrical equipment by the end of the second refueling outage after March 31, 1982, or by March 31, 1985, whichever is earlier. The rule also provides that the Director of the Office of Nuclear Regulation may grant extensions of this deadline to a date no later than November 30, 1985, for specific pieces of equipment if requests are filed on a timely basis and demonstrate good cause for such an extension, such as procurement lead time, task complications, and installation problems.

III

By letter dated February 28, 1985, the licensee requested an extension of the date for final environmental qualification of electrical equipment specified in 10 CFR 50.49(g). Calvert Cliffs Unit No. 1 will begin its second refueling outage after March 31, 1985; therefore, the licensee would have to complete final environmental qualifications by March 31, 1985.

The equipment for which the licensee has requested extensions for the completion of environmental qualifications is described in the licensee's letter of February 28, 1985. The items identified fell into two categories:

1. Administrative Requirements

NRC Inspection Report No. 50-317/84-27, dated January 29, 1985, stated that the qualification files were not in an auditable form as required by Paragraph (j) of 10 CFR 50.49. To facilitate compliance with the auditability requirement, three activities are being implemented to upgrade the files: (1) a technical review of each file to verify completeness and to provide convenient summary information in the front of each file, (2) reorganization of each file into a standard format for ease of reference, and (3) implementation of the record control and storage requirements of ANSI N45.2.9.

2. Equipment Qualifications

a. Replace solenoid valve ISV 5178, currently an ASCO HT 8320, with an ASCO NP8320, which is fully qualified. This valve is located in Room A228 and is used on the ECCS pump room air cooler water outlet path.

b. Complete the qualification of ISV 516 and 517 by either rerouting conduit to the valves or installing Raychem or Conax termination seals to prevent water from entering the valves. Both valves are pilot solenoids on air-operated valves and both are located inside containment. ISV 516 is on the containment isolation valve in the letdown path. ISV 517 is on the containment isolation valve in the auxiliary spray path. Both valves are currently ASCO Model WPHTX8320A21V, but are being replaced with ASCO Model NP8320A185E due to a replacement parts problem with the WPHTX8320A21V valves.

c. Replace existing limit switches with qualified Namco EA 180-24302 limit switches in a number of safety-related valves.

d. Replace existing oscillator-amplifiers (P/N 805B217001) on various Fisher and Porter flow and pressure transmitters outside containment in harsh environments with qualified oscillator-amplifiers (P/N 805B241001). All of the subject transmitters provide indication only.

e. Replace existing pressure switch IPS 2085 used to close valve ICV 2085 on low header pressure switch with a fully

qualified switch valve. ICV 2085 is the control valve in the containment instrument air supply header. The current model is a Custom Component's 604CCR0 and the replacement will be a Static-O-Ring #TA-B5-NX-CIA-TTJJX6, which is fully qualified. The switch is located inside containment.

f. Replace existing sample isolation valves outside containment with fully qualified valves. All of the subject valves are currently Dragon Model 10180-1. The replacement valves will be either Valcor Model V256-5295-77 or V256-5295-117, both of which are fully qualified.

g. Replace Barksdale pressure switches on the main steam isolation valves with qualified Static-O-Ring pressure switches.

h. Replace terminal blocks used for safety-related instrumentation both inside and outside containment with qualified terminations or splices.

i. Install qualified conduit-to-valve seals on safety-related Target Rock solenoid valves located inside containment.

j. Install qualified conduit-to-valve seals on safety-related Valcor solenoid valves located inside containment.

The licensee's February 28, 1985, letter contains justifications for continued operation of the equipment listed above. We have reviewed the licensee's submittal and find the licensee's reasons appropriate. Therefore, good cause exists for a schedular extension of the rule based upon the lead time necessary to complete certain environmental qualification records and replace certain equipment for Calvert Cliffs Unit No. 1.

IV

The environmental qualification rule provides that the Director of the Office of Nuclear Reactor Regulation may grant requests for extensions of this deadline to a date no later than November 30, 1985, for specific pieces of equipment, if these requests are filed on a timely basis and demonstrate good cause for such an extension. The staff has reviewed the justifications for continued operation and finds them acceptable. The staff concludes that the request for an extension beyond March 31, 1985, is timely and within the scope of 50.49(g) and finds that good cause exists for granting the request for the equipment listed herein. We find that extending the implementation date in accordance with the following schedule is acceptable and that operation until that time will not adversely affect the public health and safety:

1. Administrative Requirement—to be addressed in future correspondence

2. Equipment Qualification—Complete prior to entering Mode 4 following completion of the Cycle 8 refueling outage. The February 28, 1985, application indicates that this refueling outage will begin on or about April 5, 1985.

Your request for an extension in accordance with the above schedule for those items listed is hereby granted.

This Extension is effective upon issuance.

Dated at Bethesda, Maryland, this 31st day of March, 1985.

For the Nuclear Regulatory Commission.

Darrel G. Eisenhut,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-8356 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Exemption

I

In the matter of Nebraska Public Power District Cooper Nuclear Station.

Nebraska Public Power District (the licensee) is authorized by Facility Operating License No. DPR-46 to operate the Cooper Nuclear Station (the facility) at steady-state reactor power levels not in excess of 2,381 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect. The facility consists of a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.2 of Appendix E requires that each licensee at each site shall annually exercise its emergency plan.

By letter dated December 28, 1984, as supplemented by letter dated February 1, 1985, the licensee requested an exemption from the schedular requirements of Section IV.F.2 of Appendix E. The last annual emergency preparedness exercise was a full scale exercise conducted at the Cooper Nuclear Station on May 15 and 16, 1984. The licensee requests that an exemption be granted to allow the next annual exercise to be conducted on October 16, 1985.

The licensee states that major scheduling constraints are anticipated from the annual refueling and extended outage required for the replacement of the reactor recirculation piping at Cooper Nuclear Station. The outage is expected to extend through May 1985, with an additional period of time required for post outage testing and recovery.

The licensee further states that the proposed exercise date has been coordinated with the agencies of the affected surrounding states and local governments, and the Federal Emergency Management Agency (FEMA) Region VI. In addition, the licensee states that the proposed exemption would establish a fall exercise cycle which would avoid conflict with annual spring outages at Cooper Nuclear Station and would provide potential benefit to the states and local governmental agencies by avoiding peak activity months during the spring (civil defense flood control and local spring work).

The licensee's February 1, 1985 letter supplementing the December 28, 1984 exemption request commits to compensating measures which will be taken in addition to the scheduled required classroom training to ensure maintenance of onsite emergency preparedness including communications, offsite monitoring, and appropriate tabletop drills to be conducted prior to Cooper Nuclear Station returning to commercial operation. Certain of the drills are to include activation of portions of the Control Room, Technical Support Center, and Emergency Operations Facility.

Full scale exercises at Cooper Nuclear Station with states and local government participating have been conducted annually during the previous 3 years, with the most recent full scale exercise conducted on May 15 and 16, 1984. This exercise involved appropriate full participation by all jurisdictions within the plume and ingestion exposure pathway emergency planning zones including the states of Missouri, Nebraska, and Iowa together with the counties of Atchison and Nodaway in Missouri, and Nemaha and Richardson in Nebraska. Both NRC and FEMA reported that the implementation of onsite and emergency plans was adequate to protect the health and safety of the public. These findings provide assurance that the licensee, states and local agencies have the capability to respond to an emergency at Cooper Nuclear Station.

Based on the above assurance related to maintenance of onsite preparedness

and the adequacy of offsite emergency preparedness, we conclude that the licensee's request for an exemption is reasonable and that granting the requested exemption will not adversely affect the overall state of emergency preparedness for Cooper Nuclear Station. Therefore, the licensee's request for exemption should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter dated December 28, 1984, as supplemented by letter dated February 1, 1985, as discussed above, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption, modified as follows:

In order to allow for minor schedule changes, the next emergency exercise at Cooper Nuclear Station conducted pursuant to the requirements of 10 CFR 50, Appendix E, Section IV.F, shall be conducted not later than October 31, 1985, and henceforth, annually from that date.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (50 FR 12667).

Dated at Bethesda, Maryland this 1st day of April, 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85-8357 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-537]

U.S. Department of Energy, et al.; Withdrawal of Application for Construciton Permit and Revocation of Limited Work Authorization

By Motion, dated October 19, 1984, U.S. Department of Energy, Tennessee Valley Authority, and Project Management Corporation (Applicants) requested dismissal of the proceedings related to the application for construction permit for Clinch River Breeder Reactor Plant because U.S. Department of Energy, *et al.*, will not be completing the project. The proposed facility was to be located in Roane County, Tennessee, about 25 miles west of Knoxville, on the north side of the Clinch River. A "Notice of Hearing On Application for Construction Permit" was published in the **Federal Register** on June 18, 1975, (40 FR 25708).

On March 11, 1985 the Licensing Board issued a memorandum and order in which it granted Applicants' request (1) to withdraw their application for construction permit for Clinch River Breeder Reactor Plant; and (2) to dismiss the licensing proceeding subject to the following conditions imposed pursuant to the Hearing Board's authority under 10 CFR 2.107:

(1) The Applicants will redress the site in accord with their Final Site Redress Plan, and under the conditions set out in the Commission's June 6, 1984 letter of acceptance of the Final Site Redress Plan.

(2) The Applicants will modify the redress plan only in the event of a genuine expression of interest in an alternate use of the site from a serious project. In the event of such a prospect, the Applicants will carry out the redress plan to the greatest extent possible consistent with the alternate use. The Commission will review such prospects and any modifications.

(3) The Applicants will inform the Intervenors fully and immediately of the existence of an alternate use of the site, and of any modifications to redress.

The Licensing Board also authorized the Director, Office of Nuclear Reactor Regulation to revoke the LWA.

On November 23, 1983, the Intervenors filed a motion to terminate the proceedings on LWA issues pending before the Atomic Safety and Licensing Appeal Board. By Memorandum and Order (ALAB-755), December 15, 1983, the Chairman of the Atomic Safety and Licensing Appeal Board granted the Intervenors' motion and terminated its appellate proceedings on LWA issues, vacated the Licensing Board's partial initial decision, and vacated the Licensing Board's authorization of the issuance of the LWA.

By letter dated March 27, 1985 to the U.S. Department of Energy, *et al.*, the LWA issued to the Applicants was revoked.

In accordance with the Applicants' request and the Licensing Board's Memorandum and Order and pursuant to 10 CFR 2.107(c), notice is hereby given that the application for construction permit for Clinch River Breeder Reactor Plant has been withdrawn, that the proceeding in this matter has been dismissed and that the LWA issued to the U.S. Department of Energy, *et al.*, has been revoked.

Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and for six months at the Oak Ridge Public Library, Civic Center, Oak Ridge, Tennessee 37830 and the Lawson McGhee Public Library, 500 West Church Street, Knoxville, Tennessee 37902.

Dated at Bethesda, Maryland, this 27 day of March 1985.

For the Nuclear Regulatory Commission.

Thomas L. King,

Chief, Advanced Reactors Group, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 85-8354 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-31 and DPR-41, issued to Florida Power and Light Company (the licensee), for operation of the Turkey Point Plant Unit Nos. 3 and 4 located in Dade County, Florida.

The amendments would revise the Technical Specifications to delete the maximum amount of enriched fissionable material which can be used in the core, or available on site, in the form of fabricated neutron flux detectors for the purpose of monitoring core netron flux. This is necessary to allow for new excore neutron flux monitoring systems to be installed pursuant to Regulatory Guide (RG) 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants To Assess Plant Conditions During and Following An Accident." In addition, the amendments will clarify the existing requirements relating to the surveillance for leak testing of fission detectors, sealed sources and startup sources. These amendments were requested in the licensee's application dated March 7, 1985.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92(c), this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a

significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing examples of amendments considered likely, and not likely, to involve a significant hazards consideration. These were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples not likely to involve a signficant hazards consideration is example (i), a purely administrative change to the Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

The deletion of the restriction on the amount of enriched fissionable material allowed on-site as fission detectors meets Example (i). Section 2.C of the Operating License specifies that the receipt, possession, and use of source byproduct and special nuclear material as authorized by the license shall be in amounts as required and in accordance with the Commissions regulations in 10 CFR Part 30, 40 and 70. This condition was incorporated in the license by amendment, including Technical Specifications 3.11 and 4.13, to ensure that the byproduct, source and special nuclear materials utilized at the Turkey Point Plant were maintained in accordance with the Commission rules and regulation and used in such amounts as required for reactor operation. The limit specified in the Design Features, section 5 of the Technical Specifications, apparently through oversight, was not deleted at that time. The deletion of the limit specified in section 5 will remove the restriction on the amount of fissionable material allowed on site as fission detectors consistent with the requirements specified in section 2.C of the license and will allow installation of the additional fission detectors in accordance with RG 1.97.

The proposed changes relating to the surveillance requirements also meet example (i). The changes are necessary to clarify the existing requirements in the Technical Specifications as they relate to the use of sealed sources, fission detectors and start-up sources. These changes will assure that any leakage resulting from handling will be detected. The proposed changes remove ambiguities in the existing requirements and, in addition, are in accordance with the surveillance requirements identified in NUREG–0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactor." Therefore, since the proposed amendments provided consistency and clarification of existing requirements, the proposed amendments fit the cited example for amendments which do not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By May 8, 1985, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition shall specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requests involve no signficant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the

amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where peititions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union operator at (800) 325-3600 (in Missouri (800) 342-6700. The Western Union Operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Branch Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold F. Reis, Esquire, Newman and Holtzinger, P.C., 1615 L Street, NW, Washington, D.C. 20036, attorney for the license.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for the amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Environmental and Urgban Affairs Library, Florida International University, Miami, Florida 33199.

Dated at Bethesda, Maryland, this 4th day of April 1985.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 85-8460 Filed 4-5-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-13680]

Application and Opportunity for Hearing; Intermark, Inc.

April 3, 1985.

Notice is hereby given that Intermark, Inc., a Delaware Corporation (the "Company"), has filed an application pursuant to Rule 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding of the Commission that the trusteeship of United States Trust Company of New York (the "Trustee") under an indenture of the Company dated October 17, 1983 (the "Old Indenture"), and the trusteeship under an indenture of the Company dated April 1, 1985 (the "New Indenture") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the trustee from acting as trustee under either the Old Indenture or the New Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides in effect, with certain exceptions, that a trustee has such a conflict if it serves as trustee under two indentures of the same obligor. Under clause (ii) of subsection (1), however, the conflict may be excluded from the operation of this provision if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under a qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the trustee from acting as trustee under either of such indentures.

In support of its application, the Company alleges that:

1. In October 1983, the Company made a public offering of two classes of its securities offered as units in the following combination: $1,000 principal amount 13.20% Senior Subordinated Debentures Due October 1, 1998 (the "Old Debentures"), with 34 warrants to purchase 17 shares of common stock of Square D Company for $43⅜ per share cash, exercisable on or before October 1, 1988 (the "Warrants"). Issued pursuant to that offer were $33,000,000 in principal aggregate amount of Old Debentures and 1,122,000 Warrants. The Old Debentures were issued under the Old Indenture between the Company and the Trustee.

2. On March 5, 1985, the Company commenced an exchange offer, exempt from registration under the Securities Act of 1933, as amended, pursuant to section 3(a)(9) thereof, whereby the Company offered to exchange 13.20% Senior Subordinated Debentures, Series B, due October 1, 1998 (the "New Debentures"), for the Warrants. The New Debentures will be issued pursuant to the New Indenture between the Company and the Trustee. The Company has filed with the Commission an application for qualification on Form T-3 dated March 5, 1985, to qualify the New Indenture. The purpose of the exchange offer is to permit the Company to reacquire the Warrants and sell the underlying shares of Square D Common Stock where advantageous.

3. The Old Indenture contained the following provisions:

(a) The Old Debentures were wholly unsecured and were made subordinated to Senior Debt and superior to Junior Debt, both as defined in the Old Indenture, and were also made expressly equal in right of payment to Intermark's previously issued 11⅞% Senior Subordinated Debentures Due September 15, 1999 (the "11⅞% Debentures").

(b) The Old Indenture also contained provisions for redemption of the Old Debentures either through direct purchase by Intermark or through a sinking fund commencing in 1989 designed to retire $27,000,000 of aggregate principal amount of Old Debentures (approximately 82%) prior to the maturity date.

(c) The Old Indenture contained a restriction on the payment of dividends such that the expenditure of $4,000,000 plus 50% of Intermark's Net Income, as defined in the Old Indenture, was prohibited at any particular date. This provision terminated at such time when the total principal amount of the outstanding Old Debentures was less than $5,000,000, i.e., 15.15% of the aggregate original principal amount of the Old Debentures.

(c) The Old Indenture prohibited the Trustee from having a conflict of interest, defined in conformity with section 310(b)(1)(ii) of the Act as follows:

(1) The Trustee is trustee under another Indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company are outstanding, unless such other Indenture is a collateral trust indenture under which the only collateral consist of Debentures issued under this Indenture, provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities of the Company are outstanding if the Company shall have sustained the burden of proving on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the trustee from acting as such under this Indenture or such other indenture or indentures.

4. The New Indenture is virtually identical to the Old Indenture so that the Warrant holders to whom the exchange offer is being made, most of whom still hold the Old Debentures, will be familiar with the consideration being offered them and may feel more comfortable in accepting the exchange offer. The New Debentures, like the Old Debentures, are wholly unsecured. The New Indenture also contains the identical section 310(b)(1)(ii) language as does the Old Indenture.

5. The only changes in the New Indenture are as follows:

(a) The sinking fund provisions are changed to reflect the lower dollar amount necessary to redeem the New Debentures at the same rate and to the same level as the Old Debentures. The sinking fund under the New Indenture, as in the Old Indenture, commences in 1989 and will retire 82% of the original aggregate principal amount of the New Debentures prior to October 1, 1998.

(b) The provision for termination of restrictions on the payment of dividends is altered such that the termination will occur when the aggregate principal amount of the New Debentures decreases to 15.15% of the original aggregate principal amount, as in the Old Indenture.

(c) The New Indenture contains expanded definitions for Senior Debt and Junior Debt, and expanded language regarding the subordination of the New Debentures, such that the New Debentures are assured to be equal in right of payment with the Old Debentures and with the 11⅞% Debentures and vice versa.

6. The Company proposes, through the present exchange offer, that the Trustee serve as trustee under the New Indenture concurrently with its trustship under the Old Indenture. However, the trustee will face no conflict of interest in this service, as the two Indentures are virtually identical. Indeed, the limited differences between the Indentures are designed so that the rights of the two classes of Debentureholders remain equal and identical to each other. The different sinking fund provisions are designed such that the New Debentures and Old Debentures will both be retired at the identical rate to the identical proportion. The changes in certain definitions and in subordination provisions are such that the New Debentures will be entirely equal in right of payment to the Old Debentures and the 11⅞% Debentures, as provided in the Old Indenture. Because both the Old and New Debentures are wholly unsecured and are equal in right of payment, and because the Indentures under which each class of Debentures are issued are virtually identical, the Trustee will face no conflict of interest.

7. The Company has waived its right to a hearing on this application under the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the office of the Commission at 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after April 27, 1985, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(1) of the Act. Any interested person may, not later than April 27, 1985 at 5:30 p.m., Eastern Standard Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-8379 Filed 4-5-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21911; File No. SR-CBOE-85-9]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing of Proposed Rule Change; Relating to Opening Rotations.

The Chicago Board Options Exchange, Inc. ("CBOE"), LaSalle at Van Buren, Chicago, IL 60601, submitted on March 22, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), which would amend CBOE Rule 6.2, Interpretation .01, by reversing the order of opening options series in opening rotations of equity options.

I. Text of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Rule 6.2 No change.

* * * Interpretations and Policies:

.01 Trading rotations shall be employed at the opening of the Exchange each business day. For each class of option contracts that has been approved for trading, the opening rotation shall be conducted by the Board Broker or Order Book Official acting in such class of options.

The opening rotation in each class of options shall be held promptly following the opening transaction in the underlying security on the principal exchange where it is traded. As a rule, a Board Broker or Order Book Official acting in more than one class of options should open them in the same order in which opening transactions are reported in the underlying securities. In conducting each such opening rotation, the Board Broker or Order Book Official should ordinarily first open the one or more series of options of a given class having the [nearest] *most distant* expiration, then proceed to the series of options having the next [most] *least* distant expiration, and so forth, until all series have been opened. If both puts and calls covering the same underlying security are traded, the Board Broker or Order Book Official shall determine which type of option would open first, and shall alternate the opening of put series and call series. A Board Broker or

Order Book Official may conduct the opening rotation in another manner only with the approval of two Floor Officials or at the direction of the Floor Procedure Committee.

In the event an opening transaction in the underlying security has not been reported within a reasonable time after 9:00 a.m. (Chicago time), the Board Broker or Order Book Official acting in option contracts on such security shall report the delay to a Floor Official and an inquiry shall be made to determine the cause of delay. The opening rotation for option contracts in such security shall be delayed until an opening transaction is reported in the underlying security unless two Floor Officials determine that the interests of a fair and orderly market are best served by opening trading in the option contracts.

.02–.03 No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

This rule change reverses the order of opening series of options in opening rotations of equity options. The Exchange's experience has been that the most active series of options are in the near-term. By opening these series last, rather than first, it is expected that there would be less time intervening between the opening rotation and open trading in the most actively traded servies. This would be beneficial to continuity in price. In the index options, pilot programs with this form of opening rotation have demonstrated the efficacy of this procedure. The statutory basis of this rule change is Section 6(b)(5) of the Exchange Act, in that, among other things, the rule change will add to a free, open and efficient market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange membership endorsed this rule change in a vote concluded on November 20, 1984.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longrer period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

March 29, 1985.

[FR Doc. 85–8381 Filed 4–5–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–21912; File No. SR–CBOE–85–08]

Self-Regulatory Organizations; Proposed Rule Change; Chicago Board Options Exchange, Inc.; Obligations for Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 15, 1985, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Obligations for Orders

Rule 7.4. (a) Acceptance. A Board Broker or Order Book Official shall ordinarily be expected to accept orders for all option contracts of the class or classes to which his appointment extends. [Such orders shall include market orders (as defined in Rule 6.53(a)), limit orders (as defined in Rule 6.53(b)) and such orders as may be designated by the Floor Procedure Committee.] A Board Broker or Order Book Official shall not accept orders [of any other type or] from any source other than a member. For the purposes of this rule, an order shall be deemed to be from a member if the order is placed with a Board Broker or Order Book Official by a person associated with a member or through the telecommunications system of a member firm. The Floor Procedure Committee may specify the manner in which orders are routed to the Board Broker or Order Book Official for entry into the book. No member shall place, or permit to be placed, an order with a Board Broker or Order Book Official for an account in which such member, any other member or any non-member broker/dealer has an interest.

(b) Types of Orders. Orders which may be placed with an Order Book Official shall include the following:

(i) market orders (as defined in Rule 6.53(a)), provided however that no member shall place or permit to be placed with an Order Book Official a market order in any options series after such series has been called for opening unless such market order cancels and replaces a limit order left with the

Order Book Official prior to the opening of such series;

(ii) limit orders (as defined in Rule 6.53(b)), provided however that an Order Book Official may refuse to accept limit orders other than orders to cancel and replace limit orders already left with the Order Book Official, or restrict the manner in which such orders may be placed with the Order Book Official if, based upon market conditions, the Order Book Official anticipates that the flow of limit orders to the book will excessively burden or impede trading or lead to a trading halt; and

(iii) such orders as may be designated by the Floor Procedure Committee.

[(b)] *(c)* Availability. Each Board Broker or a temporary Board Broker designated in accordance with Rule 7.9 must be at the post not later than one-half hour before the opening of the market each business day (or such earlier time as may be set by the Floor Procedure Committee because of unusual circumstances) and must remain on the floor throughout the business day and for at least 15 minutes following the close of the market (or such longer period as may be set by the Floor Procedure Committee because of unusual circumstances).

[(c)] *(d)* Execution. A Board Broker or Order Book Official shall use due diligence to execute the orders placed in his custody at the best prices available to him under the Rules of the Exchange.

[(d)] *(e)*(1) If a Board Broker or Order Book Official holds orders to buy and sell the same option series, and if the highest bid and lowest offer displayed by the Board Broker or Order Book Official in that series differ by more than the minimum fraction, he may cross such orders, provided he proceeds in the following manner:

(i) A Board Broker or Order Book Official shall request bids and offers for such option series and make all persons in the trading crowd aware of his request;

(ii) after providing an opportunity for such bids and offers to be made, he must bid above the highest bid or offer below the lowest offer at prices differing by the minimum fraction;

(iii) If neither hid bid nor his offer is taken, he may cross the order at such higher bid or lower offer if possible, or at a price determined by the limit order to be crossed, by announcing by public outcry that he is crossing and giving the quantity and price.

(2) If a Board Broker or Order Book Official holds orders to buy and sell the same option series, and if the highest bid and lower offer displayed by the Board Broker or Order Book Official in that series differ by the minimum fraction, he may cross such orders, by announcing by public outcry that he is crossing and giving the quantity and the price.

(3) The provisions of paragraph [(d)] *(e)* of this Rule shall not apply to matching 1¢ buy and sell orders under Rule 6.54.

[(e)] *(f)* Notwithstanding anything to the contrary in paragraph [(d)] *(e)* of this Rule, during the opening rotation for a class of option contracts, in the interests of achieving a single price opening, a Board Broker or Order Book Official may proceed as follows:

(i) The Board Broker or Order Book Official may match all market orders in his possession;

(ii) He shall then announce by public outcray the number of contracts he has matched and will cross at the opening price to be established;

(iii) He may then continue to bid or offer the remaining unmatched and unexecuted orders he has in his possession for execution during opening rotation.

. . . Interpretations and Policies:

.01 In addition to market and limit orders [which he is obligated to accept], a Board Broker or Order Book Official may only accept such other types of orders as have been designated by the Floor Procedure Committee.

.02–.05 No change.

.06 An Order Book Official who refuses to accept limit orders or restricts the manner in which such orders may be entered into the shoe based on a determination that the flow of orders will excessively burden or impede trading or lead to a trading halt shall, as soon as practicable, notify two floor officials, who shall then decide when the restrictions imposed by the Order Book Official should be discontinued.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below:

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The proposed rule changes are designed to preclude the "dumping" of public customer orders into the order book. At present, a floor broker may place any market or limit order for a public customer into the book. (Exchange Rule 7.4(a)). Once in his custody, those order become the responsibility of the Order Book Official ("OBO"), who must exercise due diligence in attempting to execute them. (Exchange Rule 7.4(c)). Because bids and offers in the order book have priority over identical quotes in the trading crowd (Exchange Rule 6.45(a), (b)), whenever the market price of an option contract "touches" the best bid or offer in the book, trading among members of the crowd must cease until all executable orders in the book have been filled. Clearly, the practice of "dumping" orders into the book, which is apt to occur during periods of unusually active trading and rapidly changing prices, can cause severe backlogs in handling public customer orders. On some occasions trading halts have been called to enable OBO's to cope with a deluge of public customer orders dumped into the book in the midst of an active trading session.

The rule revisions seek to preclude dumping by floor brokers first by prohibiting the entry into the order book of a market order in any option series which already has been called during opening rotation. A market order is, by definition, immediately executable. Thus, there would not appear to be a need to book such orders during free trading. Under the amended rule, it should be noted, market orders already in the book could still be cancelled and replaced during the trading day.

The second substantive change to existing rules would authorize an Order Book Official to close the book to limit orders, or restrict the manner in which such orders could be booked, if the OBO determines from market conditions that the anticipated flow or orders to the book will excessively burden or impede trading or cause a trading halt. The OBO would have discretion either to refuse additional limit orders or place restrictions on the booking of such orders (for example, by requiring that they be time-stamped and/or initialled) as soon as the conditions which could give rise to dumping are detected. Once he takes such action, the OBO must summon two floor officials who will then determine whether and for how

long the OBO's restrictions should be allowed to continue. The rule revision does not authorize the OBO to restrict in any way cancellation and replacement of limit orders already booked.

The proposed amendments to Exchange Rule 7.4 are consistent with the requirements of the Securities Exchange Act of 1934 ("the Act") and further the objectives of the Act, particularly Section 6(b)(5) thereof, in that they are designed to promote just and equitable principles of trade and protect investors and the public interest through the elimination of unnecessary booking of orders.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The concept of this rule change was endorsed in a membership vote concluded on November 20, 1984.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 29, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-8382 Filed 4-5-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21909; File No. SR-PHLX 85-7]

Self-Regulatory Organizations; Proposed Rule Change; Philadelphia Stock Exchange, Inc.; Establishment of an Alternate Specialist System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 27, 1985, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change form interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. (the "PHLX" or the "Exchange") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the "Act") proposes to adopt Rule 203A to establish formal standards for the operation of a system of alternate specialists.

The text of the proposed rule change is set forth below.

Agreement of Alternate Specialists

Rule 203A (a) Upon being appointed as an alternate specialist, such alternate specialist shall agree to execute all orders in any security to which he is assigned in accordance with regulations herewith prescribed.

(b) Alternate specialists are members registered as specialists for purposes of the Securities Exchange Act of 1934 and as such may not effect on the Exchange as broker any transactions except upon a market or limited order.

(c) Such alternate specialists shall effect all of his transactions in securities traded on the Exchange so that they constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. No alternate specialist shall enter into transactions or make bids or offers that are inconsistent with such a course of dealings.

(d) An alternate specialist shall, at the request of a floor broker, make a bid or offer in any security to which he is assigned or in which he is then trading such that a transaction effected thereon will contribute to the maintenance of a fair and orderly market.

(e) An alternate specialist shall engage to a reasonable degree under existing circumstances in a course of dealing in the securities to which he is assigned that is reasonably calculated to contribute to the maintenance of a fair and orderly market. The Floor Procedure Committee (or other committee appointed for the purpose by the Board) shall specify the percentage of the shares purchased and sold by an alternate specialist that must be of securities to which he is assigned.

. . . Supplementary Material

.01 An alternate specialist shall at all times comply with applicable provisions of Rule 703 of the Exchange.

.02 An alternate specialist must also be registered as specialist in such number of securities as determined by the Floor Procedure Committee.

0.3 Fifty percent (50%) of an alternate specialists quarterly share volume must be in issues to which he is assigned. In situations where a Floor Official requests an alternate specialist to participate in trading an issue in which he is not assigned, the share volume so accumulated will be included as part of the volume required to satisfy the 50% requirement. Fifty percent (50%) of the quarterly share volume which creates or increases a position in an alternate specialist account must result from transactions consumated on the Exchange.

.04 Alternate specialists and specialists shall coordinate their activities in furtherance of the maintenance of a fair and orderly market.

.05 Except in unusual circumstances, no alternate specialist shall initiate a transaction on the exchange in his alternate specialist account from off the floor. Such transaction must be approved by two members of the Floor Procedure Committee. A written report thereof shall be submitted to the Market Surveillance Department stating the

nature of the unusual circumstances and containing the signatures of the approving members of the Floor Procedure Committee.

.06 Alternate specialsits as a group are entitled to participate in opening a security on the Exchange with equal standing with respect to any net imbalance (after specialist participation) of purchase and sale orders on the Exchange.

.07 Following the opening, when the bids or offers of one or more alternate specialists are equal in price to those of the specialist the alternate specialists as a group are entitled to participate in the transactions effected thereon to the extent of one-third of the total shares involved (excluding those needed to satisfy public orders).

.08 An alternate specialist may accept limit orders in any security to which he has been assigned that have been presented to the specialist and not accepted by him. Limit orders and market orders accepted by an alternate specialist shall be handled by him in accordance with Exchange rules governing the handling of such orders by specialists.

.09 When requested by a floor broker, an alternate specialist must accept and quarantee execution of all 100 share agency orders to which his assignment extends which are not accepted by the specialist. Subject to the requirements of the short sale rule, all agency market orders must be filled on the basis of the best consolidated quote system bid on a sell order or the best consolidated quote system offer on a buy order. All agency limit orders may be filled on the basis of Rule 228(a)(iii) or other criteria requiring a fill.

.10 Only those positions which have been established as a direct result of bonafide alternate specialist activity qualify for exempt credit treatment.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statuatory Basis for, the Proposed Rule Change

(a) *Purpose.* The purpose of proposed Rule 203A (the "rule") is to establish formal standards for the operation of a system of alternate specialists on the Exchange. The alternate specialist system is intended to add depth and liquidity to markets on the Exchange. The proposed rule imposes both "affirmative" and "negative" obligations on alternate specialists thus enabling members who register as such to qualify for market-maker status as contemplated by the Securities Exchange Act of 1934 (the "Act") and the rules thereunder. At the same time these obligations are aimed at protecting the public interest and strengthening the Exchange's ability to maintain fair, orderly and competitive markets on its floor.

The rule: (a) Requires alternate specialists to execute all orders in assigned securities in accordance with prescribed regulations; (b) provides that alternate specialists are specialists under the Act; (c) obligates him to execute transactions in securities traded on the Exchange so that they constitute a course of dealings reasonably calculated to contribute to a fair and orderly market; (d) requires that they make a bid and offer in assigned securities or securities in which trading at the request of a floor broker; (e) requires alternate specialists to engage to a reasonable degree under existing circumstances in a course of dealing in the securities to which assigned that is reasonably calculated to contribute to the maintenance of a fair and orderly market.

The supplementary material under the rule further outlines the "affirmative" and "negative" obligations imposed on alternate specialists.

(b) *Statuatory Basis for Proposed Rule Change.* Implementation of the proposed rule change will be consistent with those provisions of the Act by facilitating transactions in securities and, in general, to protect investors and the public interest. See Section 6(c)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed Rule change will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions shoud file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 29, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

Dated: March 29, 1985.

[FR Doc. 85-8383 Filed 4-5-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21889; SR-BSE-85-1]

Self-Regulatory Organizations; Notice of Filing of and Order Approving Proposed Rule Change by the Boston Stock Exchange, Inc.; Relating to Amendments to Chapter XXXII of the Rules of the Board of Governors.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 7, 1985 the Boston Stock Exchange, Inc. ("BSE") filed with the Securities and Exchange Commission the proposed changes as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The BSE is proposing to amend its arbitration rules. The full text of the proposed amendments is included in the BSE's filing with the Commission and is summarized in Item II below.

II. Self-Regulatory Organization's Statement of the Purpose of, Statutory Basis for, and Burden on Competition of, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Changes in the Rules relating to arbitration are necessitated by changes to the Constitution of the Exchange which eliminated provisions relating to the arbitration of claims. While much of the material was duplicitous of material also found in Chapter XXVI of the Rules, certain amendments to the Rules were necessary. In addition, the development and promulgation of uniform industry standards by the Securities Industry Conference on Arbitration necessitates changes in the Rules of the Exchange in order to bring the Rules of the Exchange into conformity with industry standards.

Section 1 has been added to define who may invoke the procedures of this Exchange. This material was previously covered in the Constitution of the Exchange.

Section 2 is amended to increase the dollar limit for simplified arbitration from $2,500 to $5,000 and to establish a fee schedule for simplified arbitration claims.

Section 4 is amended to prevent the time limitation on submissions from barring the submission of a claim which is directed to arbitration by a court.

The amendments further provide that, where permitted by law, the statute of limitations will be tolled when a claimant, rather than all parties, files a submission agreement. The amendments also add a subsection to extend the six-year limitation on submissions for such period of time as a court may retain jurisdiction over the dispute.

Section 8(b) is added to provide for simplified arbitration procedures applicable to member controversies of less than $5,000 and for panels of 5 arbitrators for cases in excess of $100,000.

Section 10 is amended to provide for additional preemptory challenges in the discretion of the Arbitration Director where there are multiple claimants or respondents. The rule, as amended, states explicitly that there will be unlimited challenges for cause.

Section 13 is amended in two instances. The first (Section 13(b)(2)(i) specifically authorizes the arbitrators to bar a respondent from presenting a defense if the respondent has submitted only a general denial or if the response fails to specify all available defenses. The second change (Section 13(c)(2)), permits the Arbitration Director to sever arbitrations where there are multiple claimants.

Section 27 has been amended to specify how amendments to pleadings should be made.

Section 31 establishes a new fee schedule. In general, it slightly increases filing fees in certain cases in order to help defray expenses of administering the arbitration program.

The statutory basis for the rule change is Section 6(b)(5) of the Securities Exchange Act of 1934. The proposed rule change will clarify the administrative procedures used in the arbitration program, and enhance the effectiveness of that program. It will benefit both the public and members, and protect the interests of the investors and the public.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed amendment will have any impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The BSE requests that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. the BSE views the proposed rule change as being substantially the same as the amendments to rules of other self-regulatory organizations already approved by the Commission, and believes that the changes will clarify the administrative procedures used in the arbitration program, enhance the effectiveness of that program, and protect the interests of investors and the public.

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 proposed amendments are substantially the same as the amendments to rules of other self-regulatory organizations, recently published for public comment, considered and approved by the Commission.[1] The Commission believes

[1] The Commission has approved provisions similar to those contained in the proposed amendments to BSE's Arbitration Code for the National Association of Securities Dealers (SR-NASD-84-16; Securities Exchange Act Release No. 21295, September 7, 1984; 49 FR 36040, September 13, 1984); the Municipal Securities Rulemaking Board (SR-MSRB-84-5; Securities Exchange Act Release No. 21407, June 14, 1984; 49 FR 25332, June 20, 1984); the American Stock Exchange (SR-Amex-84-24; Securities Exchange Act Release No. 21442, October 31, 1984; 49 FR 44574, November 7, 1984); the Midwest Stock Exchange (SR-MSE-84-6; Securities Exchange Act Release No. 21505, November 20, 1984; 49 FR 46857, November 28, 1984); the Chicago Board Options Exchange (SR-CBOE-84-26; Securities Exchange Act Release No. 21476, November 9, 1984; 49 FR 45687, November 19, 1984); the New York Stock Exchange, (SR-NYSE-84-20;

Continued

accelerated approval is appropriate insofar as the proposed rule change will foster consistent arbitration procedures among the self-regulatory organizations.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 29, 1985.

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.

John Wheeler,

Secretary.

March 25, 1985.

[FR Doc. 85-8372 Filed 4-5-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21904; SR-MSRB-85-9]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Proposed Rule Change

March 28, 1985.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1985, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (the "Board") is filing proposed amendments to rule G-12 on uniform practice and rule G-15 on customer confirmations, clearance and settlement of transactions (hereafter referred to as the "proposed rule change"). The Board requests that the Commission delay the effectiveness of the proposed rule change for a period of 60 days following the date of Commission approval in order to provide time for information concerning the approval of the proposed rule change to be circulated to all persons affected. The text of the proposed rule change is as follows:*

Rule G-12 Uniform Practice

(a) Through (b) No change.

(c) Dealer Confirmations.

(i) Through (v) No change.

(vi) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:

(A) Through (D) No change.

(E) *If the securities pay periodic interest and are sold by the underwriter as original issue discount securities, a designation that they are "original issue discount" securities;*

(E) Through (F) renumbered *(F)* through *(G)*

(d) Through (l) No change.

Rule G-15 Confirmation, Clearance and Settlement of Transactions with Customers

(a) Customer Confirmations.

(i) Through (ii) No change.

(iii) In addition to the information required by paragraphs (i) and (ii) above, each confirmation to a customer shall contain the following information, if applicable.

(A) Through (E) No change.

(F) *If the securities pay periodic interest and are sold by the underwriter as original issue discount securities, a designation that they are "original issue discount" securities;*

(F) Through (G) renumbered *(G)* through *(H)*

(iv) through (ix) No change.

(b) Through (d) No change.

* Italics indicate additions.

II. Self-Regulatory Organization's Statement on Purpose of, and Statutory Bais for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rules G-12(c) and G-15(a) require confirmation disclosure of certain descriptive information about the securities involved in inter-dealer and customer transactions, respectively. The proposed rule change would amend these rules to require that confirmations of transactions involving securities that are or were sold by underwriters as original issue discount securities and which also pay periodic interest shall include a designation that the securities involved are "original issue discount" securities.

The accretion of the discount of a tax-exempt original issue discount security generally is tax-exempt, at least in part, to the holder. Because of the tax implications that result from a municipal security being an original issue discount security, the Board has determined that there is a need for written identification or original issue discount securities on which periodic interest will also be paid. The Board is concerned that, when such securities are involved in a transaction, an investor might not perceive that the investment return will be received from two sources (*i.e.*, from both the periodic interest payments and the accretion of the discount) and may not realize the significance of (or may even pay capital gain taxes on) the apparent gain in principal when he subsequently disposes of the security. Similarly, a holder selling such an original issue discount security in the secondary market might not be paid the full value of the security if the parties do not realize that the security was issued at an original issue discount. The Board believes that written disclosure is especially important for these original issue discount securities because, unlike "zero coupon" securities, for which the Board has already adopted various confirmation disclosure requirements, they may be mistaken for traditional tax-exempt securities that pay return on investment only in the form of periodic interest payments.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, which directs the Board to propose and adopt rules which are

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to

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Securities Exchange Act Release No. 21542, December 6, 1984; 49 FR 28403, December 12, 1984); and the Philadelphia Stock Exchange, (SR-Phlx-85-2; Securities Exchange Act Release No. 21762, February 14, 1985; 50 FR 7260, February 21, 1985).

foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest. . . .

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition since it applies equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In May 1984, the Board released for comment an exposure draft of amendments identical to the proposed rule change regarding confirmations of transactions involving original issue discount securities. One comment letter was received, which supported the draft amendments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from date of publication].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 28, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-8371 Filed 4-5-85; 8:45 am]

BILLING CODE 8010-01-M

(Release No. 34-21905; File No. SR-NSCC-85-2)

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corporation ("NSCC") Relating to an Amendment to NSCC Rules and Fee Structure Regarding the Release of Clearing Data

March 28, 1985.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 28, 1985, NSCC submitted to the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amend National Securities Clearing Corporation's ("NSCC") SCC Division Rules and Procedures by adding a new Rule 49, Release of Clearing Data, as follows:

Release of Clearing Data

Rule 49. (a) Absent valid legal process or as provided in paragraph (b) hereof, the Corporation will only release Clearing Data relating to transactions of a particular participant to such participant upon his written request.

(b) The Corporation, in its sole discretion, may release Clearing Data relating to transactions of participants to regulatory organizations and self-regulatory organizations, as defined in the Securities Exchange Act of 1934, as amended, or other comparable Federal or State statutes. Provided, however, that nothing in this Rule shall prevent the Corporation from releasing Clearing Data to others, provided that such data shall be in a form as to prevent the disclosure, whether patently or in easily discernible format, of proprietary and/or confidential financial, operational or trading data of a particular participant or inappropriately arranged groups of participants.

(c) With respect to the foregoing, the release of any Clearing Data shall be conditioned upon either (i) a writen request, or (ii) the execution of a written agreement with the Corporation, whichever appropriate in the Corporation's discretion and the Corporation, in its discretion, shall establish the conditions under which such data shall be released and the fees, if any, to be paid for such data.

(d) The term "Clearing Data" shall mean, for the purposes of this Rule, transaction data which is received by the Corporation for inclusion in the clearance and/or settlement process of the Corporation, or such data, reports or summaries thereof, which may be produced as a result of processing such transaction data.

(e) The foregoing notwithstanding, this Rule is not intended to, nor shall it be deemed to be in contravention, or a limitation, of NSCC's obligations, as a self-regulatory organization, to cooperate and share data with other regulatory and self-regulatory organizations for regulatory purposes.

Amend NSCC's SCC Division Rules and Procedures Manual by adding the following Addendum H:

****Interpretation of the Board of Directors****

Pursuant to SCC Division Rule 33, the Board of Directors is authorized to prescribe Procedures and other regulations in respect of the business of National Securities Clearing Corporation. The Board of Directors hereby adopts the following interpretation as a regulation of the SCC Division:

Release of Clearing Data to Regulatory and Self-Regulatory Organizations

The purpose of this interpretation is to limit the extent to which Clearing Data pertaining to municipal bond transactions may be obtained by regulatory or self-regulatory organizations and others pursuant to Rule 49.

Pursuant to paragraphs (b) and (c) of Rule 49, the Corporation may release Clearing Data to regulatory and self-regulatory organizations and others. The Corporation has determined at this time that, due to the current nature of

municipal data within the Corporation's possession and control, release without restriction could be susceptible to misunderstanding, and/or misuse. In order to avoid problems that such release, in general, could cause to the municipal securities industry, the Corporation has determined that at this time Municipal Clearing Data in general shall only be released to regulatory organizations and self-regulatory organizations who have demonstrated to the Corporation the necessity for obtaining such data in furtherance of the regulatory purpose of such organization. The Corporation will also permit the release of Municipal Clearing Data to other responsible entities for non-regulatory purposes but only in the limited format as described below.

Regulatory and self-regulatory organizations to whom the Corporation has consented to release data may, in writing, request that Municipal Clearing Data be provided to a third party in addition to or in lieu of themselves, upon a demonstration satisfactory to the Corporation, that such release to a third party would further the regulatory purpose of the regulatory organization or the self-regulatory organization.

With respect to the release of Municipal Clearing Data other than for regulatory purposes, the Corporation will release only a ranking of a pre-selected group of municipal bonds compared by the Corporation during a predetermined period of time to responsible entities. Such ranking shall be based upon the aggregate total of the par value of bonds compared by the Corporation during such period. The Corporation specifically reserves the right to deny any request where it has determined that with regard to providing data with respect to the pre-selected groups of bonds, the provision of such data could disclose whether patently or in easily discernible format, proprietary and/or confidential financial, operational or trading data of a particular participant.

The foregoing notwithstanding, this interpretation is not intended to, nor shall it be deemed to be in contravention, or a limitation, of the Corporation's obligation pursuant to its Shareholders Agreement.

Amend Paragraph V., "Pass Through and Other Fees" of NSCC's Fee Structure by adding:

D. Production of Clearing Data: (15)

To provide a bi-monthly ranking within a pre-selected group of municipal bonds (not to exceed fifty in number), based upon NSCC's comparison activity.	*$1,025 per month for the first twelve (12) months; $500 per month thereafter.*

(15) In establishing fees for the production of clearing data, NSCC will include its costs of developing requested programs, running such programs and any additional costs to distribute such data as produced, including an appropriate allocation of NSCC's general and administrative expenses and an appropriate allocation of NSCC's development costs of the system or service from which athe data is developed provided, however, that such latter allocation shall not exceed 25% of the above combined NSCC costs.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to specifically delineate within its rules the current practice that NSCC follows with respect to requests for the release of data within its possession and control. In conjunction therewith, NSCC has determined, with respect to requests for the release of municipal data, to limit at this time its current practice as codified in this rule. NSCC's purpose in so limiting the release of municipal data is as follows.

Effective August 1, 1984, the Municipal Securities Rulemaking Board ("MSRB") in Rule G–12, subject to certain exceptions, required all interdealer trades in municipal bonds, between (a) members of registered clearing agencies, (b) a member of a registered clearing agency and a non-member who utilizes as its clearing agent a member of a registered clearing agency, and (c) non-members who utilize clearing agents who are members of registered clearing agencies, be reported to a registered clearing agency for automated comparison.

Prior to the effective date of Rule G–12, NSCC on its own had developed a stand alone Municipal Bond Comparison System ("the System"). As a result of operating the System, NSCC has the ability to accumulate, in a central location, a significant amount of data concerning the municipal bond market place which was previously unavailable. However, NSCC recognizes that the data it can make available could be susceptible to misuse and/or misunderstanding by some parties. Such potential was also recently recognized by the MSRB on March 4, 1985 when it solicited comments concerning the development of automated systems for the dissemination of municipal securities pricing information. In that document, a copy of which is attached as Exhibit 2, specifically in the area of *Reporting of Transaction Data*, the MSRB raised a series of questions including, among others, "What safeguards should be followed to eliminate or reduce the risk of distortion or manipulation of the data?" The MSRB specifically stated that: "It may be necessary to establish limitations on the data to be released to prevent the dissemination of distorted or misleading information or to forestall undesirable or inappropriate effects from release of the data." It is equally clear, however, that the data could be of significant benefit to regulatory and self-regulatory organizations and to other responsible entities.

Accordingly, the proposed rule would limit NSCC at this time to providing municipal bond comparison data only to (i) regulatory organizations and self-regulatory organizations (and, upon their request, to third parties) for the sole purpose of assisting regulatory and self-regulatory organizations in the performance of their regulatory function under the Securities Exchange Act of 1934, as amended, or other comparable Federal or State statutes, and (ii) for other than regulatory or self-regulatory purposes to responsible entities, but only in the form of a ranking of a pre-selected group of municipal bonds compared by NSCC. NSCC would withhold dissemination of municipal clearing data, other than for regulatory purposes or as permitted above, pending resolve among Industry participants and regulators as to the appropriateness of further dissemination.

The proposed rule also sets forth the basis under which fees would be charged for obtaining clearing data. The rule change does not affect NSCC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not perceive that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments on the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 28, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-8373 Filed 4-5-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 85-020]

Coast Guard Academy Advisory Committee, Meeting

AGENCY: Coast Guard, DOT.

ACTION: Open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Monday and Wednesday, April 22 and 24, 1985. The session on Monday will be held from 10:45 to 11:45 a.m. Another open session will be held on Wednesday from 10:15 to 11:15 a.m. The agenda for this meeting consists of the following items:

1. Faculty
2. Curricula

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the course of instruction at the Academy and to make recommendations as necessary.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Capt David A. Sandell, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 444-8275. Issued in Washington, D.C. on April 1, 1985.

J.S. Gracey,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 85-8365 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes May 8, 1985.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9408-N	Ethyl Corp., Baton Rouge, LA	49 CFR 173.301(d)(2), 173.302(a)(1), (3)	To authorize shipment of silicon tetrafluoride, non-flammable gas, in tube trailers utilizing manifolded seamless steel cylinders conforming to DOT Specification 3AAX2200 and individually equipped with safety relief devices. (Mode 1.)
9409-N	Westinghouse Electric Corp., Madison, PA	49 CFR 173.206(c)(4)	To authorize a one time shipment of sodium metallic, classed as a flammable solid in three non-DOT specification stainless steel storage tanks securely affixed to a flat bed tractor trailer. (Mode 1.)
9411-N	Proco, Inc. Corpus Christi, TX	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks similar to DOT Specification MC-307/312 except for bottom outlet valve variations, for shipment of various flammable, corrosive, or poison waste liquids or semi-solids. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9413-N	EM Science, Cincinnati, OH	49 CFR 173.266	To authorize shipment of chemical kits containing limited quantities of flammable solid, n.o.s., zinc powder, and hydrochloric acid solution, classed as a corrosive material in specially designed packagings. (Mode 1.)
9414-N	Union Carbide Corp., Danbury, CT	49 CFR 173.302(a)(5)	To authorize shipment of tetrafluoromethane (halocarbon 14) non-liquefied, nonflammable gas, in DOT Specification 3AL aluminum cylinders. (Modes 1, 3.)
9415-N	Plasti-Drum Corp., Lockport, IL	49 CFR 173, Subpart D, E, F, H	To manufacture, mark and sell 30-gallon capacity polyethylene containers comparable to DOT Specification 34 except for a single opening of 4 inches for shipment of those hazardous materials authorized in Specification 34 and 21C drums. (Modes 1, 2, and 3.)
9416-N	CIBA-GEIGY Corp., Ardsley, NY	49 CFR 173.359	To authorize shipment of organophosphorus pesticide, liquid, n.o.s., classed as a poison B, in DOT Specification 12P-60 fiberboard boxes each containing two 2½ gallon 2U containers. (Mode 1.)
9417-N	Russell-Stanley West, Inc., City of Industry, CA.	49 CFR 178.19-3	To authorize use of approximately 3,046 five gallon capacity DOT Specification 34 containers which have a thinner thickness than required in a isolated area in the bottom of the drums for shipment of those hazardous materials authorized in Specification 34. (Mode 1, 2.)
9418-N	West Texas Fabrication, Odessa, TX	49 CFR 173.119, 173.245	To manufacture, mark and sell non-DOT specification portable tanks having 6-60 gallon compartments firmly mounted on a truck chasis for shipment of various flammable and corrosive liquids (oil well treating compounds). (Mode 1.)
9419-N	FIBA Compressed Gas Equipment, Westboro, MA	49 CFR 173.302, 173.34, Part 107, Appendix B.	To authorize DOT Specification 3AAX and 3T cylinders to be periodically retested by acoustic emission equipment instead of hydrostatic retest. (Modes 1, 3.)
9421-N	Union Carbide Corp., Danbury, CT, Taylor-Wharton, Div. of Harsco Corp., Harrisburg, PA.	49 CFR 173.302, 173.304, 173.305	To manufacture, mark and sell non-DOT specification seamless, steel cylinders for the shipment of various compressed gases where the ratio of gas to cylinder weight is higher than the ratio with respect to DOT Specification 3AA cylinders. (Modes 1, 2, 3, 4.)
9422-N	Ford Motor Co., Mount Clemens, MI	49 CFR 172.202, 172.301	To authorize the depletion of a stock of approximately 40,000 shipping papers and labels preprinted with a proper shipping name now obsolete. (Modes 1, 2.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on April 1, 1985.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-8289 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes April 23, 1985.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application No.	Applicant	Renewal of exemption
3630-X	Mallinckrodt, Inc., Paris, KY	3630
3630-X	Ashland Services Company, Dublin, OH.	3630
5022-X	National Aeronautics and Space Administration, Washington, DC.	5022
5600-X	Ozark-Mahoning Company, Tulsa, OK.	5600
5746-X	U.S. Department of the Army, Falls Church, VA.	5746
5895-X	Explosive Technology, Inc., Fairfield, CA.	5895
6126-X	D & O Chemicals, Inc., Fort Lee, NJ.	6126
6126-X	Aceto Chemical Co., Inc., Flushing, NY.	6126
6658-X	U.S. Department of Energy, Washington, DC.	6658
6658-X	U.S. Department of the Army, Falls Church, VA.	6658
6759-X	Mesabi Powder Company, Hibbing, MN.	6759
6759-X	Atlas Powder Company, Dallas, TX.	6759
6762-X	Aquaphase Laboratories, Inc., Adrian MI.	6762
6762-X	National Chemical, Atlanta, GA	6762
6766-X	Dubois Chemicals, Cincinnati, OH.	6766
6774-X	+HR Textron Inc., Pacoima, CA	6774
6874-X	Bio-Lab, Inc., Conyers, GA	6824
7063-X	Twin Lake Chemical, Co., Lockport, NY.	7063
7235-X	Luxfer U.S.A., Ltd., Riverside, CA.	7235
7269-X	U.S. Department of Energy, Washington, DC.	7269
7440-X	Revlon Professional Products, Inc., Jacksonville, FL.	7440
7482-X	Monsanto Company, Saint Louis, MO.	7482
7628-X	Chemtech Industries, Inc., St. Louis, MO.	7628
7700-X	Forest Service, U.S. Department of Agriculture, Washington, DC.	7700
7835-X	Union Carbide Corporation, Danbury, CT.	7835

Application No.	Applicant	Renewal of exemption
7985-X	Process Engineering, Incoporated, Plaistow, NH.	7985
8016-X	Forest Service, U.S. Department of Agriculture, Washington, DC.	8016
8065-X	U.S. Department of Energy, Washington, DC.	8065
8196-X	ANF-Industrie, Paris, France.	8196
8196-X	Societe Auxiliarie de Transports et d'Industries, Paris, France.	8196
8232-X	ANF-Industrie, Paris, France.	8232
8232-X	Societe Auxiliarie de Transports et d'Industries, Paris, France.	8232
8238-X	ASARCO Incorporated, New York, NY.	8238
8426-X	Martin Tank Manufacturing, Inc., Wilmington, CA.	8426
8518-X	Pacific Tank and Manufacturing, Long Beach, CA.	8518
8523-X	Dehon and Prochimac, Paris, France.	8523
8540-X	U.S. Department of the Army, Falls Church, VA.	8540
8554-X	Evenson Explosives, Inc., Morris, IL.	8554
8555-X	Morton Thiokol, Inc., Brigham City, UT.	8555
8581-X	Northrop Services, Inc., Research Triangle Park, NC.	8581
8748-X	Battelle, Pacific Northwest Laboratories, Richland, WAG52.	8748
8795-X	The Marison Company, South Elgin, IL [3].	8795
8901-X	Great Lakes Chemical Corporation, El Dorado, AK.	8901
8956-X	Clif Mock Company, Conroe, TX.	8956
8990-X	Pressure Pak, Inc., East Hampton, CT.	8990
8992-X	General Dynamics/Pomona Division Aviation Dept., Pomona, CA.	8992
9004-X	Metric Corporation, Tulsa, OK.	9004
9014-X	Hunter Drums Limited, Burlington, Ont., Canada.	9014
9017-X	EVA Eisenbahn-Verkehrsmittel-Gesellschaft mbH, Dusseldorf, West Germnany.	9017
9017-X	Mobay Chemical Corporation, Pittsburgh, PA.	9017
9023-X	ANF-Industrie-Paris, France.	9023
9041-X	Hercules, Incorporated-Wilmington, DE.	9041
9048-X	Brooks Instrument Div./Emerson Electric Co. Statesboro, GA.	9048
9051-X	Amerex Corporation Trussville, AL.	9051
9052-X	Chemical Handling Equipment Co., Inc. Southfield, MI.	9052
9063-X	Hoechst Aktiengesellschaft Frankfurt, West Germany.	9063
9078-X	Monsanto Company Saint Louis, MO.	9078
9129-X	Weldex Corporation Grafton, MA.	9129
9141-X	Bristol Flare Corporation Bristol, PA.	9141
9256-X	U.S. Department of the Army Falls Church, VA [4].	9256

[1] To authorize cylinders for shipment of various flammable or nonflammable compressed gases to be manufactured with neck rings.

[2] To provide for an increased capacity of boron trifluoride tubes.

[3] To reorient the manufacture of cylinders patterned after DOT Specification 4BW instead of DOT Specification 4B240 ET.

[4] To authorize cargo aircraft only and cargo vessel as additional modes of transportation.

Application No.	Applicant	Parties to exemption
2709-P	Troian Corporation, Salt Lake City, UT.	2709
2961-P	IRECO Incorporated, Salt Lake City, UT.	2961
4282-P	IRECO Incorporated, Salt Lake City, UT.	4282
5243-P	IRECO Incorporated, Salt Lake City, UT.	5243
5704-P	IRECO Incorporated, Salt Lake City, UT.	5704
6126-P	Dicel Chemical Industries, Ltd., Ossaka, Japan.	6126
6293-P	IRECO Incorporated, Salt Lake City, UT.	6293
6418-P	Brown & Bryant, Inc., Shafter, CA.	6418
6759-P	IRECO Incorporated, Salt Lake City, UT.	6759
6984-P	IRECO Incorporated, Salt Lake City, UT.	6984
7052-P	Tracor Aerospace Austin, Inc., Austin, TX.	7052
7052-P	Micro Memory, Inc., Chatsworth, CA.	7052
7052-P	Flow Research Corporation, Houston, TX.	7052
7052-P	IRECO Incorporated, Salt Lake City, UT.	7052
7754-P	IRECO Incorporated, Salt Lake City, UT.	7754
8445-P	Southern Illinois University, Carbondale, IL.	8445
8685-P	IRECO Incorporated, Salt Lake City, UT.	8685
8901-P	Douglas Chemical Company, Liberty, MI.	8901
8988-P	Gearhart Industires, Inc., Fort Worth, TX.	8988
9108-P	Trojan Corporation, Salt Lake City, UT.	9108
9130-P	Bio-Lab, Inc., Conyers, GA.	9130
9364-P	CIBA-GEIGY Corporation, Ardsley, NY [1].	9364
9402-P	NAACO S.A., Paris, France.	9402
9402-P	Exploitation De Services Industriels ET DE Forets, Paris, France.	9402
9402-P	ALGECO, Paris, France.	9402

[1] Request party status and to authorize shipment of an organophosphorus pesticide liquid, n.o.s. as an additional commodity.

This notice of receipt of applications for renewal of exemptions and for party to an exmeption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on April 2, 1985.

J.R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-8290 Filed 4-5-85; 8:45 am]

BILLING CODE 4910-60-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains revisions and extensions and lists the following information: (1) The Department of Staff Office issuing the form; (2) The title of the form; (3) the agency form number, if applicable; (4) how often the form must be filled out; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form; and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Office (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collections should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: April 3, 1985.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Revisions

1. Department of Veterans Benefits
2. Request for Estate Information
3. VA Form Letter 27-439
4. On occasion
5. Individuals or households, State or local governments, Federal agencies or employees
6. 24,000 responses
7. 4,000 hours
8. Not applicable

1. Department of Veterans Benefits
2. Eligibility Verification Report
3. VA Form 21-4179, 21-8913 through 21-8920
4. Annually
5. Individuals or households
6. 1,500,000 responses
7. 300,000 hours
8. Not applicable

Extension

1. Department of Veterans Benefits
2. Application for Change of Permanent Plan (Nonmedical)
3. VA Form 29-1550
4. On occasion
5. Individuals or households
6. 500 responses
7. 166 hours
8. Not applicable

Extensions

1. Department of Veterans Benefits
2. Application for Authority to Close Loans on an Automatic Basis—Nonsupervised Lenders

3. VA Form 26–8736
4. On occasion
5. Businesses or other for-profit
6. 50 responses
7. 25 hours
8. Not applicable

1. Department of Veterans Benefits
2. Request for Information to Make Direct Payment to Child Reaching Majority
3. VA Form Letter 21–863
4. On occasion
5. Individuals or households
6. 22,600 responses
7. 3,767 hours
8. Not applicable

[FR Doc. 85–8300 Filed 4–5–85; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 67
Monday, April 8, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ENERGY REGULATORY COMMISSION

April 3, 1985.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552B:

TIME AND DATE: 10:00 a.m., April 10, 1985.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of Public Information.

Consent Power Agenda, 811th Meeting—April 10, 1985, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 3856-002, Reed Hydro-Electric Corporation
CAP-2.
Project No. 8042-000, Rubi Hydro Partners
CAP-3.
Project No. 2890-005 and 006, Kings River Conservation District
CAP-4.
Project No. 2854-010, Town of Vidalia, Louisiana
CAP-5.
Project No. 6939-004, the city of Jackson, Ohio
CAP-6.
Project No. 8167-003, Synergics, Inc.
CAP-7.
Omitted
CAP-8.
Project No. 7339-001, Cross-O Ranch, Inc. and Hat Creek Corporation
CAP-9.
Project No. 2343-001, Potomac Edison Company
CAP-10.
Project No. 5275-000, Hydro Resource Company
Project No. 5325-000, Capital Development Company
Project No. 8014-002, Public Utility District No. 1 of Lewis County, Washington
Project No. 6600-000, Eagle Power Company
CAP-11.
Project No. 4441-003, Pacific Power and Light Company, et al.
Project No. 4702-002, city of Centralia, Washington
CAP-12.
Project No. 7187-002, Pankratz Lumber Company
CAP-13.
Docket No. ER84-576-007, Wisconsin Power & Light Company
CAP-14.
Docket No. ER85-301-000, Massachusetts Refusetech, Inc.
CAP-15.
Docket No. ER84-344-001, Maine Yankee Atomic Power Company
CAP-16.
Docket No. ER84-687-000, Pacific Power & Light Company
CAP-17.
Docket No. EL84-32-000, Plains Electric Generation and Transmission Cooperative, Inc. v. Public Service Company of New Mexico
Docket No. EL84-35-000, Public Service Company of New Mexico
Docket No. EL84-36-000, Texas-New Mexico Power Company v. Public Service Company of New Mexico
CAP-18.
Docket No. QF84-442-000, Turbine Tech., Inc.
CAP-19.
Docket No. QF85-187-001, County of Olmsted, Minnesota

Consent Miscellaneous Agenda

CAM-1.
(A) Docket No. RM85-2-000, Rules of Practice and Procedure: Commission review of remedial orders
(B) Docket No. RM85-3-000, delegation to the Chief Administrative Law Judge
CAM-2.
Docket No. RM79-76-238 (Texas—22 addition V), high-cost gas produced from tight formations
CAM-3.
Docket No. GP84-31-000, Natural Gas Pipe Line Company of America
CAM-4.
Docket No. GP81-14-000, Phillips Petroleum Company
CAM-5.
Docket No. RO84-2-000, Crown Central Petroleum Corporation

Consent Gas Agenda

CAG-1.
(A) Docket Nos. RP83-35-014 through 933, Texas Eastern Transmission Corporation
(B) Docket Nos. RP83-35-000, RP81-109-000, RP82-37-000 and RI74-41-016, Texas Eastern Transmission Corporation
CAG-2.
Docket No. RP83-137-016, Transcontinental Gas Pipe Line Corporation
CAG-3.
Docket No. RP84-79-005, Gas Gathering Corporation
CAG-4.
Docket Nos. TA83-2-47-000 and GP85-20-000, MIGC, Inc.
CAG-5.
Docket No. RP84-60-000, National Fuel Gas Supply Corporation
CAG-6.
Docket No. TA84-2-30-003 (PGA84-2a), Trunkline Gas Company
CAG-7.
Docket No. ST84-630-002, Delhi Gas Pipeline Corporation
CAG-8.
Docket Nos. ST81-194-002 and CP81-232-000, Northwest Alabama Gas District
CAG-9.
Docket Nos. RI74-188-044 and RI75-21-039, Independent Oil & Gas Association of West Virginia
CAG-10.
Docket No. C84-400-000, Ashland Exploration, Inc.
CAG-11.
Docket No. CI85-94-001, Tenngasco Corporation, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd. and Tenneco West, Inc.
Docket Nos. CI85-95-001 and 002, Tenngasco Exchange Corporation
CAG-12.
Omitted
CAG-13.
Docket No. CP79-224-007, El Paso Natural Gas Company
CAG-14.
Docket Nos. CP84-132-001, 002, 003, CP84-133-001, 002, CP84-134-001, 002, CP84-196-001, 002 and 003, Columbia Gulf Transmission Company, Transcontinental Gas Pipe Line Corporation and Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG-15.
Docket Nos. CP84-348-001, 002, and 003, Mississippi River Transmission Corporation
CAG-16.
Docket Nos. CP82-487-002, 007 and 008, Williston Basin Interstate Pipeline Company and Montana-Dakota Utilities Company

Docket Nos. CP84-504-000, RP84-62-000, TA84-2-49-000, TA85-1-49-000, 001 and RP84-93-000, Montana-Dakota Utilities Company
Docket Nos. SA84-19-000, CP85-220-001 and 002, Williston Basin Interstate Pipeline Company
Docket Nos. CP85-221-001 and 002, Frontier Gas Storage Company
CAG-17.
Docket Nos. CP84-539-001 and 002, El Paso Natural Gas Company and Producer—Suppliers of El Paso Natural Gas Company
CAG-18.
Docket No. CP84-763-000, Columbia Gas Transmission Corporation v. Consolidated Gas Transmission Corporation
CAG-19.
Docket No. CP85-76-000, Columbia Gulf Transmission Company
CAG-20.
Docket No. CP84-684-000, Mountain Fuel Resources, Inc.
CAG-21.
Docket No. CP84-518-000, Louisiana Resources Company
Docket No. CP84-651-000, ANR Pipeline Company
Docket No. CP84-667-000, Northern Natural Gas Company, Division of Internorth, Inc.
Docket No. CI78-781-001, American Petrofina Company of Texas
CAG-22.
Docket No. CP84-479-000, Midwestern Gas Transmission Company
CAG-23.
Docket No. CP84-601-000, ANR Pipe Line Company

I. Licensed Project Matters

P-1.
(A) Project No. 4796-002, Niagara Mohawk Power Corporation and Glenn Park Associates
(B) Project No. 4796-008, Niagara Mohawk Power Corporation and Glenn Park Associates Project No. 4939-001, Brownville Power Company
P-2.
Project No. 199-029, South Carolina Public Service Authority
P-3.
Omitted

II. Electric Rate Matters

ER-1.
Docket No. ER84-353-000, Virginia Electric and Power Company
ER-2.
Docket No. ER82-703-000, New England Power Company

Miscellaneous Agenda

M-1.
Docket No. RM83-63-000, Automatic authorization for holding certain positions that require Commission approval under section 305(B) of the Federal Power Act
M-2.
Reserved
M-3.
Reserved

I. Pipeline Rate Matters

RP-1.
Docket Nos. TA85-3-17-000, 001 and TA85-2-17-000, Texas Eastern Transmission Corporation
RP-2.
Docket Nos. TA85-2-4-000 and RP85-118-000, Granite State Gas Transmission Company, Inc.
RP-3.
(A) Docket Nos. RP83-8-000 and 001, Columbia Gas Transmission Corporation v. Tennessee Gas Pipeline Company, a Divison of Tenneco Inc., et al.
(B) Docket No. TA85-1-9-002 (PGA85-1, GRI85-1 and IPR85-1), Tennessee Gas Pipeline Company, a Division of Tennecco Inc.
RP-4.
Docket Nos. ST80-298-000, et al., ST82-287-000, et al., ST82-397-000, et al. and ST84-703-000, Mississippi Fuel Company

II. Producer Matters

CI-1.
Docket No. CI80-70-000, Phillips Petroleum Company v. McCulloch Gas Processing Corporation and McCulloch Interstate Gas Corporation, Dinah Conrad, MHF Enterprises, Inc., DOL Resources, Inc., the Hawks Company and K.A. Thomas

III. Pipeline Certificate Matters

CP-1.
Docket No. CP85-183-000, Northern Natural Gas Company, Division of Internorth, Inc.
CP-2.
Docket No. CP85-181-000, Northern Natural Gas Company, Division of Internorth, Inc.

Kenneth F. Plumb,
Secretary.
[FR Doc. 85-8401 Filed 4-4-85; 10:31 am]
BILLING CODE 6717-01-M

2

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-85-6]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 10346, March 14, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, March 21, 1985.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was added to the agenda and discussed in open session.

1. *Recommendation* concerning minimum crew on locomotives of through freight trains.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

Ray Smith,
Federal Register Liaison Officer.
April 3, 1985.
[FR Doc. 85-8394 Filed 4-4-85; 9:19 am]
BILLING CODE 7533-01-M

3

PAROLE COMMISSION

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

DATE AND TIME: Monday, April 22, 1985—1:00 p.m. through Wednesday, April 25, 1985—4:00 p.m.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open business meeting February 1 and 2, 1985.
2. Reports from the Chairman, Vice Chairman, Commissioners, Research, Case Operations, and the Administrative Sections.
3. Word processing equipment.
4. Forfeiture of street time (older convictions)
5. Emergency placement in a community treatment approved residential center.
6. Rewording of Parole Condition No. 11, possession of firearms or other weapons.
7. Professional Liability Insurance.
8. Study of Phencyclidine (PCP).
9. Use of informants.
10. Recommendations under 28 CFR 2.62 regarding motions under 18 U.S.C. 4205(g).
11. Suggested guideline revisions.

Consent Agenda

The following Consent Agenda Items shall be deemed adopted by consent and will not be discussed at the meeting unless a request to discuss a particular item has been received by April 18, 1985.

12. Minor revisions/clarifications of guidelines at 28 CFR 2.20.
13. R&P Memo No. 2 (dated March 25, 1985) previously distributed to the Commissioners.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492-5980.

Dated: April 4, 1985.

Joseph A. Barry,
General Counsel, United States Parole Commission.
[FR Doc. 85-8435 Filed 4-4-85; 2:40 pm]
BILLING CODE 4410-01-M

4

PAROLE COMMISSION

DATE AND TIME: Monday, April 22, 1985—9:00 a.m. to 11:30 a.m.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 20 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

Dated: April 4, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 85-3436 Filed 4-4-85; 2:40 pm]

BILLING CODE 4410-01-M

5

POSTAL SERVICE

Vote to Close Meeting

At its meeting on April 1, 1985, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for May 6, 1985, in Washington, D.C. The meeting will involve a discussion of personnel matters.

The meeting is expected to be attended by the following persons: Governors Camp, Griesemer, McKean, Peters, Ryan, Sullivan and Voss; Postmaster General Carlin; Deputy Postmaster General Strange; Secretary to the Board Harris; General Counsel Cox; Senior Assistant Postmaster General Coughlin; and Counsel to the Governors Califano.

The Board of Governors has determined that, pursuant to section 552b(c)(6) of Title 5, United States Code, and § 7.3(f) of Title 39, Code of Federal Regulations, the discussion of personnel matters is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. The Board also determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(6) of Title 5, United States Code, and § 7.3(f) of Title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[FR Doc. 85-8447 Filed 4-4-85; 2:54 pm]

BILLING CODE 7710-12-M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of April 8, 1985.

A closed meeting will be held on Tuesday, April 9, 1985, at 3:00 p.m. An open meeting will be held on Thursday, April 11, 1985, at 2:30 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 9, 1985, at 3:00 p.m., will be:

Formal orders of investigation.
Regulatory matter bearing enforcement implications.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Report of Investigation.
Opinion.

The subject matter of the open meeting scheduled for Thursday, April 11, 1985, at 2:30 p.m., will be:

Consideration of whether to issue a release setting forth certain procedures and guidelines governing the filing and processing of exemptive applications and other filings submitted under the Investment Company Act of 1940 and the Investment Advisers Act of 1940. For further information, please contact Mary A. Cole at (202) 272-3023.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Powers at (202) 272-2091.

John Wheeler,

Secretary.

March 29, 1985.

[FR Doc. 85-8380 Filed 4-3-85; 4:21 pm]

BILLING CODE 8010-01-M

7

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (50 FR 11613 3/22/85)

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, March 19, 1985.

CHANGE IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting held on Thursday, March 28, 1985, following the 10:00 a.m. open meeting.

Consideration of amicus participation.

Chairman Shad and Commissioners Treadway, Cox, Marinaccio and Peters determined that Commission business required the above change and that no earlier thereof was possible.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272-3195.

John Wheeler,

Secretary.

April 1, 1985.

[FR Doc. 85-8384 Filed 4-3-85; 4:33 pm]

BILLING CODE 8010-01-M

federal register

Monday
April 8, 1985

Part II

Department of Education

34 CFR Part 682

Guaranteed Student Loan Program; Schedule of Expected Family Contributions for 1985–86; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 682

Guaranteed Student Loan Program; Schedule of Expected Family Contributions for 1985–86

AGENCY: Department of Education.

ACTION: Final regulations, family contribution schedule for the Guaranteed Student Loan Program for 1985–86.

SUMMARY: The Secretary issues final regulations for use in determining student eligibility for interest benefits under the Guaranteed Student Loan Program (GSLP). These regulations, which establish the GSL Family Contribution Schedule for 1985–86, will apply to any loan for a period of instruction which begins on or after July 1, 1985, but not later than June 30, 1986, regardless of the time when the determination of the student's need for a loan is made.

EFFECTIVE DATES: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. The regulations will apply to any loan for a period of instruction which begins on or after July 1, 1985, but not later than June 30, 1986, regardless of the time when the determination of the student's need for a loan is made.

FOR FURTHER INFORMATION CONTACT: Paula Husselmann, Program Specialist, or Larry Oxendine, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education, (ROB–3, Room 4310) 400 Maryland Avenue SW., Washington, DC 20202, Telephone (202) 245–2475.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b) of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79) amended section 9 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) by requiring that the 1982–83 Family Contribution Schedule, modified to reflect the most recent and relevant data, be used as the Family Contribution Schedule for the years 1984–85 and 1985–86. These final regulations implement that statutory mandate for the 1985–86 academic year.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because the content of the Family Contribution Schedule is determined by statute, public comment could have no effect on the content of these regulations. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on these regulations is unnecessary and contrary to the public interest.

Modification of the 1982–83 Family Contribution Schedule for use for 1985–86

Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) required that the 1982–83 Family Contribution Schedule be modified and used as the schedule for the 1983–84 academic year. The 1983–84 GSL Family Contribution Schedule was the first schedule codified in regulations published in the **Federal Register**. Earlier schedules were published as notices in the **Federal Regester**. Section 4(b) of the Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79) amended Pub. L. 97–301 to provide for schedules for academic years 1984–85 and 1985–86. This schedule, in turn, modifies the 1984–85 schedule. Because the 1984–85 schedule was substantially the same as the 1982–83 schedule, such modifications are, in effect, modifications of the 1982–83 schedule.

This schedule continues the use of systems of financial need analysis approved by the Secretary for use in the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs (the campus-based programs), and revises the set of tables in Appendix B of 34 CFR Part 682.

This schedule modifies the 1984–85 Family Contribution Schedule in the following respects:

(1) The 1984–85 schedule applies to loans for periods of instruction beginning on or after July 1, 1984, but not later than June 30, 1985. This schedule applies to loans for periods of instruction beginning on or after July 1, 1985, but not later than June 30, 1986, regardless of when an institution completes its portion of a student's GSLP application.

(2) This schedule requires, in § 682.301(c), that the institution, in determining the adjusted gross family income, consider the income reported by each family member on the 1984 Federal income tax return. "Adjusted gross income" means that term as defined in section 62 of the Internal Revenue Code. Further, references to the years 1983 and 1984 in §§ 682.301(c)(2)(iii) and 682.301(c)(4) are revised to refer to the years 1984 and 1985, respectively.

(3) Section 682.301(f) has been revised to specify that this schedule applies to loans for periods of instruction beginning on or after July 1, 1985, but not later than June 30, 1986.

(4) Sections 682.301(f) (1) and (2) have been revised to require the institution, in determining which of the approved need analysis systems may be used to calculate the student's expected family contribution, to consider whether the student has received financial assistance under the campus-based programs for the 1985-86 award year.

(5) The expected family contribution amounts in Tables A, B, C, and D of Appendix B have been revised to reflect 1984 Federal income taxes, F.I.C.A. (Social Security) withholding deductions, and average State and other taxes. The Standard Maintenance Allowance (SMA), applicable only to Tables A and B and derived from the most recent Bureau of Labor Statistics low budget standard, has been updated for inflation.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations continue the use of the current formula for determining student eligibility for interest benefits under the GSL program, modified to reflect the most recent and relevant data. The regulations, therefore, do not have an impact on small entities.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Student aid, Vocational education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.032, guaranteed Student Loan Program)

Dated: March 29, 1985.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 682 of Title 34 of the Code of Federal Regulations as follows:

PART 682—GUARANTEED STUDENT LOAN PROGRAM

1. Section 682.301 is revised to read as follows:

§ 682.301 Eligibility for interest benefits on a GSLP loan.

(a)(1) *General.* (i) If a student's adjusted gross family income is $30,000 or less, the student qualifies for interest benefits for the amount of his or her GSLP loan.

(ii) If the student's adjusted gross family income is more than $30,000, the student qualifies for interest benefits if the institution he or she attends or is planning to attend determines that the student demonstrated financial need for the loan.

(2)(i) If the student demonstrates financial need for a loan of $1,000 or more, the student qualifies for interest benefits for the amount for which the student has demonstrated financial need.

(ii) If the student demonstrates financial need for a loan between $500 and $1,000, the student qualifies for interests benefits on a loan of up to $1,000.

(b) *Application for interest benefits.* To apply for interest benefits, the student shall submit to the lender his or her loan application. The application must include a certification from the student's institution of the following information—

(1) The estimated cost of attendance for the student for the academic period for which the loan is intended;

(2) The estimated financial assistance for the student for the academic period for which the loan is intended;

(3) The adjusted gross family income of the student's family;

(4) The student's expected family contribution if his or her adjusted gross family income exceeds $30,000; and

(5) The amount of the student's need for a loan as determined by the institution pursuant to paragraph (e) of this section.

(c) *Adjusted gross family income.* The institution determines the adjusted gross family income of the student's family based upon data provided, and certified to, by each person whose income is required to be considered.

(1) The adjusted gross family income of the student's family means the adjusted gross income, as defined in section 62 of the Internal Revenue Code, as reported on the 1984 Federal income tax return(s), of—

(i) The student;

(ii) The student's spouse, if any; and

(iii) The student's mother and father if the student, at the time he or she applies, is determined to be a "dependent student" rather than an "independent student."

(2) A student whose parents are divorced or separated follows these procedures for reporting a parent's adjusted gross income to determine the adjusted gross family income:

(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of application.

(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(iii) If paragraph (i) or (ii) do not apply, include only the income of the parent who provided the greater support for the period commencing January 1, 1984 and ending 12 months prior to the date of application.

(3) If one of the parents has died, the student shall include only the income of the surviving parent: If both parents have died, the student shall not report any parental income for those parents even if the parent(s) had income.

(4) The following rule applies if either a parent whose income is taken into account under paragraph (c)(2) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (c)(3) of this section, has remarried. The income of that parent's spouse shall be included in determining the adjusted gross family income if, in 1984 or 1985, the student—

(i) Has received or will receive financial assistance of more than $750 from that spouse; or

(ii) Has lived or will live for more than six weeks in the home of the parent and that spouse.

(5) The income of the student's spouse shall not be included in determining the adjusted gross family income for a student who is divorced or separated, or whose spouse has died.

(d) *Independent student.* An "independent student" is a student who meets the criteria set forth in 34 CFR 668.1a. All other students are considered to be dependent students.

(e) *Determination of need.* (1) If the student's adjusted gross family income exceeds $30,000, the institution shall determine the student's need for a loan by subtracting from the student's estimated cost of attendance, as defined in § 682.200, his or her—

(i) Estimated financial assistance, as defined in § 682.200; and

(ii) Expected family contribution, as determined in paragraph (f) of this section.

(2) The student shall certify the accuracy of any information he or she provides to the institution which is necessary to determine need.

(3) The Secretary may require that family members whose incomes are included in the student's adjusted gross family income under paragraph (c) of this section provide copies of the relevant Federal income tax return(s) and other pertinent documents to support the student's application for interest benefits.

(f) *Determination of expected family contribution.* For a student who seeks a loan for a period of instruction beginning on or after July 1, 1985, but not later than June 30, 1986, the institution shall calculate his or her expected family contribution as follows:

(1) If the student has been awarded financial assistance for award year 1985–86 (July 1, 1985–June 30, 1986) under the National Direct Student Loan (NDSL), College Work-Study (CWS), or Supplemental Educational Opportunity Grant (SEOG) program at the time he or she applies for a Guaranteed Student Loan, the student's expected family contribution is his or her expected family contribution as calculated for the NDSL, CWS or SEOG program.

(2) If the student has not been awarded financial assistance under the NDSL, CWS, or SEOG program for award year 1985–86 at the time he or she applies for a Guaranteed Student Loan, the student's expected family contribution is determined under either—

(i) A need analysis system approved by the Secretary for the NDSL, CWS, and SEOG programs; or

(ii) The tables found in Appendix B if the adjusted gross income of the student and his or her family does not exceed $75,000.

(20 U.S.C. 1078, 1082)

2. Appendix B to Part 682 is revised to read as follows:

Appendix B to Part 682—Guaranteed Student Loan Program Tables for Determination of Expected Family Contribution for 1985–86

If authorized under the provisions of § 682.301(f)(2)(ii), an institution may use the following tables to determine the student's expected family contribution.

For purposes of the four tables—

"Dependent student" means a student who does not qualify as an "indenpendent student";

"Independent student" is defined in 34 CFR 668.1a; and

"Adjusted gross income" means the income, as defined in section 62 of the Internal Revenue Code, received in 1984.

Table A—Expected Family Contribution for a Dependent Student From a Two-Parent Family—1985–86

For a dependent student from a two-parent family, the educational institution determines the student's expected family contribution according to Table A. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table A, "Family members" include the student, the student's spouse and their dependents, and the student's mother and father and their dependents. If the family includes a step-parent whose income is included in the adjusted gross family income, family members also include the step-parent and the dependents of the step-parent.

Table A is based on the following assumptions:

- One of the two parents is employed.
- No assets are considered.
- All of the family income was earned by the employed parent.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following—

—Federal income tax, based on standard deductions, computed at the rate applied to married taxpayers filing joint returns;
—F.I.C.A. (Social Security) for one wage earner;
—Average State and other taxes (6%); and
—A Standard Maintenance Allowance based on the average non-discretionary living expenses for families, derived from the Bureau of Labor Statistics low budget standard, and adjusted for inflation and family size. The Standard Maintenance Allowance does not include an allowance for the living expenses of the dependent student for the 9 months the student is attending school because those living expenses are included in the student's cost of attendance.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. The resulting value is the expected family contribution.

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Table A: Expected Family Contribution for a Dependent Student From a Two-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members									
	3	4	5	6	7	8	9	10	11	12
Less than 30,001	### AUTOMATICALLY ELIGIBLE ###									
30,001 - 30,124	2,890	2,240	1,720	1,220	850	480	110	0	0	0
30,125 - 30,374	2,940	2,280	1,760	1,250	880	520	150	0	0	0
30,375 - 30,624	2,990	2,330	1,800	1,290	920	550	180	0	0	0
30,625 - 30,874	3,040	2,370	1,830	1,320	950	590	220	0	0	0
30,875 - 31,124	3,090	2,410	1,870	1,350	990	620	250	0	0	0
31,125 - 31,374	3,150	2,460	1,910	1,390	1,020	660	290	0	0	0
31,375 - 31,624	3,210	2,500	1,950	1,420	1,060	690	320	0	0	0
31,625 - 31,874	3,270	2,550	1,980	1,450	1,090	720	360	0	0	0
31,875 - 32,124	3,330	2,600	2,030	1,490	1,120	760	390	20	0	0
32,125 - 32,374	3,390	2,650	2,070	1,520	1,160	790	430	60	0	0
32,375 - 32,624	3,450	2,700	2,120	1,550	1,190	830	460	90	0	0
32,625 - 32,874	3,510	2,750	2,160	1,590	1,220	860	500	130	0	0
32,875 - 33,124	3,570	2,810	2,200	1,630	1,260	900	530	160	0	0
33,125 - 33,374	3,630	2,860	2,250	1,670	1,290	930	570	200	0	0
33,375 - 33,624	3,680	2,910	2,290	1,700	1,320	960	600	230	0	0
33,625 - 33,874	3,740	2,960	2,330	1,740	1,360	1,000	630	270	0	0
33,875 - 34,124	3,800	3,010	2,380	1,780	1,390	1,030	670	300	0	0
34,125 - 34,374	3,860	3,060	2,420	1,820	1,420	1,060	700	340	0	0
34,375 - 34,624	3,920	3,110	2,460	1,850	1,460	1,100	730	370	10	0
34,625 - 34,874	3,990	3,160	2,510	1,890	1,490	1,130	770	410	40	0
34,875 - 35,124	4,060	3,220	2,560	1,930	1,520	1,160	800	440	80	0
35,125 - 35,374	4,130	3,280	2,610	1,970	1,560	1,190	830	470	110	0
35,375 - 35,624	4,190	3,330	2,660	2,010	1,600	1,230	870	510	140	0
35,625 - 35,874	4,260	3,390	2,700	2,050	1,630	1,260	900	540	180	0
35,875 - 36,124	4,330	3,450	2,750	2,090	1,670	1,290	930	570	210	0
36,125 - 36,374	4,390	3,500	2,800	2,140	1,710	1,330	970	610	250	0
36,375 - 36,624	4,460	3,560	2,850	2,180	1,750	1,360	1,000	640	280	0
36,625 - 36,874	4,530	3,620	2,900	2,220	1,780	1,390	1,030	670	310	0
36,875 - 37,124	4,600	3,680	2,950	2,260	1,820	1,430	1,070	710	340	0
37,125 - 37,374	4,660	3,730	3,000	2,300	1,860	1,460	1,100	740	380	20
37,375 - 37,624	4,730	3,790	3,050	2,340	1,890	1,490	1,130	770	410	50
37,625 - 37,874	4,800	3,850	3,090	2,380	1,930	1,530	1,170	800	440	80
37,875 - 38,124	4,870	3,920	3,150	2,430	1,970	1,560	1,200	840	480	120
38,125 - 38,374	4,950	4,000	3,220	2,480	2,010	1,600	1,240	880	520	160
38,375 - 38,624	5,020	4,070	3,280	2,520	2,060	1,640	1,280	910	550	190
38,625 - 38,874	5,090	4,150	3,340	2,580	2,100	1,680	1,310	950	590	230

Table A: Expected Family Contribution for a Dependent Student From a Two-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members									
	3	4	5	6	7	8	9	10	11	12
38,875 - 39,124	5,150	4,220	3,410	2,630	2,150	1,720	1,350	990	630	270
39,125 - 39,374	5,220	4,300	3,470	2,690	2,200	1,760	1,380	1,030	660	300
39,375 - 39,624	5,290	4,370	3,540	2,740	2,240	1,800	1,420	1,060	700	340
39,625 - 39,874	5,360	4,440	3,600	2,800	2,290	1,840	1,450	1,100	740	380
39,875 - 40,124	5,430	4,510	3,660	2,850	2,330	1,880	1,490	1,130	770	410
40,125 - 40,374	5,500	4,580	3,730	2,910	2,380	1,920	1,520	1,170	810	450
40,375 - 40,624	5,570	4,640	3,790	2,960	2,430	1,960	1,560	1,210	850	490
40,625 - 40,874	5,640	4,710	3,840	3,010	2,470	2,010	1,600	1,240	890	520
40,875 - 41,124	5,710	4,780	3,910	3,070	2,520	2,050	1,640	1,280	920	560
41,125 - 41,374	5,780	4,850	3,980	3,120	2,580	2,100	1,680	1,310	960	600
41,375 - 41,624	5,850	4,920	4,050	3,180	2,630	2,150	1,720	1,350	990	640
41,625 - 41,874	5,920	4,990	4,120	3,240	2,680	2,190	1,760	1,380	1,030	670
41,875 - 42,124	5,990	5,060	4,190	3,300	2,740	2,240	1,800	1,420	1,060	710
42,125 - 42,374	6,060	5,130	4,260	3,360	2,790	2,290	1,840	1,450	1,100	740
42,375 - 42,624	6,120	5,200	4,330	3,420	2,840	2,330	1,880	1,490	1,130	780
42,625 - 42,874	6,190	5,270	4,400	3,480	2,890	2,380	1,920	1,520	1,170	810
42,875 - 43,124	6,260	5,340	4,470	3,540	2,940	2,420	1,960	1,560	1,200	850
43,125 - 43,374	6,330	5,410	4,540	3,590	2,990	2,470	2,000	1,600	1,240	880
43,375 - 43,624	6,400	5,480	4,610	3,650	3,040	2,510	2,050	1,640	1,270	920
43,625 - 43,874	6,470	5,550	4,680	3,710	3,090	2,560	2,100	1,680	1,310	950
43,875 - 44,124	6,540	5,610	4,750	3,770	3,150	2,610	2,140	1,720	1,340	990
44,125 - 44,374	6,610	5,680	4,810	3,830	3,210	2,660	2,190	1,760	1,380	1,020
44,375 - 44,624	6,680	5,750	4,880	3,900	3,270	2,710	2,230	1,800	1,410	1,060
44,625 - 44,874	6,750	5,820	4,950	3,970	3,320	2,760	2,270	1,840	1,450	1,100
44,875 - 45,124	6,820	5,890	5,020	4,040	3,380	2,810	2,320	1,880	1,480	1,130
45,125 - 45,374	6,890	5,960	5,090	4,110	3,440	2,860	2,360	1,920	1,520	1,170
45,375 - 45,624	6,960	6,030	5,160	4,170	3,500	2,910	2,400	1,960	1,560	1,200
45,625 - 45,874	7,030	6,100	5,230	4,240	3,560	2,960	2,450	1,990	1,600	1,240
45,875 - 46,124	7,100	6,170	5,300	4,310	3,620	3,010	2,490	2,040	1,640	1,270
46,125 - 46,374	7,160	6,240	5,370	4,380	3,680	3,060	2,530	2,080	1,680	1,310
46,375 - 46,624	7,230	6,310	5,440	4,450	3,740	3,110	2,580	2,120	1,710	1,340
46,625 - 46,874	7,300	6,380	5,510	4,520	3,800	3,170	2,630	2,160	1,750	1,380
46,875 - 47,124	7,370	6,450	5,580	4,590	3,860	3,230	2,680	2,210	1,790	1,410
47,125 - 47,374	7,440	6,520	5,650	4,660	3,930	3,290	2,730	2,250	1,820	1,450
47,375 - 47,624	7,510	6,590	5,720	4,730	4,000	3,350	2,790	2,290	1,860	1,480
47,625 - 47,874	7,580	6,650	5,790	4,800	4,070	3,410	2,840	2,340	1,900	1,510

Table A: Expected Family Contribution for a Dependent Student From a Two-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members									
	3	4	5	6	7	8	9	10	11	12
47,875 - 48,124	7,650	6,720	5,850	4,870	4,130	3,470	2,890	2,380	1,930	1,540
48,125 - 48,374	7,720	6,790	5,920	4,940	4,200	3,530	2,940	2,420	1,970	1,580
48,375 - 48,624	7,790	6,860	5,990	5,010	4,270	3,590	2,990	2,460	2,010	1,620
48,625 - 48,874	7,860	6,930	6,060	5,080	4,340	3,640	3,040	2,510	2,050	1,660
48,875 - 49,124	7,920	7,000	6,130	5,140	4,410	3,700	3,090	2,560	2,100	1,690
49,125 - 49,374	7,990	7,070	6,200	5,210	4,480	3,760	3,140	2,610	2,140	1,730
49,375 - 49,624	8,050	7,140	6,270	5,280	4,550	3,820	3,200	2,660	2,180	1,770
49,625 - 49,874	8,110	7,210	6,340	5,350	4,620	3,890	3,260	2,710	2,230	1,800
49,875 - 50,124	8,180	7,270	6,410	5,420	4,690	3,960	3,320	2,760	2,270	1,840
50,125 - 50,374	8,240	7,340	6,480	5,490	4,760	4,030	3,370	2,810	2,310	1,880
50,375 - 50,624	8,300	7,400	6,550	5,560	4,830	4,090	3,430	2,860	2,350	1,910
50,625 - 50,874	8,370	7,460	6,620	5,630	4,900	4,160	3,490	2,910	2,400	1,950
50,875 - 51,124	8,430	7,530	6,680	5,700	4,970	4,230	3,550	2,960	2,440	1,990
51,125 - 51,374	8,490	7,590	6,750	5,770	5,040	4,300	3,610	3,010	2,480	2,030
51,375 - 51,624	8,560	7,650	6,810	5,840	5,110	4,370	3,670	3,060	2,530	2,070
51,625 - 51,874	8,620	7,720	6,870	5,910	5,170	4,440	3,730	3,110	2,580	2,110
51,875 - 52,124	8,680	7,780	6,940	5,970	5,240	4,510	3,790	3,160	2,630	2,160
52,125 - 52,374	8,750	7,850	7,000	6,040	5,310	4,580	3,850	3,220	2,680	2,200
52,375 - 52,624	8,810	7,910	7,060	6,100	5,380	4,650	3,920	3,280	2,730	2,240
52,625 - 52,874	8,870	7,970	7,130	6,160	5,450	4,720	3,990	3,340	2,780	2,290
52,875 - 53,124	8,940	8,040	7,190	6,230	5,520	4,790	4,050	3,400	2,830	2,330
53,125 - 53,374	9,000	8,100	7,250	6,290	5,580	4,860	4,120	3,460	2,880	2,370
53,375 - 53,624	9,060	8,160	7,320	6,350	5,640	4,930	4,190	3,520	2,930	2,410
53,625 - 53,874	9,130	8,230	7,380	6,420	5,710	5,000	4,260	3,580	2,980	2,460
53,875 - 54,124	9,190	8,290	7,440	6,480	5,770	5,060	4,330	3,640	3,030	2,500
54,125 - 54,374	9,260	8,350	7,510	6,540	5,830	5,120	4,400	3,690	3,080	2,550
54,375 - 54,624	9,320	8,420	7,570	6,610	5,900	5,190	4,470	3,750	3,130	2,600
54,625 - 54,874	9,380	8,480	7,630	6,670	5,960	5,250	4,540	3,810	3,190	2,650
54,875 - 55,124	9,450	8,540	7,700	6,730	6,020	5,310	4,600	3,880	3,250	2,700
55,125 - 55,374	9,510	8,610	7,760	6,800	6,090	5,380	4,670	3,950	3,310	2,750
55,375 - 55,624	9,570	8,670	7,820	6,860	6,150	5,440	4,730	4,010	3,370	2,800
55,625 - 55,874	9,640	8,730	7,890	6,920	6,210	5,500	4,790	4,080	3,420	2,850
55,875 - 56,124	9,700	8,800	7,950	6,990	6,280	5,570	4,860	4,150	3,480	2,900
56,125 - 56,374	9,760	8,860	8,010	7,050	6,340	5,630	4,920	4,210	3,540	2,950
56,375 - 56,624	9,830	8,920	8,080	7,110	6,400	5,690	4,990	4,280	3,600	3,000
56,625 - 56,874	9,890	8,990	8,140	7,180	6,470	5,760	5,050	4,340	3,660	3,050

Table A: Expected Family Contribution for a Dependent Student From a Two-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members									
	3	4	5	6	7	8	9	10	11	12
56,875 - 57,124	9,950	9,050	8,200	7,240	6,530	5,820	5,110	4,400	3,720	3,100
57,125 - 57,374	10,020	9,110	8,270	7,300	6,590	5,890	5,180	4,470	3,770	3,150
57,375 - 57,624	10,080	9,180	8,330	7,370	6,660	5,950	5,240	4,530	3,820	3,210
57,625 - 57,874	10,140	9,240	8,400	7,430	6,720	6,010	5,300	4,590	3,880	3,270
57,875 - 58,124	10,210	9,300	8,460	7,490	6,790	6,080	5,370	4,660	3,950	3,330
58,125 - 58,374	10,270	9,370	8,520	7,560	6,850	6,140	5,430	4,720	4,010	3,380
58,375 - 58,624	10,330	9,430	8,590	7,620	6,910	6,200	5,490	4,780	4,070	3,440
58,625 - 58,874	10,400	9,490	8,650	7,690	6,980	6,270	5,560	4,850	4,140	3,490
58,875 - 59,124	10,460	9,560	8,710	7,750	7,040	6,330	5,620	4,910	4,200	3,540
59,125 - 59,374	10,520	9,620	8,780	7,810	7,100	6,390	5,680	4,970	4,260	3,600
59,375 - 59,624	10,590	9,690	8,840	7,880	7,170	6,460	5,750	5,040	4,330	3,650
59,625 - 59,874	10,650	9,750	8,900	7,940	7,230	6,520	5,810	5,100	4,390	3,710
59,875 - 60,124	10,710	9,810	8,970	8,000	7,290	6,580	5,870	5,160	4,450	3,760
60,125 - 60,374	10,780	9,880	9,030	8,070	7,360	6,650	5,940	5,230	4,520	3,810
60,375 - 60,624	10,840	9,940	9,090	8,130	7,420	6,710	6,000	5,290	4,580	3,870
60,625 - 60,874	10,900	10,000	9,160	8,190	7,480	6,770	6,060	5,350	4,640	3,930
60,875 - 61,124	10,970	10,070	9,220	8,260	7,550	6,840	6,130	5,420	4,710	4,000
61,125 - 61,374	11,030	10,130	9,280	8,320	7,610	6,900	6,190	5,480	4,770	4,060
61,375 - 61,624	11,100	10,190	9,350	8,380	7,670	6,960	6,250	5,540	4,830	4,130
61,625 - 61,874	11,160	10,260	9,410	8,450	7,740	7,030	6,320	5,610	4,900	4,190
61,875 - 62,124	11,220	10,320	9,470	8,510	7,800	7,090	6,380	5,670	4,960	4,250
62,125 - 62,374	11,290	10,380	9,540	8,570	7,860	7,150	6,440	5,730	5,030	4,320
62,375 - 62,624	11,350	10,450	9,600	8,640	7,930	7,220	6,510	5,800	5,090	4,380
62,625 - 62,874	11,410	10,510	9,660	8,700	7,990	7,280	6,570	5,860	5,150	4,440
62,875 - 63,124	11,480	10,570	9,730	8,760	8,050	7,340	6,630	5,930	5,220	4,510
63,125 - 63,374	11,530	10,640	9,790	8,830	8,120	7,410	6,700	5,990	5,280	4,570
63,375 - 63,624	11,590	10,700	9,850	8,890	8,180	7,470	6,760	6,050	5,340	4,630
63,625 - 63,874	11,650	10,760	9,920	8,950	8,240	7,530	6,830	6,120	5,410	4,700
63,875 - 64,124	11,710	10,830	9,980	9,020	8,310	7,600	6,890	6,180	5,470	4,760
64,125 - 64,374	11,770	10,890	10,040	9,080	8,370	7,660	6,950	6,240	5,530	4,820
64,375 - 64,624	11,830	10,940	10,110	9,140	8,430	7,730	7,020	6,310	5,600	4,890
64,625 - 64,874	11,890	11,000	10,170	9,210	8,500	7,790	7,080	6,370	5,660	4,950
64,875 - 65,124	11,950	11,060	10,240	9,270	8,560	7,850	7,140	6,430	5,720	5,010
65,125 - 65,374	12,000	11,120	10,290	9,340	8,630	7,920	7,210	6,500	5,790	5,080
65,375 - 65,624	12,060	11,180	10,350	9,400	8,690	7,980	7,270	6,560	5,850	5,140
65,625 - 65,874	12,120	11,240	10,410	9,460	8,750	8,040	7,330	6,620	5,910	5,200

Table A: Expected Family Contribution for a Dependent Student From a Two-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members									
	3	4	5	6	7	8	9	10	11	12
65,875 - 66,124	12,180	11,300	10,470	9,530	8,820	8,110	7,400	6,690	5,980	5,270
66,125 - 66,374	12,240	11,360	10,530	9,580	8,880	8,170	7,460	6,750	6,040	5,330
66,375 - 66,624	12,300	11,410	10,590	9,640	8,940	8,230	7,520	6,810	6,100	5,390
66,625 - 66,874	12,360	11,470	10,650	9,700	9,010	8,300	7,590	6,880	6,170	5,460
66,875 - 67,124	12,420	11,530	10,710	9,760	9,070	8,360	7,650	6,940	6,230	5,520
67,125 - 67,374	12,470	11,590	10,760	9,820	9,130	8,420	7,710	7,000	6,290	5,580
67,375 - 67,624	12,530	11,650	10,820	9,880	9,190	8,490	7,780	7,070	6,360	5,650
67,625 - 67,874	12,590	11,710	10,880	9,940	9,250	8,550	7,840	7,130	6,420	5,710
67,875 - 68,124	12,650	11,770	10,940	10,000	9,300	8,610	7,900	7,190	6,480	5,770
68,125 - 68,374	12,710	11,830	11,000	10,050	9,360	8,670	7,970	7,260	6,550	5,840
68,375 - 68,624	12,770	11,880	11,060	10,110	9,420	8,730	8,030	7,320	6,610	5,900
68,625 - 68,874	12,830	11,940	11,120	10,170	9,480	8,790	8,090	7,380	6,670	5,970
68,875 - 69,124	12,890	12,000	11,180	10,230	9,540	8,850	8,160	7,450	6,740	6,030
69,125 - 69,374	12,940	12,060	11,230	10,290	9,600	8,910	8,220	7,510	6,800	6,090
69,375 - 69,624	13,000	12,120	11,290	10,350	9,660	8,970	8,280	7,570	6,870	6,160
69,625 - 69,874	13,060	12,180	11,350	10,410	9,720	9,020	8,330	7,640	6,930	6,220
69,875 - 70,124	13,120	12,240	11,410	10,470	9,770	9,080	8,390	7,700	6,990	6,280
70,125 - 70,374	13,180	12,300	11,470	10,520	9,830	9,140	8,450	7,760	7,060	6,350
70,375 - 70,624	13,240	12,350	11,530	10,580	9,890	9,200	8,510	7,820	7,120	6,410
70,625 - 70,874	13,300	12,410	11,590	10,640	9,950	9,260	8,570	7,880	7,180	6,470
70,875 - 71,124	13,360	12,470	11,650	10,700	10,010	9,320	8,630	7,940	7,250	6,540
71,125 - 71,374	13,410	12,530	11,700	10,760	10,070	9,380	8,690	8,000	7,300	6,600
71,375 - 71,624	13,470	12,590	11,760	10,820	10,130	9,440	8,750	8,050	7,360	6,660
71,625 - 71,874	13,530	12,650	11,820	10,880	10,190	9,490	8,800	8,110	7,420	6,730
71,875 - 72,124	13,590	12,710	11,880	10,940	10,240	9,550	8,860	8,170	7,480	6,790
72,125 - 72,374	13,650	12,770	11,940	10,990	10,300	9,610	8,920	8,230	7,540	6,850
72,375 - 72,624	13,710	12,820	12,000	11,050	10,360	9,670	8,980	8,290	7,600	6,910
72,625 - 72,874	13,770	12,880	12,060	11,110	10,420	9,730	9,040	8,350	7,660	6,970
72,875 - 73,124	13,830	12,940	12,120	11,170	10,480	9,790	9,100	8,410	7,720	7,020
73,125 - 73,374	13,880	13,000	12,170	11,230	10,540	9,850	9,160	8,470	7,770	7,080
73,375 - 73,624	13,940	13,060	12,230	11,290	10,600	9,910	9,220	8,520	7,830	7,140
73,625 - 73,874	14,000	13,120	12,290	11,350	10,660	9,960	9,270	8,580	7,890	7,200
73,875 - 74,124	14,060	13,180	12,350	11,410	10,710	10,020	9,330	8,640	7,950	7,260
74,125 - 74,374	14,120	13,240	12,410	11,460	10,770	10,080	9,390	8,700	8,010	7,320
74,375 - 74,624	14,180	13,290	12,470	11,520	10,830	10,140	9,450	8,760	8,070	7,380
74,625 - 74,874	14,240	13,350	12,530	11,580	10,890	10,200	9,510	8,820	8,130	7,440
74,875 - 75,000	14,300	13,410	12,590	11,640	10,950	10,260	9,570	8,880	8,190	7,490
Over 75,000	### MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM ###									

BILLING CODE 4000-01-C

Table B—Expected Family Contribution for a Dependent Student From a One-Parent Family—1985–86

For a dependent student from a one-parent family, the educational institution determines the student's expected family contribution according to Table B. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution.

As used in Table B, "Family members" include the student, the student's spouse and their dependents, and the student's parent and the parent's dependents.

Table B is based on the following assumptions:

- The parent is employed.
- No assets are considered.
- All of the family income was earned by the parent.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following—

—Federal income tax, based on standard deductions, computed at the rate applied to taxpayers who qualify as heads of households;
—F.I.C.A. (Social Security) for one wage earner;
—Average State and other taxes (8%);
—An employment allowance of 35% of income, to a maximum of $2,000; and
—A Standard Maintenance Allowance based on the average non-discretionary living expenses for families, derived from the Bureau of Labor Statistics low budget standard, and adjusted for inflation and family size. The standard Maintenance Allowance does not include an allowance for the living expenses of the dependent student for the 9 months the student is attending school because the living expenses are included in the student's cost of attendance.

To this balance, called "available income," which represents discretionary income, a conversion percentage is applied. The percentage increases as available income increases. The resulting value is the expected family contribution.

BILLING CODE 4000-01-M

Table B: Expected Family Contribution for a Dependent Student From a One-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
Less than 30,001	### AUTOMATICALLY ELIGIBLE ###										
30,001 - 30,124	2,530	2,040	1,530	1,110	640	280	0	0	0	0	0
30,125 - 30,374	2,580	2,080	1,570	1,150	670	320	0	0	0	0	0
30,375 - 30,624	2,620	2,130	1,600	1,180	700	350	0	0	0	0	0
30,625 - 30,874	2,670	2,170	1,640	1,210	740	380	20	0	0	0	0
30,875 - 31,124	2,720	2,210	1,670	1,240	770	410	50	0	0	0	0
31,125 - 31,374	2,760	2,250	1,710	1,270	800	440	90	0	0	0	0
31,375 - 31,624	2,810	2,290	1,750	1,300	830	480	120	0	0	0	0
31,625 - 31,874	2,850	2,330	1,780	1,330	860	510	150	0	0	0	0
31,875 - 32,124	2,900	2,370	1,820	1,370	890	540	180	0	0	0	0
32,125 - 32,374	2,950	2,410	1,850	1,400	920	570	220	0	0	0	0
32,375 - 32,624	2,990	2,450	1,890	1,430	960	600	250	0	0	0	0
32,625 - 32,874	3,040	2,490	1,920	1,460	990	630	280	0	0	0	0
32,875 - 33,124	3,080	2,530	1,960	1,490	1,020	670	310	0	0	0	0
33,125 - 33,374	3,130	2,580	1,990	1,520	1,050	700	340	0	0	0	0
33,375 - 33,624	3,180	2,620	2,030	1,560	1,080	730	370	20	0	0	0
33,625 - 33,874	3,230	2,670	2,070	1,590	1,110	760	410	50	0	0	0
33,875 - 34,124	3,290	2,710	2,110	1,630	1,150	790	440	80	0	0	0
34,125 - 34,374	3,340	2,760	2,150	1,660	1,180	820	470	110	0	0	0
34,375 - 34,624	3,390	2,800	2,190	1,690	1,210	850	500	150	0	0	0
34,625 - 34,874	3,450	2,850	2,220	1,730	1,240	890	530	180	0	0	0
34,875 - 35,124	3,500	2,890	2,260	1,760	1,270	920	560	210	0	0	0
35,125 - 35,374	3,550	2,940	2,300	1,790	1,300	950	590	240	0	0	0
35,375 - 35,624	3,610	2,980	2,340	1,830	1,330	980	630	270	0	0	0
35,625 - 35,874	3,660	3,030	2,380	1,860	1,360	1,010	660	300	0	0	0
35,875 - 36,124	3,710	3,070	2,420	1,890	1,390	1,040	690	330	0	0	0
36,125 - 36,374	3,760	3,120	2,460	1,930	1,420	1,070	720	370	10	0	0
36,375 - 36,624	3,820	3,170	2,490	1,960	1,450	1,100	750	400	40	0	0
36,625 - 36,874	3,870	3,230	2,540	1,990	1,470	1,130	780	430	80	0	0
36,875 - 37,124	3,930	3,280	2,580	2,030	1,500	1,160	810	460	110	0	0
37,125 - 37,374	3,990	3,330	2,630	2,070	1,530	1,190	840	490	140	0	0
37,375 - 37,624	4,050	3,380	2,670	2,110	1,570	1,220	870	520	170	0	0
37,625 - 37,874	4,110	3,430	2,720	2,150	1,600	1,250	900	560	200	0	0
37,875 - 38,124	4,170	3,490	2,770	2,190	1,640	1,280	930	590	240	0	0
38,125 - 38,374	4,240	3,540	2,820	2,230	1,670	1,310	970	620	270	0	0
38,375 - 38,624	4,300	3,600	2,870	2,280	1,710	1,340	1,000	650	310	0	0
38,625 - 38,874	4,370	3,660	2,910	2,320	1,750	1,380	1,030	690	340	0	0

Table B: Expected Family Contribution for a Dependent Student From a One-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
38,875 - 39,124	4,440	3,710	2,960	2,360	1,790	1,410	1,070	720	370	20	0
39,125 - 39,374	4,510	3,770	3,010	2,410	1,820	1,440	1,100	750	410	60	0
39,375 - 39,624	4,570	3,830	3,060	2,450	1,860	1,480	1,130	790	440	90	0
39,625 - 39,874	4,640	3,890	3,110	2,490	1,900	1,510	1,160	820	470	130	0
39,875 - 40,124	4,710	3,960	3,160	2,530	1,940	1,540	1,200	850	510	160	0
40,125 - 40,374	4,770	4,030	3,220	2,580	1,970	1,580	1,230	890	540	190	0
40,375 - 40,624	4,840	4,090	3,280	2,630	2,010	1,620	1,260	920	570	230	0
40,625 - 40,874	4,910	4,160	3,330	2,680	2,050	1,660	1,300	950	610	260	0
40,875 - 41,124	4,970	4,230	3,390	2,730	2,090	1,690	1,330	980	640	290	0
41,125 - 41,374	5,040	4,290	3,450	2,780	2,130	1,730	1,360	1,020	670	330	0
41,375 - 41,624	5,110	4,360	3,500	2,820	2,180	1,770	1,400	1,050	700	360	10
41,625 - 41,874	5,180	4,430	3,560	2,870	2,220	1,800	1,430	1,080	740	390	50
41,875 - 42,124	5,240	4,490	3,620	2,920	2,260	1,840	1,460	1,120	770	430	80
42,125 - 42,374	5,310	4,560	3,680	2,970	2,300	1,870	1,490	1,150	800	460	110
42,375 - 42,624	5,380	4,630	3,730	3,020	2,340	1,910	1,520	1,180	840	490	150
42,625 - 42,874	5,440	4,700	3,790	3,070	2,380	1,940	1,560	1,220	870	520	180
42,875 - 43,124	5,510	4,760	3,850	3,120	2,420	1,980	1,590	1,250	900	560	210
43,125 - 43,374	5,580	4,830	3,910	3,170	2,460	2,020	1,630	1,280	940	590	240
43,375 - 43,624	5,640	4,900	3,980	3,230	2,510	2,060	1,670	1,310	970	620	280
43,625 - 43,874	5,710	4,960	4,050	3,290	2,550	2,100	1,700	1,340	1,000	660	310
43,875 - 44,124	5,780	5,030	4,110	3,340	2,600	2,140	1,740	1,370	1,030	690	340
44,125 - 44,374	5,850	5,100	4,180	3,400	2,650	2,180	1,770	1,410	1,070	720	380
44,375 - 44,624	5,910	5,160	4,250	3,460	2,700	2,220	1,810	1,440	1,100	760	410
44,625 - 44,874	5,980	5,230	4,320	3,510	2,750	2,270	1,840	1,470	1,130	790	440
44,875 - 45,124	6,050	5,300	4,380	3,570	2,800	2,310	1,880	1,500	1,160	820	480
45,125 - 45,374	6,110	5,370	4,450	3,630	2,840	2,350	1,910	1,530	1,190	850	510
45,375 - 45,624	6,180	5,430	4,520	3,680	2,890	2,390	1,950	1,570	1,220	880	540
45,625 - 45,874	6,250	5,500	4,580	3,740	2,940	2,430	1,990	1,600	1,250	920	570
45,875 - 46,124	6,310	5,570	4,650	3,800	2,990	2,470	2,030	1,640	1,290	950	610
46,125 - 46,374	6,380	5,630	4,720	3,860	3,040	2,510	2,070	1,670	1,320	980	640
46,375 - 46,624	6,450	5,700	4,780	3,920	3,090	2,560	2,110	1,710	1,350	1,010	670
46,625 - 46,874	6,510	5,770	4,850	3,990	3,140	2,610	2,150	1,740	1,380	1,040	700
46,875 - 47,124	6,570	5,830	4,920	4,060	3,190	2,660	2,190	1,780	1,410	1,070	730
47,125 - 47,374	6,630	5,900	4,980	4,120	3,250	2,710	2,230	1,810	1,440	1,100	770
47,375 - 47,624	6,690	5,970	5,050	4,190	3,310	2,760	2,270	1,850	1,470	1,140	800
47,625 - 47,874	6,750	6,030	5,120	4,260	3,370	2,810	2,320	1,890	1,510	1,170	830

Table B: Expected Family Contribution for a Dependent Student From a One-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
47,875 - 48,124	6,810	6,090	5,190	4,330	3,420	2,850	2,360	1,920	1,540	1,200	860
48,125 - 48,374	6,870	6,150	5,250	4,390	3,480	2,900	2,400	1,960	1,570	1,230	890
48,375 - 48,624	6,920	6,210	5,320	4,460	3,540	2,950	2,440	1,990	1,610	1,260	920
48,625 - 48,874	6,980	6,270	5,390	4,530	3,590	3,000	2,480	2,030	1,640	1,290	950
48,875 - 49,124	7,040	6,330	5,440	4,590	3,650	3,050	2,520	2,080	1,680	1,320	980
49,125 - 49,374	7,100	6,390	5,500	4,660	3,710	3,100	2,570	2,120	1,710	1,350	1,020
49,375 - 49,624	7,160	6,440	5,560	4,730	3,760	3,150	2,620	2,160	1,750	1,390	1,050
49,625 - 49,874	7,220	6,500	5,620	4,790	3,820	3,210	2,670	2,200	1,790	1,420	1,080
49,875 - 50,124	7,280	6,560	5,680	4,850	3,880	3,260	2,720	2,240	1,820	1,450	1,110
50,125 - 50,374	7,340	6,620	5,740	4,910	3,950	3,320	2,770	2,280	1,860	1,480	1,140
50,375 - 50,624	7,390	6,680	5,800	4,970	4,020	3,380	2,810	2,320	1,890	1,510	1,170
50,625 - 50,874	7,450	6,740	5,860	5,030	4,080	3,430	2,860	2,360	1,930	1,540	1,200
50,875 - 51,124	7,510	6,800	5,910	5,090	4,140	3,490	2,910	2,410	1,960	1,580	1,240
51,125 - 51,374	7,570	6,860	5,970	5,150	4,200	3,550	2,960	2,450	2,000	1,610	1,270
51,375 - 51,624	7,630	6,910	6,030	5,200	4,260	3,600	3,010	2,490	2,040	1,650	1,300
51,625 - 51,874	7,690	6,970	6,090	5,260	4,320	3,660	3,060	2,530	2,080	1,690	1,330
51,875 - 52,124	7,750	7,030	6,150	5,320	4,380	3,710	3,110	2,580	2,120	1,720	1,360
52,125 - 52,374	7,810	7,090	6,210	5,380	4,440	3,760	3,160	2,630	2,170	1,760	1,390
52,375 - 52,624	7,860	7,150	6,270	5,440	4,490	3,810	3,220	2,680	2,210	1,790	1,420
52,625 - 52,874	7,920	7,210	6,330	5,500	4,550	3,860	3,270	2,730	2,250	1,830	1,450
52,875 - 53,124	7,980	7,270	6,380	5,560	4,610	3,920	3,320	2,780	2,290	1,860	1,490
53,125 - 53,374	8,040	7,330	6,440	5,620	4,670	3,980	3,370	2,820	2,330	1,900	1,520
53,375 - 53,624	8,100	7,380	6,500	5,670	4,730	4,040	3,420	2,870	2,370	1,940	1,550
53,625 - 53,874	8,160	7,440	6,560	5,730	4,790	4,100	3,470	2,920	2,410	1,970	1,590
53,875 - 54,124	8,220	7,500	6,620	5,790	4,850	4,160	3,520	2,960	2,460	2,010	1,620
54,125 - 54,374	8,280	7,560	6,680	5,850	4,910	4,210	3,570	3,000	2,500	2,050	1,660
54,375 - 54,624	8,330	7,620	6,740	5,910	4,960	4,270	3,620	3,050	2,540	2,090	1,690
54,625 - 54,874	8,390	7,680	6,800	5,970	5,020	4,330	3,670	3,090	2,590	2,130	1,730
54,875 - 55,124	8,450	7,740	6,850	6,030	5,080	4,390	3,720	3,130	2,630	2,170	1,760
55,125 - 55,374	8,510	7,800	6,910	6,090	5,140	4,450	3,770	3,180	2,670	2,220	1,800
55,375 - 55,624	8,570	7,850	6,970	6,140	5,200	4,510	3,820	3,230	2,720	2,260	1,840
55,625 - 55,874	8,630	7,910	7,030	6,200	5,260	4,570	3,880	3,280	2,760	2,300	1,870
55,875 - 56,124	8,690	7,970	7,090	6,260	5,320	4,630	3,940	3,330	2,800	2,330	1,910
56,125 - 56,374	8,750	8,030	7,150	6,320	5,380	4,680	3,990	3,380	2,840	2,370	1,940
56,375 - 56,624	8,800	8,090	7,210	6,380	5,430	4,740	4,050	3,430	2,890	2,410	1,980
56,625 - 56,874	8,860	8,150	7,270	6,440	5,490	4,800	4,110	3,480	2,930	2,440	2,020

Table B: Expected Family Contribution for a Dependent Student From a One-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
56,875 - 57,124	8,920	8,210	7,320	6,500	5,550	4,860	4,170	3,530	2,970	2,480	2,050
57,125 - 57,374	8,980	8,270	7,380	6,560	5,610	4,920	4,230	3,580	3,010	2,520	2,090
57,375 - 57,624	9,040	8,320	7,440	6,610	5,670	4,980	4,290	3,630	3,060	2,560	2,120
57,625 - 57,874	9,100	8,380	7,500	6,670	5,730	5,040	4,350	3,680	3,100	2,600	2,160
57,875 - 58,124	9,160	8,440	7,560	6,730	5,790	5,100	4,410	3,730	3,150	2,640	2,200
58,125 - 58,374	9,220	8,500	7,620	6,790	5,850	5,150	4,460	3,780	3,200	2,690	2,230
58,375 - 58,624	9,270	8,560	7,680	6,850	5,900	5,210	4,520	3,830	3,250	2,730	2,270
58,625 - 58,874	9,330	8,620	7,740	6,910	5,960	5,270	4,580	3,890	3,300	2,770	2,310
58,875 - 59,124	9,390	8,680	7,790	6,970	6,020	5,330	4,640	3,950	3,350	2,810	2,340
59,125 - 59,374	9,450	8,740	7,850	7,030	6,080	5,390	4,700	4,010	3,400	2,860	2,380
59,375 - 59,624	9,510	8,790	7,910	7,080	6,140	5,450	4,760	4,070	3,450	2,900	2,410
59,625 - 59,874	9,570	8,850	7,970	7,140	6,200	5,510	4,820	4,130	3,500	2,940	2,450
59,875 - 60,124	9,630	8,910	8,030	7,200	6,260	5,570	4,880	4,180	3,550	2,980	2,490
60,125 - 60,374	9,690	8,970	8,090	7,260	6,320	5,620	4,930	4,240	3,600	3,030	2,530
60,375 - 60,624	9,740	9,030	8,150	7,320	6,370	5,680	4,990	4,300	3,650	3,070	2,570
60,625 - 60,874	9,800	9,090	8,210	7,380	6,430	5,740	5,050	4,360	3,700	3,110	2,610
60,875 - 61,124	9,860	9,150	8,260	7,440	6,490	5,800	5,110	4,420	3,750	3,160	2,650
61,125 - 61,374	9,920	9,210	8,320	7,500	6,550	5,860	5,170	4,480	3,800	3,210	2,700
61,375 - 61,624	9,980	9,260	8,380	7,550	6,610	5,920	5,230	4,540	3,850	3,260	2,740
61,625 - 61,874	10,040	9,320	8,440	7,610	6,670	5,980	5,290	4,600	3,900	3,310	2,780
61,875 - 62,124	10,100	9,380	8,500	7,670	6,730	6,040	5,350	4,650	3,960	3,360	2,820
62,125 - 62,374	10,160	9,440	8,560	7,730	6,790	6,090	5,400	4,710	4,020	3,410	2,870
62,375 - 62,624	10,210	9,500	8,620	7,790	6,840	6,150	5,460	4,770	4,080	3,460	2,910
62,625 - 62,874	10,270	9,560	8,680	7,850	6,900	6,210	5,520	4,830	4,140	3,510	2,950
62,875 - 63,124	10,330	9,620	8,730	7,910	6,960	6,270	5,580	4,890	4,200	3,560	2,990
63,125 - 63,374	10,380	9,680	8,790	7,970	7,020	6,330	5,640	4,950	4,260	3,610	3,040
63,375 - 63,624	10,440	9,730	8,850	8,020	7,080	6,390	5,700	5,010	4,320	3,660	3,080
63,625 - 63,874	10,490	9,790	8,910	8,080	7,140	6,450	5,760	5,070	4,370	3,710	3,120
63,875 - 64,124	10,550	9,850	8,970	8,140	7,200	6,510	5,820	5,120	4,430	3,760	3,170
64,125 - 64,374	10,600	9,900	9,030	8,200	7,260	6,560	5,870	5,180	4,490	3,810	3,220
64,375 - 64,624	10,660	9,960	9,090	8,260	7,310	6,620	5,930	5,240	4,550	3,860	3,270
64,625 - 64,874	10,710	10,010	9,140	8,320	7,370	6,680	5,990	5,300	4,610	3,920	3,320
64,875 - 65,124	10,770	10,070	9,200	8,380	7,430	6,740	6,050	5,360	4,670	3,980	3,370
65,125 - 65,374	10,820	10,120	9,250	8,440	7,490	6,800	6,110	5,420	4,730	4,040	3,420
65,375 - 65,624	10,880	10,180	9,310	8,490	7,550	6,860	6,170	5,480	4,790	4,090	3,470
65,625 - 65,874	10,930	10,230	9,360	8,550	7,610	6,920	6,230	5,540	4,840	4,150	3,520

Table B: Expected Family Contribution for a Dependent Student From a One-Parent Family--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
65,875 - 66,124	10,990	10,290	9,420	8,610	7,670	6,980	6,290	5,590	4,900	4,210	3,570
66,125 - 66,374	11,040	10,340	9,470	8,660	7,730	7,030	6,340	5,650	4,960	4,270	3,620
66,375 - 66,624	11,100	10,400	9,530	8,720	7,780	7,090	6,400	5,710	5,020	4,330	3,670
66,625 - 66,874	11,150	10,450	9,580	8,770	7,840	7,150	6,460	5,770	5,080	4,390	3,720
66,875 - 67,124	11,210	10,510	9,640	8,830	7,900	7,210	6,520	5,830	5,140	4,450	3,770
67,125 - 67,374	11,270	10,560	9,700	8,880	7,950	7,270	6,580	5,890	5,200	4,510	3,820
67,375 - 67,624	11,320	10,620	9,750	8,940	8,010	7,330	6,640	5,950	5,260	4,560	3,870
67,625 - 67,874	11,380	10,680	9,810	8,990	8,060	7,390	6,700	6,010	5,310	4,620	3,930
67,875 - 68,124	11,430	10,730	9,860	9,050	8,120	7,440	6,760	6,060	5,370	4,680	3,990
68,125 - 68,374	11,490	10,790	9,920	9,100	8,170	7,500	6,810	6,120	5,430	4,740	4,050
68,375 - 68,624	11,540	10,840	9,970	9,160	8,230	7,550	6,870	6,180	5,490	4,800	4,110
68,625 - 68,874	11,600	10,900	10,030	9,210	8,280	7,610	6,930	6,240	5,550	4,860	4,170
68,875 - 69,124	11,650	10,950	10,080	9,270	8,340	7,660	6,980	6,300	5,610	4,920	4,230
69,125 - 69,374	11,710	11,010	10,140	9,320	8,390	7,720	7,040	6,360	5,670	4,980	4,290
69,375 - 69,624	11,760	11,060	10,190	9,380	8,450	7,770	7,090	6,420	5,730	5,030	4,340
69,625 - 69,874	11,820	11,120	10,250	9,430	8,500	7,830	7,150	6,470	5,780	5,090	4,400
69,875 - 70,124	11,870	11,170	10,300	9,490	8,560	7,880	7,210	6,530	5,840	5,150	4,460
70,125 - 70,374	11,930	11,230	10,360	9,540	8,610	7,940	7,260	6,580	5,900	5,210	4,520
70,375 - 70,624	11,980	11,280	10,410	9,600	8,670	7,990	7,320	6,640	5,960	5,270	4,580
70,625 - 70,874	12,040	11,340	10,470	9,660	8,720	8,050	7,370	6,690	6,020	5,330	4,640
70,875 - 71,124	12,090	11,390	10,520	9,710	8,780	8,100	7,430	6,750	6,070	5,390	4,700
71,125 - 71,374	12,150	11,450	10,580	9,770	8,840	8,160	7,480	6,800	6,130	5,450	4,760
71,375 - 71,624	12,200	11,500	10,630	9,820	8,890	8,210	7,540	6,860	6,180	5,500	4,810
71,625 - 71,874	12,260	11,560	10,690	9,880	8,950	8,270	7,590	6,920	6,240	5,560	4,870
71,875 - 72,124	12,310	11,610	10,740	9,930	9,000	8,320	7,650	6,970	6,290	5,620	4,930
72,125 - 72,374	12,370	11,670	10,800	9,990	9,060	8,380	7,700	7,030	6,350	5,670	4,990
72,375 - 72,624	12,420	11,720	10,850	10,040	9,110	8,430	7,760	7,080	6,400	5,730	5,050
72,625 - 72,874	12,480	11,780	10,910	10,100	9,170	8,490	7,810	7,140	6,460	5,780	5,110
72,875 - 73,124	12,540	11,830	10,970	10,150	9,220	8,540	7,870	7,190	6,510	5,840	5,160
73,125 - 73,374	12,590	11,890	11,020	10,210	9,280	8,600	7,920	7,250	6,570	5,890	5,220
73,375 - 73,624	12,650	11,950	11,080	10,260	9,330	8,660	7,980	7,300	6,620	5,950	5,270
73,625 - 73,874	12,700	12,000	11,130	10,320	9,390	8,710	8,030	7,360	6,680	6,000	5,330
73,875 - 74,124	12,760	12,060	11,190	10,370	9,440	8,770	8,090	7,410	6,740	6,060	5,380
74,125 - 74,374	12,810	12,110	11,240	10,430	9,500	8,820	8,140	7,470	6,790	6,110	5,440
74,375 - 74,624	12,870	12,170	11,300	10,480	9,550	8,880	8,200	7,520	6,850	6,170	5,490
74,625 - 74,874	12,920	12,220	11,350	10,540	9,610	8,930	8,250	7,580	6,900	6,220	5,550
74,875 - 75,000	12,980	12,280	11,410	10,590	9,660	8,990	8,310	7,630	6,960	6,280	5,600
Over 75,000	### MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM ###										

BILLING CODE 4000-01-C

Table C—Expected Family Contribution for a Married Independent Student—1985–86

For a married independent student, the educational institution determines the student's expected family contribution according to Table C. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution. The contributions set forth in Table C are based on a 12-month budget. If an educational institution calculates an independent student budget on a 9-month basis, it must multiply the contribution in the table by .75. No family assets are considered.

As used in Table C, "Family members" include the student, the student's spouse and their dependents.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following:

—Federal income tax, based on standard deductions, computed at the rate applied to married taxpayers filing joint returns;
—F.I.C.A. (Social Security) for one wage earner; and
—Average State and other taxes (4%).

The resulting value is the expected family contribution. No deduction is made for living expenses of the student and his or her family because those expenses are included in the student's cost of attendance.

BILLING CODE 4000-01-M

Table C: Expected Family Contribution for a Married Independent Student--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
Less than 30,001	### AUTOMATICALLY ELIGIBLE ###										
30,001 - 30,124	22,480	22,730	22,980	23,230	23,460	23,680	23,900	24,120	24,330	24,510	24,690
30,125 - 30,374	22,640	22,890	23,140	23,390	23,630	23,850	24,070	24,290	24,510	24,690	24,870
30,375 - 30,624	22,800	23,050	23,300	23,550	23,790	24,010	24,230	24,450	24,670	24,870	25,050
30,625 - 30,874	22,960	23,210	23,460	23,710	23,960	24,180	24,400	24,620	24,840	25,040	25,220
30,875 - 31,124	23,120	23,370	23,620	23,870	24,120	24,350	24,570	24,790	25,010	25,220	25,400
31,125 - 31,374	23,280	23,530	23,780	24,030	24,280	24,520	24,740	24,960	25,180	25,400	25,580
31,375 - 31,624	23,440	23,690	23,940	24,190	24,440	24,690	24,910	25,130	25,350	25,570	25,760
31,625 - 31,874	23,600	23,850	24,100	24,350	24,600	24,850	25,070	25,290	25,510	25,730	25,940
31,875 - 32,124	23,760	24,010	24,260	24,510	24,760	25,010	25,240	25,460	25,680	25,900	26,120
32,125 - 32,374	23,910	24,170	24,420	24,670	24,920	25,170	25,410	25,630	25,850	26,070	26,290
32,375 - 32,624	24,060	24,330	24,580	24,830	25,080	25,330	25,580	25,800	26,020	26,240	26,460
32,625 - 32,874	24,220	24,490	24,740	24,990	25,240	25,490	25,740	25,970	26,190	26,410	26,630
32,875 - 33,124	24,370	24,650	24,900	25,150	25,400	25,650	25,900	26,140	26,360	26,580	26,800
33,125 - 33,374	24,520	24,800	25,060	25,310	25,560	25,810	26,060	26,300	26,520	26,740	26,960
33,375 - 33,624	24,680	24,960	25,230	25,480	25,730	25,980	26,230	26,470	26,690	26,910	27,130
33,625 - 33,874	24,830	25,110	25,390	25,640	25,890	26,140	26,390	26,640	26,860	27,080	27,300
33,875 - 34,124	24,980	25,260	25,540	25,800	26,050	26,300	26,550	26,800	27,030	27,250	27,470
34,125 - 34,374	25,140	25,420	25,700	25,960	26,210	26,460	26,710	26,960	27,200	27,420	27,640
34,375 - 34,624	25,290	25,570	25,850	26,120	26,370	26,620	26,870	27,120	27,370	27,590	27,810
34,625 - 34,874	25,440	25,720	26,000	26,280	26,530	26,780	27,030	27,280	27,530	27,750	27,970
34,875 - 35,124	25,600	25,880	26,160	26,440	26,690	26,940	27,190	27,440	27,690	27,920	28,140
35,125 - 35,374	25,750	26,030	26,310	26,590	26,850	27,100	27,350	27,600	27,850	28,090	28,310
35,375 - 35,624	25,900	26,180	26,460	26,740	27,010	27,260	27,510	27,760	28,010	28,260	28,480
35,625 - 35,874	26,060	26,340	26,620	26,900	27,170	27,420	27,670	27,920	28,170	28,420	28,650
35,875 - 36,124	26,210	26,490	26,770	27,050	27,330	27,580	27,830	28,080	28,330	28,580	28,820
36,125 - 36,374	26,360	26,640	26,920	27,200	27,480	27,740	27,990	28,240	28,490	28,740	28,980
36,375 - 36,624	26,520	26,800	27,080	27,360	27,640	27,900	28,150	28,400	28,650	28,900	29,150
36,625 - 36,874	26,670	26,950	27,230	27,510	27,790	28,070	28,320	28,570	28,820	29,070	29,320
36,875 - 37,124	26,820	27,100	27,380	27,660	27,940	28,220	28,480	28,730	28,980	29,230	29,480
37,125 - 37,374	26,970	27,260	27,540	27,820	28,100	28,380	28,640	28,890	29,140	29,390	29,640
37,375 - 37,624	27,110	27,410	27,690	27,970	28,250	28,530	28,800	29,050	29,300	29,550	29,800
37,625 - 37,874	27,260	27,560	27,840	28,120	28,400	28,680	28,960	29,210	29,460	29,710	29,960
37,875 - 38,124	27,410	27,730	28,010	28,290	28,570	28,850	29,130	29,380	29,630	29,880	30,130
38,125 - 38,374	27,570	27,900	28,180	28,460	28,740	29,020	29,300	29,560	29,810	30,060	30,310
38,375 - 38,624	27,720	28,050	28,350	28,630	28,910	29,190	29,470	29,740	29,990	30,240	30,490
38,625 - 38,874	27,880	28,210	28,520	28,800	29,080	29,360	29,640	29,910	30,160	30,410	30,660

Table C: Expected Family Contribution for a Married Independent Student--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
38,875 - 39,124	28,040	28,370	28,690	28,970	29,250	29,530	29,810	30,090	30,340	30,590	30,840
39,125 - 39,374	28,200	28,530	28,860	29,140	29,420	29,700	29,980	30,260	30,520	30,770	31,020
39,375 - 39,624	28,350	28,680	29,010	29,310	29,590	29,870	30,150	30,430	30,700	30,950	31,200
39,625 - 39,874	28,510	28,840	29,170	29,480	29,760	30,040	30,320	30,600	30,870	31,120	31,370
39,875 - 40,124	28,670	29,000	29,330	29,650	29,930	30,210	30,490	30,770	31,050	31,300	31,550
40,125 - 40,374	28,830	29,160	29,490	29,820	30,100	30,380	30,660	30,940	31,220	31,480	31,730
40,375 - 40,624	28,980	29,310	29,640	29,970	30,270	30,550	30,830	31,110	31,390	31,660	31,910
40,625 - 40,874	29,140	29,470	29,800	30,130	30,440	30,720	31,000	31,280	31,560	31,830	32,080
40,875 - 41,124	29,300	29,630	29,960	30,290	30,610	30,890	31,170	31,450	31,730	32,010	32,260
41,125 - 41,374	29,460	29,790	30,120	30,450	30,780	31,060	31,340	31,620	31,900	32,180	32,440
41,375 - 41,624	29,610	29,940	30,270	30,600	30,930	31,230	31,510	31,790	32,070	32,350	32,620
41,625 - 41,874	29,770	30,100	30,430	30,760	31,090	31,400	31,680	31,960	32,240	32,520	32,790
41,875 - 42,124	29,930	30,260	30,590	30,920	31,250	31,570	31,850	32,130	32,410	32,690	32,970
42,125 - 42,374	30,090	30,420	30,750	31,080	31,410	31,740	32,020	32,300	32,580	32,860	33,140
42,375 - 42,624	30,240	30,570	30,900	31,230	31,560	31,890	32,190	32,470	32,750	33,030	33,310
42,625 - 42,874	30,400	30,730	31,060	31,390	31,720	32,050	32,360	32,640	32,920	33,200	33,480
42,875 - 43,124	30,560	30,890	31,220	31,550	31,880	32,210	32,530	32,810	33,090	33,370	33,650
43,125 - 43,374	30,720	31,050	31,380	31,710	32,040	32,370	32,700	32,980	33,260	33,540	33,820
43,375 - 43,624	30,870	31,200	31,530	31,860	32,190	32,520	32,850	33,150	33,430	33,710	33,990
43,625 - 43,874	31,030	31,360	31,690	32,020	32,350	32,680	33,010	33,320	33,600	33,880	34,160
43,875 - 44,124	31,190	31,520	31,850	32,180	32,510	32,840	33,170	33,490	33,770	34,050	34,330
44,125 - 44,374	31,350	31,680	32,010	32,340	32,670	33,000	33,330	33,660	33,940	34,220	34,500
44,375 - 44,624	31,500	31,830	32,160	32,490	32,820	33,150	33,480	33,810	34,110	34,390	34,670
44,625 - 44,874	31,660	31,990	32,320	32,650	32,980	33,310	33,640	33,970	34,280	34,560	34,840
44,875 - 45,124	31,820	32,150	32,480	32,810	33,140	33,470	33,800	34,130	34,450	34,730	35,010
45,125 - 45,374	31,980	32,310	32,640	32,970	33,300	33,630	33,960	34,290	34,620	34,900	35,180
45,375 - 45,624	32,130	32,460	32,790	33,120	33,450	33,780	34,110	34,440	34,770	35,070	35,350
45,625 - 45,874	32,290	32,620	32,950	33,280	33,610	33,940	34,270	34,600	34,930	35,240	35,520
45,875 - 46,124	32,450	32,780	33,110	33,440	33,770	34,100	34,430	34,760	35,090	35,410	35,690
46,125 - 46,374	32,610	32,940	33,270	33,600	33,930	34,260	34,590	34,920	35,250	35,580	35,860
46,375 - 46,624	32,760	33,090	33,420	33,750	34,080	34,410	34,740	35,070	35,400	35,730	36,030
46,625 - 46,874	32,920	33,250	33,580	33,910	34,240	34,570	34,900	35,230	35,560	35,890	36,200
46,875 - 47,124	33,080	33,410	33,740	34,070	34,400	34,730	35,060	35,390	35,720	36,050	36,370
47,125 - 47,374	33,240	33,570	33,900	34,230	34,560	34,890	35,220	35,550	35,880	36,210	36,540
47,375 - 47,624	33,390	33,720	34,050	34,380	34,710	35,040	35,370	35,700	36,030	36,360	36,690
47,625 - 47,874	33,550	33,880	34,210	34,540	34,870	35,200	35,530	35,860	36,190	36,520	36,850

Table C: Expected Family Contribution for a Married Independent Student--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
47,875 - 48,124	33,700	34,040	34,370	34,700	35,030	35,360	35,690	36,020	36,350	36,680	37,010
48,125 - 48,374	33,840	34,200	34,530	34,860	35,190	35,520	35,850	36,180	36,510	36,840	37,170
48,375 - 48,624	33,990	34,350	34,680	35,010	35,340	35,670	36,000	36,330	36,660	36,990	37,320
48,625 - 48,874	34,130	34,510	34,840	35,170	35,500	35,830	36,160	36,490	36,820	37,150	37,480
48,875 - 49,124	34,280	34,660	35,000	35,330	35,660	35,990	36,320	36,650	36,980	37,310	37,640
49,125 - 49,374	34,420	34,800	35,160	35,490	35,820	36,150	36,480	36,810	37,140	37,470	37,800
49,375 - 49,624	34,570	34,950	35,310	35,640	35,970	36,300	36,630	36,960	37,290	37,620	37,950
49,625 - 49,874	34,710	35,090	35,470	35,800	36,130	36,460	36,790	37,120	37,450	37,780	38,110
49,875 - 50,124	34,860	35,240	35,620	35,960	36,290	36,620	36,950	37,280	37,610	37,940	38,270
50,125 - 50,374	35,000	35,380	35,760	36,120	36,450	36,780	37,110	37,440	37,770	38,100	38,430
50,375 - 50,624	35,150	35,530	35,910	36,270	36,600	36,930	37,260	37,590	37,920	38,250	38,580
50,625 - 50,874	35,290	35,670	36,050	36,430	36,760	37,090	37,420	37,750	38,080	38,410	38,740
50,875 - 51,124	35,440	35,820	36,200	36,580	36,920	37,250	37,580	37,910	38,240	38,570	38,900
51,125 - 51,374	35,580	35,960	36,340	36,720	37,080	37,410	37,740	38,070	38,400	38,730	39,060
51,375 - 51,624	35,730	36,110	36,490	36,870	37,230	37,560	37,890	38,220	38,550	38,880	39,210
51,625 - 51,874	35,870	36,250	36,630	37,010	37,390	37,720	38,050	38,380	38,710	39,040	39,370
51,875 - 52,124	36,020	36,400	36,780	37,160	37,540	37,880	38,210	38,540	38,870	39,200	39,530
52,125 - 52,374	36,160	36,540	36,920	37,300	37,680	38,040	38,370	38,700	39,030	39,360	39,690
52,375 - 52,624	36,310	36,690	37,070	37,450	37,830	38,190	38,520	38,850	39,180	39,510	39,840
52,625 - 52,874	36,450	36,830	37,210	37,590	37,970	38,350	38,680	39,010	39,340	39,670	40,000
52,875 - 53,124	36,600	36,980	37,360	37,740	38,120	38,500	38,840	39,170	39,500	39,830	40,160
53,125 - 53,374	36,740	37,120	37,500	37,880	38,260	38,640	39,000	39,330	39,660	39,990	40,320
53,375 - 53,624	36,890	37,270	37,650	38,030	38,410	38,790	39,150	39,480	39,810	40,140	40,470
53,625 - 53,874	37,030	37,410	37,790	38,170	38,550	38,930	39,310	39,640	39,970	40,300	40,630
53,875 - 54,124	37,180	37,560	37,940	38,320	38,700	39,080	39,460	39,800	40,130	40,460	40,790
54,125 - 54,374	37,320	37,700	38,080	38,460	38,840	39,220	39,600	39,960	40,290	40,620	40,950
54,375 - 54,624	37,470	37,850	38,230	38,610	38,990	39,370	39,750	40,110	40,440	40,770	41,100
54,625 - 54,874	37,610	37,990	38,370	38,750	39,130	39,510	39,890	40,270	40,600	40,930	41,260
54,875 - 55,124	37,760	38,140	38,520	38,900	39,280	39,660	40,040	40,420	40,760	41,090	41,420
55,125 - 55,374	37,900	38,280	38,660	39,040	39,420	39,800	40,180	40,560	40,920	41,250	41,580
55,375 - 55,624	38,050	38,430	38,810	39,190	39,570	39,950	40,330	40,710	41,070	41,400	41,730
55,625 - 55,874	38,190	38,570	38,950	39,330	39,710	40,090	40,470	40,850	41,230	41,560	41,890
55,875 - 56,124	38,340	38,720	39,100	39,480	39,860	40,240	40,620	41,000	41,380	41,720	42,050
56,125 - 56,374	38,480	38,860	39,240	39,620	40,000	40,380	40,760	41,140	41,520	41,880	42,210
56,375 - 56,624	38,630	39,010	39,390	39,770	40,150	40,530	40,910	41,290	41,670	42,030	42,360
56,625 - 56,874	38,770	39,150	39,530	39,910	40,290	40,670	41,050	41,430	41,810	42,190	42,520

Table C: Expected Family Contribution for a Married Independent Student--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
56,875 - 57,124	38,920	39,300	39,680	40,060	40,440	40,820	41,200	41,580	41,960	42,340	42,680
57,125 - 57,374	39,060	39,440	39,820	40,200	40,580	40,960	41,340	41,720	42,100	42,480	42,840
57,375 - 57,624	39,210	39,590	39,970	40,350	40,730	41,110	41,490	41,870	42,250	42,630	42,990
57,625 - 57,874	39,350	39,730	40,110	40,490	40,870	41,250	41,630	42,010	42,390	42,770	43,150
57,875 - 58,124	39,500	39,880	40,260	40,640	41,020	41,400	41,780	42,160	42,540	42,920	43,300
58,125 - 58,374	39,640	40,020	40,400	40,780	41,160	41,540	41,920	42,300	42,680	43,060	43,440
58,375 - 58,624	39,790	40,170	40,550	40,930	41,310	41,690	42,070	42,450	42,830	43,210	43,590
58,625 - 58,874	39,930	40,310	40,690	41,070	41,450	41,830	42,210	42,590	42,970	43,350	43,730
58,875 - 59,124	40,080	40,460	40,840	41,220	41,600	41,980	42,360	42,740	43,120	43,500	43,880
59,125 - 59,374	40,220	40,600	40,980	41,360	41,740	42,120	42,500	42,880	43,260	43,640	44,020
59,375 - 59,624	40,370	40,750	41,130	41,510	41,890	42,270	42,650	43,030	43,410	43,790	44,170
59,625 - 59,874	40,510	40,890	41,270	41,650	42,030	42,410	42,790	43,170	43,550	43,930	44,310
59,875 - 60,124	40,660	41,040	41,420	41,800	42,180	42,560	42,940	43,320	43,700	44,080	44,460
60,125 - 60,374	40,800	41,180	41,560	41,940	42,320	42,700	43,080	43,460	43,840	44,220	44,600
60,375 - 60,624	40,950	41,330	41,710	42,090	42,470	42,850	43,230	43,610	43,990	44,370	44,750
60,625 - 60,874	41,090	41,470	41,850	42,230	42,610	42,990	43,370	43,750	44,130	44,510	44,890
60,875 - 61,124	41,240	41,620	42,000	42,380	42,760	43,140	43,520	43,900	44,280	44,660	45,040
61,125 - 61,374	41,380	41,760	42,140	42,520	42,900	43,280	43,660	44,040	44,420	44,800	45,180
61,375 - 61,624	41,530	41,910	42,290	42,670	43,050	43,430	43,810	44,190	44,570	44,950	45,330
61,625 - 61,874	41,670	42,050	42,430	42,810	43,190	43,570	43,950	44,330	44,710	45,090	45,470
61,875 - 62,124	41,820	42,200	42,580	42,960	43,340	43,720	44,100	44,480	44,860	45,240	45,620
62,125 - 62,374	41,950	42,340	42,720	43,100	43,480	43,860	44,240	44,620	45,000	45,380	45,760
62,375 - 62,624	42,090	42,490	42,870	43,250	43,630	44,010	44,390	44,770	45,150	45,530	45,910
62,625 - 62,874	42,220	42,630	43,010	43,390	43,770	44,150	44,530	44,910	45,290	45,670	46,050
62,875 - 63,124	42,360	42,780	43,160	43,540	43,920	44,300	44,680	45,060	45,440	45,820	46,200
63,125 - 63,374	42,490	42,910	43,300	43,680	44,060	44,440	44,820	45,200	45,580	45,960	46,340
63,375 - 63,624	42,630	43,050	43,450	43,830	44,210	44,590	44,970	45,350	45,730	46,110	46,490
63,625 - 63,874	42,760	43,180	43,590	43,970	44,350	44,730	45,110	45,490	45,870	46,250	46,630
63,875 - 64,124	42,900	43,320	43,740	44,120	44,500	44,880	45,260	45,640	46,020	46,400	46,780
64,125 - 64,374	43,030	43,450	43,870	44,260	44,640	45,020	45,400	45,780	46,160	46,540	46,920
64,375 - 64,624	43,170	43,590	44,010	44,410	44,790	45,170	45,550	45,930	46,310	46,690	47,070
64,625 - 64,874	43,300	43,720	44,140	44,550	44,930	45,310	45,690	46,070	46,450	46,830	47,210
64,875 - 65,124	43,440	43,860	44,280	44,700	45,080	45,460	45,840	46,220	46,600	46,980	47,360
65,125 - 65,374	43,570	43,990	44,410	44,830	45,220	45,600	45,980	46,360	46,740	47,120	47,500
65,375 - 65,624	43,710	44,130	44,550	44,970	45,370	45,750	46,130	46,510	46,890	47,270	47,650
65,625 - 65,874	43,840	44,260	44,680	45,100	45,510	45,890	46,270	46,650	47,030	47,410	47,790

Table C: Expected Family Contribution for a Married Independent Student--1985-86

Adjusted Gross Income	Number of Family Members										
	2	3	4	5	6	7	8	9	10	11	12
65,875 - 66,124	43,980	44,400	44,820	45,240	45,660	46,040	46,420	46,800	47,180	47,560	47,940
66,125 - 66,374	44,110	44,530	44,950	45,370	45,790	46,180	46,560	46,940	47,320	47,700	48,080
66,375 - 66,624	44,250	44,670	45,090	45,510	45,930	46,330	46,710	47,090	47,470	47,850	48,230
66,625 - 66,874	44,380	44,800	45,220	45,640	46,060	46,470	46,850	47,230	47,610	47,990	48,370
66,875 - 67,124	44,520	44,940	45,360	45,780	46,200	46,620	47,000	47,380	47,760	48,140	48,520
67,125 - 67,374	44,650	45,070	45,490	45,910	46,330	46,750	47,140	47,520	47,900	48,280	48,660
67,375 - 67,624	44,790	45,210	45,630	46,050	46,470	46,890	47,290	47,670	48,050	48,430	48,810
67,625 - 67,874	44,920	45,340	45,760	46,180	46,600	47,020	47,430	47,810	48,190	48,570	48,950
67,875 - 68,124	45,060	45,480	45,900	46,320	46,740	47,160	47,580	47,960	48,340	48,720	49,100
68,125 - 68,374	45,190	45,610	46,030	46,450	46,870	47,290	47,710	48,100	48,480	48,860	49,240
68,375 - 68,624	45,330	45,750	46,170	46,590	47,010	47,430	47,850	48,250	48,630	49,010	49,390
68,625 - 68,874	45,460	45,880	46,300	46,720	47,140	47,560	47,980	48,390	48,770	49,150	49,530
68,875 - 69,124	45,600	46,020	46,440	46,860	47,280	47,700	48,120	48,540	48,920	49,300	49,680
69,125 - 69,374	45,730	46,150	46,570	46,990	47,410	47,830	48,250	48,670	49,060	49,440	49,820
69,375 - 69,624	45,870	46,290	46,710	47,130	47,550	47,970	48,390	48,810	49,210	49,590	49,970
69,625 - 69,874	46,000	46,420	46,840	47,260	47,680	48,100	48,520	48,940	49,350	49,730	50,110
69,875 - 70,124	46,140	46,560	46,980	47,400	47,820	48,240	48,660	49,080	49,500	49,880	50,260
70,125 - 70,374	46,270	46,690	47,110	47,530	47,950	48,370	48,790	49,210	49,630	50,020	50,400
70,375 - 70,624	46,410	46,830	47,250	47,670	48,090	48,510	48,930	49,350	49,770	50,170	50,550
70,625 - 70,874	46,540	46,960	47,380	47,800	48,220	48,640	49,060	49,480	49,900	50,310	50,690
70,875 - 71,124	46,680	47,100	47,520	47,940	48,360	48,780	49,200	49,620	50,040	50,460	50,840
71,125 - 71,374	46,810	47,230	47,650	48,070	48,490	48,910	49,330	49,750	50,170	50,590	50,980
71,375 - 71,624	46,950	47,370	47,790	48,210	48,630	49,050	49,470	49,890	50,310	50,730	51,130
71,625 - 71,874	47,080	47,500	47,920	48,340	48,760	49,180	49,600	50,020	50,440	50,860	51,270
71,875 - 72,124	47,220	47,640	48,060	48,480	48,900	49,320	49,740	50,160	50,580	51,000	51,420
72,125 - 72,374	47,350	47,770	48,190	48,610	49,030	49,450	49,870	50,290	50,710	51,130	51,550
72,375 - 72,624	47,490	47,910	48,330	48,750	49,170	49,590	50,010	50,430	50,850	51,270	51,690
72,625 - 72,874	47,620	48,040	48,460	48,880	49,300	49,720	50,140	50,560	50,980	51,400	51,820
72,875 - 73,124	47,760	48,180	48,600	49,020	49,440	49,860	50,280	50,700	51,120	51,540	51,960
73,125 - 73,374	47,890	48,310	48,730	49,150	49,570	49,990	50,410	50,830	51,250	51,670	52,090
73,375 - 73,624	48,030	48,450	48,870	49,290	49,710	50,130	50,550	50,970	51,390	51,810	52,230
73,625 - 73,874	48,160	48,580	49,000	49,420	49,840	50,260	50,680	51,100	51,520	51,940	52,360
73,875 - 74,124	48,300	48,720	49,140	49,560	49,980	50,400	50,820	51,240	51,660	52,080	52,500
74,125 - 74,374	48,430	48,850	49,270	49,690	50,110	50,530	50,950	51,370	51,790	52,210	52,630
74,375 - 74,624	48,570	48,990	49,410	49,830	50,250	50,670	51,090	51,510	51,930	52,350	52,770
74,625 - 74,874	48,700	49,120	49,540	49,960	50,380	50,800	51,220	51,640	52,060	52,480	52,900
74,875 - 75,000	48,840	49,260	49,680	50,100	50,520	50,940	51,360	51,780	52,200	52,620	53,040
Over 75,000	### MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM ###										

BILLING CODE 4000-01-C

Table D—Expected Family Contribution For a Single Independent Student—1985–86

For a single independent student, the educational institution determines the student's expected family contribution according to Table D. The amount obtained from the table is divided by the number of family members enrolled on at least a half-time basis in a postsecondary educational institution. The contributions set forth in Table D are based on a 12-month budget. If an educational institution calculates an independent student budget on a 9-month basis, it must multiply the contribution in the table by .75. No family assets are considered.

As used in Table D, "Family members" include the student and the student's dependents.

The conversion of the adjusted gross income to the expected family contribution is performed by subtracting from the adjusted gross income the following—

—Federal income tax, based on standard deductions, computed at the rate applied to taxpayers who qualify as heads of households;

—F.I.C.A. (Social Security) for one wage earner; and

—Average State and other taxes (4%).

The resulting value is the expected family contribution. No deduction is made for living expenses for the student and his or her family because those expenses are included in the student's cost of attendance.

BILLING CODE 4000-01-M

Table D: Expected Family Contribution for a Single Independent Student--1985-86

Adjusted Gross Income	Number of Family Members											
	1	2	3	4	5	6	7	8	9	10	11	12
Less than 30,001	### AUTOMATICALLY ELIGIBLE ###											
30,001 - 30,124	21,440	21,720	22,000	22,280	22,560	22,840	23,100	23,340	23,580	23,820	24,060	24,300
30,125 - 30,374	21,580	21,880	22,160	22,440	22,720	23,000	23,270	23,510	23,750	23,990	24,230	24,470
30,375 - 30,624	21,720	22,030	22,310	22,590	22,870	23,150	23,430	23,670	23,910	24,150	24,390	24,630
30,625 - 30,874	21,870	22,180	22,460	22,740	23,020	23,300	23,580	23,830	24,070	24,310	24,550	24,790
30,875 - 31,124	22,010	22,330	22,620	22,900	23,180	23,460	23,740	24,000	24,240	24,480	24,720	24,960
31,125 - 31,374	22,150	22,470	22,770	23,050	23,330	23,610	23,890	24,160	24,400	24,640	24,880	25,120
31,375 - 31,624	22,300	22,620	22,920	23,200	23,480	23,760	24,040	24,320	24,560	24,800	25,040	25,280
31,625 - 31,874	22,440	22,760	23,080	23,360	23,640	23,920	24,200	24,480	24,730	24,970	25,210	25,450
31,875 - 32,124	22,580	22,900	23,220	23,510	23,790	24,070	24,350	24,630	24,890	25,130	25,370	25,610
32,125 - 32,374	22,730	23,050	23,370	23,660	23,940	24,220	24,500	24,780	25,050	25,290	25,530	25,770
32,375 - 32,624	22,870	23,190	23,510	23,820	24,100	24,380	24,660	24,940	25,220	25,460	25,700	25,940
32,625 - 32,874	23,010	23,330	23,650	23,970	24,250	24,530	24,810	25,090	25,370	25,620	25,860	26,100
32,875 - 33,124	23,160	23,480	23,800	24,120	24,400	24,680	24,960	25,240	25,520	25,780	26,020	26,260
33,125 - 33,374	23,300	23,620	23,940	24,260	24,560	24,840	25,120	25,400	25,680	25,950	26,190	26,430
33,375 - 33,624	23,440	23,760	24,080	24,400	24,710	24,990	25,270	25,550	25,830	26,110	26,350	26,590
33,625 - 33,874	23,580	23,900	24,220	24,540	24,860	25,140	25,420	25,700	25,980	26,260	26,510	26,750
33,875 - 34,124	23,730	24,050	24,370	24,690	25,010	25,300	25,580	25,860	26,140	26,420	26,680	26,920
34,125 - 34,374	23,870	24,190	24,510	24,830	25,150	25,450	25,730	26,010	26,290	26,570	26,840	27,080
34,375 - 34,624	24,010	24,330	24,650	24,970	25,290	25,600	25,880	26,160	26,440	26,720	27,000	27,240
34,625 - 34,874	24,160	24,480	24,800	25,120	25,440	25,760	26,040	26,320	26,600	26,880	27,160	27,410
34,875 - 35,124	24,300	24,620	24,940	25,260	25,580	25,900	26,190	26,470	26,750	27,030	27,310	27,570
35,125 - 35,374	24,440	24,760	25,080	25,400	25,720	26,040	26,340	26,620	26,900	27,180	27,460	27,730
35,375 - 35,624	24,580	24,910	25,230	25,550	25,870	26,190	26,500	26,780	27,060	27,340	27,620	27,900
35,625 - 35,874	24,710	25,050	25,370	25,690	26,010	26,330	26,650	26,930	27,210	27,490	27,770	28,050
35,875 - 36,124	24,850	25,190	25,510	25,830	26,150	26,470	26,790	27,080	27,360	27,640	27,920	28,200
36,125 - 36,374	24,980	25,330	25,660	25,980	26,300	26,620	26,940	27,240	27,520	27,800	28,080	28,360
36,375 - 36,624	25,120	25,470	25,800	26,120	26,440	26,760	27,080	27,390	27,670	27,950	28,230	28,510
36,625 - 36,874	25,250	25,600	25,940	26,260	26,580	26,900	27,220	27,540	27,820	28,100	28,380	28,660
36,875 - 37,124	25,390	25,740	26,090	26,410	26,730	27,050	27,370	27,690	27,980	28,260	28,540	28,820
37,125 - 37,374	25,530	25,880	26,230	26,550	26,870	27,190	27,510	27,830	28,130	28,410	28,690	28,970
37,375 - 37,624	25,660	26,010	26,360	26,690	27,010	27,330	27,650	27,970	28,280	28,560	28,840	29,120
37,625 - 37,874	25,800	26,150	26,500	26,840	27,160	27,480	27,800	28,120	28,430	28,710	28,990	29,270
37,875 - 38,124	25,950	26,300	26,650	26,990	27,310	27,630	27,950	28,270	28,590	28,880	29,160	29,440
38,125 - 38,374	26,100	26,450	26,800	27,150	27,470	27,790	28,110	28,430	28,750	29,050	29,330	29,610
38,375 - 38,624	26,250	26,600	26,950	27,300	27,630	27,950	28,270	28,590	28,910	29,220	29,500	29,780
38,625 - 38,874	26,400	26,750	27,100	27,450	27,790	28,110	28,430	28,750	29,070	29,390	29,670	29,950

Table D: Expected Family Contribution for a Single Independent Student--1985 86

Adjusted Gross Income	Number of Family Members											
	1	2	3	4	5	6	7	8	9	10	11	12
38,875 - 39,124	26,560	26,910	27,260	27,610	27,950	28,270	28,590	28,910	29,230	29,550	29,840	30,120
39,125 - 39,374	26,710	27,060	27,410	27,760	28,110	28,430	28,750	29,070	29,390	29,710	30,010	30,290
39,375 - 39,624	26,860	27,210	27,560	27,910	28,260	28,590	28,910	29,230	29,550	29,870	30,180	30,460
39,625 - 39,874	27,010	27,360	27,710	28,060	28,410	28,750	29,070	29,390	29,710	30,030	30,350	30,630
39,875 - 40,124	27,170	27,520	27,870	28,220	28,570	28,910	29,230	29,550	29,870	30,190	30,510	30,800
40,125 - 40,374	27,320	27,670	28,020	28,370	28,720	29,070	29,390	29,710	30,030	30,350	30,670	30,970
40,375 - 40,624	27,470	27,820	28,170	28,520	28,870	29,220	29,550	29,870	30,190	30,510	30,830	31,140
40,625 - 40,874	27,620	27,970	28,320	28,670	29,020	29,370	29,710	30,030	30,350	30,670	30,990	31,310
40,875 - 41,124	27,780	28,130	28,480	28,830	29,180	29,530	29,870	30,190	30,510	30,830	31,150	31,470
41,125 - 41,374	27,930	28,280	28,630	28,980	29,330	29,680	30,030	30,350	30,670	30,990	31,310	31,630
41,375 - 41,624	28,080	28,430	28,780	29,130	29,480	29,830	30,180	30,510	30,830	31,150	31,470	31,790
41,625 - 41,874	28,230	28,580	28,930	29,280	29,630	29,980	30,330	30,670	30,990	31,310	31,630	31,950
41,875 - 42,124	28,390	28,740	29,090	29,440	29,790	30,140	30,490	30,830	31,150	31,470	31,790	32,110
42,125 - 42,374	28,540	28,890	29,240	29,590	29,940	30,290	30,640	30,990	31,310	31,630	31,950	32,270
42,375 - 42,624	28,690	29,040	29,390	29,740	30,090	30,440	30,790	31,140	31,470	31,790	32,110	32,430
42,625 - 42,874	28,840	29,190	29,540	29,890	30,240	30,590	30,940	31,290	31,630	31,950	32,270	32,590
42,875 - 43,124	29,000	29,350	29,700	30,050	30,400	30,750	31,100	31,450	31,790	32,110	32,430	32,750
43,125 - 43,374	29,150	29,500	29,850	30,200	30,550	30,900	31,250	31,600	31,950	32,270	32,590	32,910
43,375 - 43,624	29,300	29,650	30,000	30,350	30,700	31,050	31,400	31,750	32,100	32,430	32,750	33,070
43,625 - 43,874	29,450	29,800	30,150	30,500	30,850	31,200	31,550	31,900	32,250	32,590	32,910	33,230
43,875 - 44,124	29,610	29,960	30,310	30,660	31,010	31,360	31,710	32,060	32,410	32,750	33,070	33,390
44,125 - 44,374	29,760	30,110	30,460	30,810	31,160	31,510	31,860	32,210	32,560	32,910	33,230	33,550
44,375 - 44,624	29,910	30,260	30,610	30,960	31,310	31,660	32,010	32,360	32,710	33,060	33,390	33,710
44,625 - 44,874	30,060	30,410	30,760	31,110	31,460	31,810	32,160	32,510	32,860	33,210	33,550	33,870
44,875 - 45,124	30,220	30,570	30,920	31,270	31,620	31,970	32,320	32,670	33,020	33,370	33,710	34,030
45,125 - 45,374	30,370	30,720	31,070	31,420	31,770	32,120	32,470	32,820	33,170	33,520	33,870	34,190
45,375 - 45,624	30,520	30,870	31,220	31,570	31,920	32,270	32,620	32,970	33,320	33,670	34,020	34,350
45,625 - 45,874	30,670	31,020	31,370	31,720	32,070	32,420	32,770	33,120	33,470	33,820	34,170	34,510
45,875 - 46,124	30,810	31,180	31,530	31,880	32,230	32,580	32,930	33,280	33,630	33,980	34,330	34,670
46,125 - 46,374	30,940	31,330	31,680	32,030	32,380	32,730	33,080	33,430	33,780	34,130	34,480	34,830
46,375 - 46,624	31,080	31,480	31,830	32,180	32,530	32,880	33,230	33,580	33,930	34,280	34,630	34,980
46,625 - 46,874	31,210	31,630	31,980	32,330	32,680	33,030	33,380	33,730	34,080	34,430	34,780	35,130
46,875 - 47,124	31,350	31,770	32,140	32,490	32,840	33,190	33,540	33,890	34,240	34,590	34,940	35,290
47,125 - 47,374	31,480	31,900	32,290	32,640	32,990	33,340	33,690	34,040	34,390	34,740	35,090	35,440
47,375 - 47,624	31,620	32,040	32,440	32,790	33,140	33,490	33,840	34,190	34,540	34,890	35,240	35,590
47,625 - 47,874	31,750	32,170	32,590	32,940	33,290	33,640	33,990	34,340	34,690	35,040	35,390	35,740

Table D: Expected Family Contribution for a Single Independent Student--1985-86

Adjusted Gross Income	Number of Family Members											
	1	2	3	4	5	6	7	8	9	10	11	12
47,875 - 48,124	31,890	32,310	32,730	33,100	33,450	33,800	34,150	34,500	34,850	35,200	35,550	35,900
48,125 - 48,374	32,020	32,440	32,860	33,250	33,600	33,950	34,300	34,650	35,000	35,350	35,700	36,050
48,375 - 48,624	32,160	32,580	33,000	33,400	33,750	34,100	34,450	34,800	35,150	35,500	35,850	36,200
48,625 - 48,874	32,290	32,710	33,130	33,550	33,900	34,250	34,600	34,950	35,300	35,650	36,000	36,350
48,875 - 49,124	32,430	32,850	33,270	33,690	34,060	34,410	34,760	35,110	35,460	35,810	36,160	36,510
49,125 - 49,374	32,560	32,980	33,400	33,820	34,210	34,560	34,910	35,260	35,610	35,960	36,310	36,660
49,375 - 49,624	32,700	33,120	33,540	33,960	34,360	34,710	35,060	35,410	35,760	36,110	36,460	36,810
49,625 - 49,874	32,830	33,250	33,670	34,090	34,510	34,860	35,210	35,560	35,910	36,260	36,610	36,960
49,875 - 50,124	32,970	33,390	33,810	34,230	34,650	35,020	35,370	35,720	36,070	36,420	36,770	37,120
50,125 - 50,374	33,100	33,520	33,940	34,360	34,780	35,170	35,520	35,870	36,220	36,570	36,920	37,270
50,375 - 50,624	33,240	33,660	34,080	34,500	34,920	35,320	35,670	36,020	36,370	36,720	37,070	37,420
50,625 - 50,874	33,370	33,790	34,210	34,630	35,050	35,470	35,820	36,170	36,520	36,870	37,220	37,570
50,875 - 51,124	33,510	33,930	34,350	34,770	35,190	35,610	35,980	36,330	36,680	37,030	37,380	37,730
51,125 - 51,374	33,640	34,060	34,480	34,900	35,320	35,740	36,130	36,480	36,830	37,180	37,530	37,880
51,375 - 51,624	33,780	34,200	34,620	35,040	35,460	35,880	36,280	36,630	36,980	37,330	37,680	38,030
51,625 - 51,874	33,910	34,330	34,750	35,170	35,590	36,010	36,430	36,780	37,130	37,480	37,830	38,180
51,875 - 52,124	34,050	34,470	34,890	35,310	35,730	36,150	36,570	36,940	37,290	37,640	37,990	38,340
52,125 - 52,374	34,180	34,600	35,020	35,440	35,860	36,280	36,700	37,090	37,440	37,790	38,140	38,490
52,375 - 52,624	34,320	34,740	35,160	35,580	36,000	36,420	36,840	37,240	37,590	37,940	38,290	38,640
52,625 - 52,874	34,450	34,870	35,290	35,710	36,130	36,550	36,970	37,390	37,740	38,090	38,440	38,790
52,875 - 53,124	34,590	35,010	35,430	35,850	36,270	36,690	37,110	37,530	37,900	38,250	38,600	38,950
53,125 - 53,374	34,720	35,140	35,560	35,980	36,400	36,820	37,240	37,660	38,050	38,400	38,750	39,100
53,375 - 53,624	34,860	35,280	35,700	36,120	36,540	36,960	37,380	37,800	38,200	38,550	38,900	39,250
53,625 - 53,874	34,990	35,410	35,830	36,250	36,670	37,090	37,510	37,930	38,350	38,700	39,050	39,400
53,875 - 54,124	35,130	35,550	35,970	36,390	36,810	37,230	37,650	38,070	38,490	38,860	39,210	39,560
54,125 - 54,374	35,260	35,680	36,100	36,520	36,940	37,360	37,780	38,200	38,620	39,010	39,360	39,710
54,375 - 54,624	35,400	35,820	36,240	36,660	37,080	37,500	37,920	38,340	38,760	39,160	39,510	39,860
54,625 - 54,874	35,530	35,950	36,370	36,790	37,210	37,630	38,050	38,470	38,890	39,310	39,660	40,010
54,875 - 55,124	35,670	36,090	36,510	36,930	37,350	37,770	38,190	38,610	39,030	39,450	39,820	40,170
55,125 - 55,374	35,800	36,220	36,640	37,060	37,480	37,900	38,320	38,740	39,160	39,580	39,970	40,320
55,375 - 55,624	35,940	36,360	36,780	37,200	37,620	38,040	38,460	38,880	39,300	39,720	40,120	40,470
55,625 - 55,874	36,070	36,490	36,910	37,330	37,750	38,170	38,590	39,010	39,430	39,850	40,270	40,620
55,875 - 56,124	36,210	36,630	37,050	37,470	37,890	38,310	38,730	39,150	39,570	39,990	40,410	40,780
56,125 - 56,374	36,340	36,760	37,180	37,600	38,020	38,440	38,860	39,280	39,700	40,120	40,540	40,930
56,375 - 56,624	36,480	36,900	37,320	37,740	38,160	38,580	39,000	39,420	39,840	40,260	40,680	41,080
56,625 - 56,874	36,610	37,030	37,450	37,870	38,290	38,710	39,130	39,550	39,970	40,390	40,810	41,230

Table D: Expected Family Contribution for a Single Independent Student--1985-86

Adjusted Gross Income	Number of Family Members											
	1	2	3	4	5	6	7	8	9	10	11	12
56,875 - 57,124	36,750	37,170	37,590	38,010	38,430	38,850	39,270	39,690	40,110	40,530	40,950	41,370
57,125 - 57,374	36,880	37,300	37,720	38,140	38,560	38,980	39,400	39,820	40,240	40,660	41,080	41,500
57,375 - 57,624	37,020	37,440	37,860	38,280	38,700	39,120	39,540	39,960	40,380	40,800	41,220	41,640
57,625 - 57,874	37,150	37,570	37,990	38,410	38,830	39,250	39,670	40,090	40,510	40,930	41,350	41,770
57,875 - 58,124	37,290	37,710	38,130	38,550	38,970	39,390	39,810	40,230	40,650	41,070	41,490	41,910
58,125 - 58,374	37,420	37,840	38,260	38,680	39,100	39,520	39,940	40,360	40,780	41,200	41,620	42,040
58,375 - 58,624	37,560	37,980	38,400	38,820	39,240	39,660	40,080	40,500	40,920	41,340	41,760	42,180
58,625 - 58,874	37,690	38,110	38,530	38,950	39,370	39,790	40,210	40,630	41,050	41,470	41,890	42,310
58,875 - 59,124	37,830	38,250	38,670	39,090	39,510	39,930	40,350	40,770	41,190	41,610	42,030	42,450
59,125 - 59,374	37,960	38,380	38,800	39,220	39,640	40,060	40,480	40,900	41,320	41,740	42,160	42,580
59,375 - 59,624	38,100	38,520	38,940	39,360	39,780	40,200	40,620	41,040	41,460	41,880	42,300	42,720
59,625 - 59,874	38,230	38,650	39,070	39,490	39,910	40,330	40,750	41,170	41,590	42,010	42,430	42,850
59,875 - 60,124	38,370	38,790	39,210	39,630	40,050	40,470	40,890	41,310	41,730	42,150	42,570	42,990
60,125 - 60,374	38,500	38,920	39,340	39,760	40,180	40,600	41,020	41,440	41,860	42,280	42,700	43,120
60,375 - 60,624	38,640	39,060	39,480	39,900	40,320	40,740	41,160	41,580	42,000	42,420	42,840	43,260
60,625 - 60,874	38,770	39,190	39,610	40,030	40,450	40,870	41,290	41,710	42,130	42,550	42,970	43,390
60,875 - 61,124	38,910	39,330	39,750	40,170	40,590	41,010	41,430	41,850	42,270	42,690	43,110	43,530
61,125 - 61,374	39,040	39,460	39,880	40,300	40,720	41,140	41,560	41,980	42,400	42,820	43,240	43,660
61,375 - 61,624	39,180	39,600	40,020	40,440	40,860	41,280	41,700	42,120	42,540	42,960	43,380	43,800
61,625 - 61,874	39,310	39,730	40,150	40,570	40,990	41,410	41,830	42,250	42,670	43,090	43,510	43,930
61,875 - 62,124	39,430	39,870	40,290	40,710	41,130	41,550	41,970	42,390	42,810	43,230	43,650	44,070
62,125 - 62,374	39,560	40,000	40,420	40,840	41,260	41,680	42,100	42,520	42,940	43,360	43,780	44,200
62,375 - 62,624	39,690	40,140	40,560	40,980	41,400	41,820	42,240	42,660	43,080	43,500	43,920	44,340
62,625 - 62,874	39,820	40,270	40,690	41,110	41,530	41,950	42,370	42,790	43,210	43,630	44,050	44,470
62,875 - 63,124	39,940	40,390	40,830	41,250	41,670	42,090	42,510	42,930	43,350	43,770	44,190	44,610
63,125 - 63,374	40,070	40,520	40,960	41,380	41,800	42,220	42,640	43,060	43,480	43,900	44,320	44,740
63,375 - 63,624	40,200	40,650	41,100	41,520	41,940	42,360	42,780	43,200	43,620	44,040	44,460	44,880
63,625 - 63,874	40,330	40,780	41,230	41,650	42,070	42,490	42,910	43,330	43,750	44,170	44,590	45,010
63,875 - 64,124	40,450	40,900	41,350	41,790	42,210	42,630	43,050	43,470	43,890	44,310	44,730	45,150
64,125 - 64,374	40,580	41,030	41,480	41,920	42,340	42,760	43,180	43,600	44,020	44,440	44,860	45,280
64,375 - 64,624	40,710	41,160	41,610	42,060	42,480	42,900	43,320	43,740	44,160	44,580	45,000	45,420
64,625 - 64,874	40,840	41,290	41,740	42,190	42,610	43,030	43,450	43,870	44,290	44,710	45,130	45,550
64,875 - 65,124	40,960	41,410	41,860	42,310	42,750	43,170	43,590	44,010	44,430	44,850	45,270	45,690
65,125 - 65,374	41,090	41,540	41,990	42,440	42,880	43,300	43,720	44,140	44,560	44,980	45,400	45,820
65,375 - 65,624	41,220	41,670	42,120	42,570	43,020	43,440	43,860	44,280	44,700	45,120	45,540	45,960
65,625 - 65,874	41,350	41,800	42,250	42,700	43,150	43,570	43,990	44,410	44,830	45,250	45,670	46,090

Table D: Expected Family Contribution for a Single Independent Student--1985-86

Adjusted Gross Income	Number of Family Members											
	1	2	3	4	5	6	7	8	9	10	11	12
65,875 - 66,124	41,470	41,920	42,370	42,820	43,270	43,710	44,130	44,550	44,970	45,390	45,810	46,230
66,125 - 66,374	41,600	42,050	42,500	42,950	43,400	43,840	44,260	44,680	45,100	45,520	45,940	46,360
66,375 - 66,624	41,730	42,180	42,630	43,080	43,530	43,980	44,400	44,820	45,240	45,660	46,080	46,500
66,625 - 66,874	41,860	42,310	42,760	43,210	43,660	44,110	44,530	44,950	45,370	45,790	46,210	46,630
66,875 - 67,124	41,980	42,430	42,880	43,330	43,780	44,230	44,670	45,090	45,510	45,930	46,350	46,770
67,125 - 67,374	42,110	42,560	43,010	43,460	43,910	44,360	44,800	45,220	45,640	46,060	46,480	46,900
67,375 - 67,624	42,240	42,690	43,140	43,590	44,040	44,490	44,940	45,360	45,780	46,200	46,620	47,040
67,625 - 67,874	42,370	42,820	43,270	43,720	44,170	44,620	45,070	45,490	45,910	46,330	46,750	47,170
67,875 - 68,124	42,490	42,940	43,390	43,840	44,290	44,740	45,190	45,630	46,050	46,470	46,890	47,310
68,125 - 68,374	42,620	43,070	43,520	43,970	44,420	44,870	45,320	45,760	46,180	46,600	47,020	47,440
68,375 - 68,624	42,750	43,200	43,650	44,100	44,550	45,000	45,450	45,900	46,320	46,740	47,160	47,580
68,625 - 68,874	42,880	43,330	43,780	44,230	44,680	45,130	45,580	46,030	46,450	46,870	47,290	47,710
68,875 - 69,124	43,000	43,450	43,900	44,350	44,800	45,250	45,700	46,150	46,590	47,010	47,430	47,850
69,125 - 69,374	43,130	43,580	44,030	44,480	44,930	45,380	45,830	46,280	46,720	47,140	47,560	47,980
69,375 - 69,624	43,260	43,710	44,160	44,610	45,060	45,510	45,960	46,410	46,860	47,280	47,700	48,120
69,625 - 69,874	43,390	43,840	44,290	44,740	45,190	45,640	46,090	46,540	46,990	47,410	47,830	48,250
69,875 - 70,124	43,510	43,960	44,410	44,860	45,310	45,760	46,210	46,660	47,110	47,550	47,970	48,390
70,125 - 70,374	43,640	44,090	44,540	44,990	45,440	45,890	46,340	46,790	47,240	47,680	48,100	48,520
70,375 - 70,624	43,770	44,220	44,670	45,120	45,570	46,020	46,470	46,920	47,370	47,820	48,240	48,660
70,625 - 70,874	43,900	44,350	44,800	45,250	45,700	46,150	46,600	47,050	47,500	47,950	48,370	48,790
70,875 - 71,124	44,020	44,470	44,920	45,370	45,820	46,270	46,720	47,170	47,620	48,070	48,510	48,930
71,125 - 71,374	44,150	44,600	45,050	45,500	45,950	46,400	46,850	47,300	47,750	48,200	48,640	49,060
71,375 - 71,624	44,280	44,730	45,180	45,630	46,080	46,530	46,980	47,430	47,880	48,330	48,780	49,200
71,625 - 71,874	44,410	44,860	45,310	45,760	46,210	46,660	47,110	47,560	48,010	48,460	48,910	49,330
71,875 - 72,124	44,530	44,980	45,430	45,880	46,330	46,780	47,230	47,680	48,130	48,580	49,030	49,470
72,125 - 72,374	44,660	45,110	45,560	46,010	46,460	46,910	47,360	47,810	48,260	48,710	49,160	49,600
72,375 - 72,624	44,790	45,240	45,690	46,140	46,590	47,040	47,490	47,940	48,390	48,840	49,290	49,740
72,625 - 72,874	44,920	45,370	45,820	46,270	46,720	47,170	47,620	48,070	48,520	48,970	49,420	49,870
72,875 - 73,124	45,040	45,490	45,940	46,390	46,840	47,290	47,740	48,190	48,640	49,090	49,540	49,990
73,125 - 73,374	45,170	45,620	46,070	46,520	46,970	47,420	47,870	48,320	48,770	49,220	49,670	50,120
73,375 - 73,624	45,300	45,750	46,200	46,650	47,100	47,550	48,000	48,450	48,900	49,350	49,800	50,250
73,625 - 73,874	45,430	45,880	46,330	46,780	47,230	47,680	48,130	48,580	49,030	49,480	49,930	50,380
73,875 - 74,124	45,550	46,000	46,450	46,900	47,350	47,800	48,250	48,700	49,150	49,600	50,050	50,500
74,125 - 74,374	45,680	46,130	46,580	47,030	47,480	47,930	48,380	48,830	49,280	49,730	50,180	50,630
74,375 - 74,624	45,810	46,260	46,710	47,160	47,610	48,060	48,510	48,960	49,410	49,860	50,310	50,760
74,625 - 74,874	45,940	46,390	46,840	47,290	47,740	48,190	48,640	49,090	49,540	49,990	50,440	50,890
74,875 - 75,000	46,060	46,510	46,960	47,410	47,860	48,310	48,760	49,210	49,660	50,110	50,560	51,010

Over 75,000 ### MUST USE CAMPUS-BASED APPROVED NEED ANALYSIS SYSTEM ###

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Monday
April 8, 1985

Part III

Environmental Protection Agency

40 CFR Part 166

Exemption of Federal and State Agencies for Use of Pesticides Under Emergency Conditions; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 166

[OPP-250064; FRL-2814-3]

Exemption of Federal and State Agencies for Use of Pesticides Under Emergency Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revise EPA's regulations on exempting Federal and State agencies from certain requirements for the use of pesticides under emergency conditions. Current regulations describe the types of exemptions allowed and the procedures to follow in applying for an exemption. The Agency believes that these proposed revisions will update, codify, and clarify procedures used to request emergency exemptions.

DATE: Written comments on this proposed rule should be submitted on or before June 7, 1985.

ADDRESS: Submit three copies of written comments, identified with the notation "OPP-250064," to: By mail:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, Va.

Information submitted in any comment concerning this proposed rule may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Franklin Gee, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1120B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-0592).

SUPPLEMENTARY INFORMATION: (OMB Control Number 2000-0458)

I. Introduction

A. Authority

This proposed regulation is published under the authority of section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or the Act), as amended by the Federal Environmental Pesticide Control Act of 1972, as amended (89 Stat. 751, 92 Stat. 836, 94 Stat. 3195 and 3196; 7 U.S.C. 136w)

B. Background

1. Historical

Section 18 of FIFRA gives the Administrator the authority, at his discretion, to exempt any Federal or State agency from any provision of the Act if he determines that emergency conditions exist which require such exemption. Regulations to implement the exemption provision were promulgated in 1973. Those regulations, under 40 CFR Part 166, address the various types of exemptions allowed and the procedures to be followed in order to make application for them. No amendments or revisions to these regulations have occurred since they were promulgated.

In the fall of 1982, the Office of Pesticide Programs (OPP) in accordance with Executive Order (E.O.) 12291, conducted a review of the regulations. In addition, the Agency conducted an audit of the programs under which EPA grants State and Federal agencies exemptions from FIFRA in order to cope with pest control emergencies. Some of the concerns raised by the audit and support for these revision are:

a. Over the 5-year period (fiscal year (FY) 1978 through FY 1982) of the audit, the number of emergency exemption actions submitted increased about 260 percent from FY 1978 (199) to FY 1982 (724). For crisis exemptions, the overall increase was 753 percent from FY 1978 (17) to FY 1982 (145).

b. The current regulations are not codified in a manner which make them easy to read and understand. This created an extra burden on the Agency because several memoranda clarifying the regulations have been sent to State lead personnel and Federal agencies. Such actions suggest that many sections of the regulations can be improved by redefining certain terms, rewording and rewriting certain sections.

c. The current regulations require agencies to submit sometimes duplicative and inadequate reports. This is time consuming and nonproductive to the agencies.

d. The current regulations say little about how the Agency considers risk associated with section 18 uses. The absence of this vital information creates grave concern among health officials and the general public that the Agency does not evaluate risk associated with section 18 uses. Thus, a revision of the regulations is needed to make clear the Agency's views on risk in regard to pesticide uses associated with emergency exemptions.

In addition to the OPP audit and the review of the regulations, the House Subcommittee on Department Operations, Reserach, and Foreign Agriculture released a report, dated December 17, 1982, entitled "Regulatory Procedures and Public Health Issues in the EPA's Office of Pesticide Programs." This report expressed concern that States or industry may be using section 18 authority to circumvent more stringent data and risk control requirements which apply to registration actions.

Considering the concerns raised by the E.O. review, OPP's audit, and the Congressional study, it is evident that the regulations can be improved with some revisions.

In light of the E.O. review, OPP's audit and the Congressional study, the Agency began to consider revisions to the regulations and held three public hearings in January 1984 to solicit the public's views in preparation for issuing proposed revised regulations. Subsequent to the hearings, the Agency chose to consider revising the regulations via the regulatory negotiation concept. This concept emerged in February 1983 when EPA announced in the **Federal Register** that it was beginning a "negotiated rulemaking" project to explore the extent to which face-to-face negotiations among interested parties could serve as a useful supplement to its current rulemaking process.

2. Negotiation Process

Negotiation is an accommodation process which gives the parties far greater control of the decisionmaking. Parties with different interests can resolve issues by meeting, discussing, and agreeing upon facts, questions, and solutions.

An advantage to negotiation in the regulatory area is that the parties determine not only the substance of a proposed rule but also, to the extent permitted by law, the procedures for deciding what the substance of the proposed rule will be. Encouraging the parties to share information and to work together allows for creative approaches

to resolving issues and reaching consensus. The goal of the negotiation is to reach consensus upon which to base a notice of proposed rulemaking.

3. Selection of Emergency Exemption Rulemaking for Negotiation

The Emergency exemption rulemaking was selected for the negotiation process because there was considerable public interest in the section 18 rule and it met EPA selection criteria. These criteria were: it was in the pre-proposal phase of development; affected interests were limited in number; groups representing these interests were readily identifiable; interest groups were contacted and indicated a willingness to negotiate this item in good faith; and the Agency identified a number of issues for resolution.

4. Establishment of Advisory Committee

The Agency was obliged to charter a Federal Advisory Committee to conduct full negotiation. EPA announced in the **Federal Register** of August 3, 1984 (49 FR 31145) its intent to establish an Advisory Committee under the Federal Advisory Committee Act. No comments or suggestions were received in response to that notice. Potential participants were identified by those expressing interest in section 18. All potential participants were contacted in order to determine whether they wished to be a party to the negotiation. The Committee held an organizational meeting on August 16, 1984, in order to develop operational ground rules and other basic protocols. The Advisory Committee held its first official meeting on September 28, 1984, at the National Institute for Dispute Resolution in Washington, D.C. The initial meeting and all four subsequent meetings of the full Advisory Committee were announced in the **Federal Register** and were open to the general public.

The following parties participated in the negotiations:

American Farm Bureau Federation
American Seed Trade Association
Association of American Pesticide Control Officials (AAPCO)
Association of State and Territorial Health Officials (ASTHO)
Defenders of Wildlife
Florida Citrus Mutual
Interregional Research Project No. 4 (IR-4)
National Agricultural Chemicals Associations (NACA)
National Association of State Departments of Agriculture (NASDA)
National Association of Wheat Growers
National Audubon Society
National Cattlemen's Association
National Coalition Against the Misuse of Pesticides (NCAMP)
National Corn Grower Association
National Cotton Council of America
National Food Processors Association (NFPA)
National Wildlife Federation (NWF)
Pesticide Users Advisory Committee (PUAC)
State FIFRA Issues Research and Evaluation Group (SFIREG)
U.S. Department of Agriculture (USDA)
U.S. Environmental Protection Agency (USEPA)

At the first full Committee meeting on September 28, the group adopted operating protocols. Important among the contents of the procedural protocol were the following statements:

The Committee will make every effort to reach a total consensus on all issues. To the extent a consensus is reached on any issue, EPA is committed to using the agreement as the basis for a proposed rulemaking. The agreement reached will take the form of proposed regulatory language that will be signed by all parties. Specific offers and statements made during the negotiations will not be used by other parties as the basis for future litigation. The representative attending any Committee meeting must be authorized to represent their organization.

The Committee divided into three working groups to consider 17 key issues that were previously identified. Group 1 was asked to consider the following key issues under the heading "Definition of Emergency and Crisis."

How should emergency be defined?
How does quarantine fit into the definition of an emergency?
How should EPA review crisis exemptions?
How should requests for repeat exemptions be handled?
How long should exemptions last?
How should EPA handle requests for exemptions resulting in the use of more than one chemical?
What information about alternatives should an applicant be required to provide?

Group 2 was asked to consider the following key issues under the heading "Implementation."

Should EPA issue for publication in the **Federal Register** notice of receipt of requests and/or approval of emergency exemptions?
What is the best way to ensure that use of a pesticide under an exemption meets the conditions imposed by EPA?
What information should EPA require an agency using an exempt pesticide to provide?
What is the best way to disseminate use information to users and producers?
What is the best way to deal with the timeframe for EPA's review?
Should EPA set enforceable levels for residues and how does EPA communicate this information to groups?
How long should exemptions last?
How should requests for repeat exemptions be handled?
How should EPA review crisis exemptions?
How should EPA handle requests for exemption resulting in the use of more than one chemical?

Group 3 was asked to consider the following key issues under the heading "Health and Safety Considerations."

How should EPA consider risk?
What criteria should be established for reviewing exemption requests for never-registered chemicals, those registered with data problems or chemicals undergoing special review?
Are the existing regulations adequate to deal with the use of cancelled or suspended pesticides?
How should chemical residue concerns be evaluated?

Several key issues overlapped within various working groups because of the interrelationship of the concerns. Working groups held separate meetings in addition to the full Committee. Results of the working groups were considered at full Committee meetings. It is from the results of the full Committee that consensus was reached on the preamble and proposed rule. Thus, the consensus of the full Committee forms the contents of this preamble and proposed rule which has been reviewed by the Agency and accepted for publication as the Agency's proposal.

C. Purposes of Proposed Revisions

This proposal would revise current regulations for the following purposes:

1. To clarify the meaning of the term "emergency" and other controversial terms, e.g., "significant economic loss," etc.

2. To codify the criteria for approval.

3. To update procedures used for processing section 18 applications.

4. To make the regulatory process more efficient by changing or eliminating requirements which are not necessary based on EPA's practical experience in administering the section 18 program over the last 10 years.

5. To rewrite the rule in clearer and more readable language.

II. Description of Proposed Part 166

The Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and the regulations promulgated under it, among other things, make it unlawful to sell or distribute an unregistered pesticide and to use a registered pesticide inconsistent with its labeling. Section 18 of the Act allows the Administrator of the United States Environmental Protection Agency to exempt State or Federal agencies from any provision of the Act if he determines that an emergency condition exists. Part 166 contains the procedures whereby the Administrator may exempt a Federal or State agency from the provisions of the Act which regulate the manner in which a pesticide is made available for use or is used.

A. General

1. Purpose

The purpose of these regulations is to establish the procedures under Part 166 by which the Agency may exempt State and Federal agencies from provisions of the Act in emergency situations.

The regulations as drafted specifically address exemption from sections 3 and 12 of the Act, which regulate making a pesticide available for use and using a pesticide in a manner that has not been approved through the Agency's registration process.

2. Types of exemptions

The proposed regulations specify in § 166.2 four types of exemptions. They are specific, quarantine, public health, and crisis exemptions. These are the same types of exemptions as provided for by the existing regulations.

A specific exemption under § 166.2(a) may be authorized to avert a significant economic loss or a significant risk to endangered species, threatened species, beneficial organisms, or the environment.

A quarantine exemption under § 166.2(b) may be authorized to control any pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States and its territories.

A public health exemption under § 166.2(c) may be authorized to control a pest that will cause a significant risk to human health.

The Committee agreed that emergency exemption applications could be submitted to the Agency for consideration prior to the actual existence of an emergency condition based on the expectation that an emergency condition would exist in the future. Such applications would identify what conditions would have to be experienced in order for the emergency condition to develop. Authorization of the exemption would include a "threshold" or other level which would have to be met before applications of the pesticide could occur. Examples of threshold levels include a specified number of plant pests per plant, some level of rainfall occurring within a specific timeframe, the presence of weeds at a given crop stage, or some percentage of crop defoliation due to a pest.

A crisis exemption under § 166.2(d) may be authorized to avert a significant economic loss or a significant risk to endangered species, threatened species, beneficial organisms, or the environment; to control any pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States and its territories; or to control a pest that would cause a significant risk to human health. However, a crisis exemption may be authorized only when an unpredictable emergency condition exists and the time element with respect to the application of the pesticide is critical, and there is not sufficient time either for a State or Federal agency to submit an application for a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the application.

3. Organization

The requlations have been organized into three Subparts. Subpart A deals with the general subject matter concerning exemptions, i.e., purpose, scope, structural organization, and definition of terms. Subpart B delineates the procedural requirements for obtaining a specific, quarantine, or public health exemption from the Agency. Subpart C delineates the procedural requirements for State or Federal agencies to authorize a crisis exemption.

4. Definitions

Section 166.3 defines terms that are used throughout Part 166. Terms not commonly recognized are discussed below.

The definition of the term "emergency condition" was discussed extensively by the Committee. It determined that in order for an emergency to exist there must be an urgent, non-routine situation which requires the use of a pesticide(s).

The phrase "urgent, non-routine situation" has been used to emphasize that the situation must be other than an ordinary one. An ordinary situation would include normal fluctuations in pest populations or environmental conditions. A chronic or continually occurring problem does not represent an "urgent, non-routine situation."

In establishing the existence of an emergency condition, it must be demonstrated that there currently is not a registered pesticide available for use under the Act which would alleviate the situation. The current regulations describe an emergency in terms of a "pest outbreak." However, past history indicates that a pest outbreak is not the only instance an emergency condition may exist. Unusual adverse climatic conditions obviously are not associated with a pest outbreak. Use of the term "pest outbreak" suggests an increase in a pest population's size. In many instances, risk to human health is based on a disease that a pest population carries. For example, the rabies virus can be carried by skunks. Even though a given skunk population may remain constant, the number of skunks within that population carrying the virus may increase. This could represent an emergency condition. On this basis, the term "pest outbreak" has been replaced by the term "urgent, non-routine situation." The use of the term "pest outbreak" has been retained for those instances where an increase in a pest population will result in a significant economic loss.

It must also be shown in demonstrating the existence of an emergency condition that an economically feasible alternative method, other than use of a pesticide, is not available to alleviate the situation. The phrase "economically feasible" has been added because there may be alternative methods available to control a pest situation which could cost more than the value of the crop being produced.

The definition of an emergency in the existing regulations accounts only for instances involving significant economic problems and public health problems. Past history has shown the need to expand this to include those instances where there is a significant risk to threatened or endangered species, beneficial organisms, or the environment and where there is the introduction or dissemination of a pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States and its territories.

In instances involving the introduction or dissemination of a pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States and its territories, it is not intended to apply to those areas where a pest has already become established. It is intended to cover quarantine situations and is primarily to address the needs of the Animal Plant and Health Inspection Service of USDA to carry out its responsibilities under various statutes. The language used in describing the situation parallels that in the Plant Quarantine Act and the Federal Plant Pest Act (7 U.S.C. 150dd, 160, 161). USDA conducts quarantine activities under these two acts and several other statutes (see 7 U.S.C. 150aa *et seq.* and 151 and 21 U.S.C. 111, 114, and 134a). In doing so, the USDA often has to rely on use of pesticides which are not registered for the pest they must control or are not registered at the rate of use necessary to eliminate the pest. State quarantine programs which are established to stop the dissemination of

an introduced pest would also be included.

In instances involving a significant risk to human health due either to the pest itself or a disease for which the pest is a vector, there does not necessarily have to be an outbreak of a pest population but rather an increase in the disease incidence within a pest population.

The Committee agreed that there may be instances when a pest must be controlled in order to protect threatened and endangered species. The Committee also agreed that there may be instances when a pest population should be controlled in order to protect beneficial organisms. In recent years many producers have turned to integrated pest management programs for control of pest problems. These control programs rely on the use of pest predators and pesticides. In instances where the use of a registered pesticide would reduce or eliminate a pest predator and thus require the use of additional pesticides to control the pest the predator would have controlled, the Committee believes that use of an alternative pesticide, which is less toxic to the predator, may be justified under the emergency exemption program.

The majority of requests received by the Agency under section 18 of the Act in the past have been for the purpose of averting a significant economic loss. The Committee agreed that in order for an emergency condition to exist in this instance, there must not only be a significant economic loss but it must also be as a result of a pest outbreak or unusual environmental conditions.

The term "significant economic loss" refers to a substantial reduction either in normally expected profitability for productive activities or in the value of public or private fixed assets for the area affected by the emergency. The contribution of obvious mismanagement to the loss will not be considered in determining loss.

The definition of "significant economic loss" is intentionally broad to allow for the full range of circumstances with which the emergency exemption process must cope. Most applications involve a request to use a pesticide on an agricultural commodity. Consequently, the guidance regarding exemptions are, or could be, requested for the protection of structures, museum pieces, park land, or for other purposes separate from agricultural productivity. The economic losses associated with these applications will be considered individually.

When determining the significance of the economic loss, the Committee agreed that it is sufficient to examine the impacts at the pesticide user level. Impacts do not have to be experienced at the regional, State, or national level before becoming "significant." This concept is captured by the words in the definition "for the area affected by the emergency."

The term "significant economic loss" replaces the term "significant economic problems" in the current regulations. This change is intended to emphasize the fact that the economic loss which is expected to be felt as a result of the pest outbreak should be outside the range of normal or historical losses. The Committee agreed that a major test of "significance" is whether the effects of the emergency pest situation will decrease the profitability of the affected commodity below the normal range for that commodity in the geographical area affected by the emergency. The effects of the emergency pest situation include, among other things, a loss in yield (quantity), a reduction in quality, higher harvesting costs, or a combination of these, which result in increased costs of production or reduced revenues.

In general, the Agency will examine the commodity yields and profits for the years preceding the emergency situation. If the emergency pest situation is expected to reduce yields and/or income below those experienced historically, then a significant economic loss has been demonstrated. Lack of potential gain may be considered only in connection with evaluating the long-term financial viability of an enterprise. In evaluating the significance of an economic loss for productive activities, the Committee agreed that EPA should consider whether the loss would affect the long-term viability expected from the productive activity. For example, an enterprise may face a situation where, due to circumstances beyond its control (e.g., bad weather), it must have a remarkably good upcoming crop year in order to remain financially viable. While, without an exemption to control an emergency pest situation, it can expect a crop yield and/or income within the historical range, this will not be sufficient to make up for the previous crop failures. Only with the use of an emergency exemption to solve the pest problem, can the enterprise maintain an expected, above-average yield and/or income to a point where the long-term financial viability of the enterprise is assured. In such a situation, an emergency exemption could be granted even though the "loss" expected by the enterprise is to an anticipated, above-normal yield and/or income.

The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide. This term is defined in section 2(bb) of the Act and that definition is repeated here for easy reference and because of its importance concerning the necessary balance between expected benefits and risks of a pesticide use required prior to authorizing an emergency exemption.

The term "food" refers to any article used for food or drink for man or animals. This definition is meant to include, although is not limited to, all raw agricultural commodities, meat, fat, and meat byproducts, eggs, milk, water, and processed food or feed.

B. Specific, Quarantine, or Public Health Exemption

1. Application for an Emergency Exemption

Proposed § 166.20 identifies the specific information which must be provided when an application for a specific, quarantine, or public health exemption under section 18 is submitted to the Agency.

a. *General information.* Proposed § 166.20(a) requires that, in accordance with section 18 of FIFRA, an application for an exemption be submitted by the Governor of a State or the head of Federal or State agency. In addition, this section allows their official designee to submit an exemption when the designee has been delegated the authority in writing.

It was agreed that it would be helpful if applications contain the name and telephone number of a person who can be contacted for all matters relating to administration of the exemption request (§ 166.20(a)(1)).

Section 166.10(a)(2) would require applicants to submit information describing the pesticide proposed for use. The Committee agreed that applications should include, for a federally registered pesticide product(s), the registration number(s) and the product name(s). Instead of identifying specific products, applicants may request exemptions for particular types of formulations which may be produced by a number of companies. Any additional labeling to be used in connection with the exemption should accompany the application. For a non-federally registered pesticide product(s), a confidential statement of formula must be submitted or reference made to one already available at the Agency. The application must include complete labeling to be used in connection with the exemption.

Section 166.20(a)(3) would require applicants to submit information concerning the proposed use. Applications shall identify sites to be treated, the method of application, rate of application in terms of active ingredient and product, total acreage or other appropriate unit, total amount of pesticide to be used (active ingredient and product), all applicable user precautions and restrictions, and qualifications of applicators.

Section 166.20(a)(4) would require applicants to submit information discussing why available methods of control are no longer considered suitable to control the pest or situation. The Committee was concerned that requests under section 18 were not adequately explaining why available methods of control were no longer considered effective. While there was general agreement that there are many reasons why available methods of control may not control a particular pest or situation, there was also agreement that a detailed explanation is needed. Lack of alternative methods of control should also be noted. If a pesticide is available but not recommended by the appropriate State officials, an explanation of why it is not recommended must be provided. If a registered pesticide is not available, an explanation of what attempts were made to get adequate supplies and the results of those attempts must be provided. If a registered pesticide has been determined no longer to control the pest or situation, a detailed justification must be provided and supported by field data. If field data are not available, statements by qualified agricultural experts, extension personnel, university personnel, or other persons similarly qualified in the field of pest control will be acceptable.

A detailed explanation of why alternative practices, if any, will not control the pest or situation or are economically infeasible to use must also be provided. The term "alternative practices" is meant to encompass any nonpesticidal means of control including, but not limited to, rotating crops, tilling, using tolerant/resistant crop strains, burning, hoeing, hand weeding and employing good farm management practices. This discussion is particularly important with respect to repeat uses under the section 18 program. The Committee acknowledged that unforeseen circumstances may preclude the use of alternative practices in averting an emergency condition. However, it expects these practices, when feasible, to be employed in subsequent years, rather than continual use of a pesticide under an emergency exemption.

The Committee discussed the use of more than one pesticide to deal with the same emergency condition. Issues were raised relative to the use of several pesticides on the same field which leads to complex risk analyses for such combinations or to complex control mechanisms to preclude such treatment under each of several exemptions. The Committee agreed that there may be instances when the use of more than one pesticide is necessary and justifiable. Examples include the lack of adequate supplies of one chemical to control the pest or situation, pesticide resistance management, and the need to control different life stages of the pest. The regulations do not preclude the use of more than one pesticide chemical for the same emergency condition but it is the Committee's intent that such use under section 18 be authorized only when necessary to provide adequate control of a pest or situation. Authorization of more than one chemical will not be made for competitive or marketing purposes.

Section 166.20(a)(5) would require applicants to submit information concerning the efficacy of the proposed use. The Committee realizes there may be many instances where there is little actual field data to support the efficacy of proposed pesticide use. However, supporting documentation is required that the proposed pesticide use will likely control the pest or situation. Such supporting information may come from experimental testing of the use, small plot trials, laboratory trials, or corroborating evidence from similar uses or similar species. Without some type of information to show that the proposed use is efficacious, the Agency will be unable to ascertain the benefits expected thus precluding the Agency from conducting a benefit/risk analysis.

Section 166.20(a)(6) would require the applicant to submit information concerning residues of a pesticide resulting from food uses. The Committee was in agreement that if an exemption will be used on a food commodity and is expected to result in residues on the food commodity, the applicant should list those commodities likely to contain residues and estimate the maximum residues expected from the proposed use. If the residue levels are expected to be undetectable, the application should so state and specify the level of detection. Information on which the estimates are based should be submitted to the Agency for review or, if in the Agency's files, appropriately referenced.

For the purposes of section 18, food commodities will include raw agricultural commodities, processed food, and potable water. Residue levels must be estimated for all the food commodities whether or not residues which may result in a processed food are expected to be lower than those in the treated commodity.

Section 166.20(a)(7) would require an applicant to submit a discussion on potential risks which could be expected from use of the proposed pesticide. The Committee agreed that an application should address the potential risks to human health, endangered or threatened species, beneficial organisms, and the environment which might be expected to result from the proposed use, together with references to data and other supporting information. This section is intended to provide the Agency with the applicant's knowledge and viewpoint as well as available information concerning potential risks from a proposed use. It is not construed to be or intended to represent an environmental impact statement on the proposed use. Assessing the potential impact the proposed use will have on the environment is ultimately the responsibility of the Agency.

Section 166.20(a)(8) would require the applicant to submit information concerning coordination with other affected State or Federal agencies. The Committee agreed that if a proposed use of the pesticide is likely to be of concern to other Federal or State agencies, the application should indicate that such agencies have been contacted prior to submission of the application. However, because of the time element involved in many situations, the Committee agreed that the application could be submitted without having to wait for comments and that any comments received after submission of the application would be forwarded to the Agency as they are received.

Section 166.20(a)(9) would require the applicant to notify the registrants of all pesticide products proposed for use or, if appropriate, the basic manufacturer, that a request has been made to the Agency for use of the pesticide under a specific, quarantine, or public health exemption.

Proposed § 166.20(a)(10) states that an applicant must describe the legal authority and program resources for ensuring that a pesticide is used in accordance with the special terms and conditions imposed under an emergency exemption. There was some discussion over the need to submit a proposed enforcement program with all exemption requests. However, the Committee

agreed that it was burdensome and unnecessary to require this information for all exemptions and left it to the Agency's discretion as to when to require this information. Some instances when the Agency may require a description of the legal authority and program resources for ensuring that a pesticide is used in accordance with the terms and conditions imposed under an emergency exemption are when the use involves:

(1) A pesticide containing an active ingredient which has not been federally registered for use on a food commodity.

(2) A cancelled or suspended pesticide use.

(3) A potential hazard to human health or the environment if the provisions of the exemptions are not strictly enforced.

There was considerable discussion by the Committee on the need to submit a final report on use under an exemption prior to authorizing an identical exemption for the next growing season (§ 166.20(a)(11)). Since the required information needed for a final report may not be available before an applicant submits an application for a use in a subsequent season, the Committee agreed that applications for the use of a pesticide at a site for which the applicant has previously been exempted under section 18 should contain an interim report summarizing the results thus far of a specific or public health exemption if the application is submitted prior to the time the final report for the previous exemption is due. The interim report would contain that information specified in § 166.32 to the extent available at the time the application is made.

b. *Specific information, specific exemption.* Proposed § 166.20(b) contains provisions describing information required to support an application for a specific exemption. The Committee agreed that the following information, as appropriate, should be submitted in support of a specific exemption:

(1) The scientific and common name of the pest or pest complex.

(2) A detailed discussion of the events which brought about the emergency condition.

(3) In instances where the request is to protect endangered or threatened species (federally or State designated), beneficial organisms, or the environment, a discussion of the anticipated risks to same that would be remedied by the proposed use of the pesticide.

Proposed § 166.20(b)(3) requires the applicant to submit information supporting a significant economic loss. Based on the definition of "significant economic loss" in § 166.3(g), applicants must provide a determination that the expected economic loss without the exemption is significant. To make this determination, applicants should establish a base of the expected economic conditions without the emergency or the exemption (i.e., the normal conditions) and then estimate the magnitude of the change from this base caused by the emergency. Estimates should pertain only to the commodity and geographic area identified in the application. Whenever applicable and available, the following information must be utilized in the applicant's analysis and provided to EPA with the application.

i. Cash expenses for producing commodity over the last 5 years (attach commodity budgets supporting the cash expense figures).

ii. Yields (or other applicable measures of output) over the last 5 years. If a reduction in quality is the nature of the emergency, provide information on the proportion of yield falling into each grade over the past 5 years. (Attach supporting data.)

iii. An estimate of the effect of the emergency on quantity and/or quality of production. If this information is unavailable, provide information about the percent control of the pest with the registered pesticide over the last 5 years and the expected percent control with the pesticide requested under the emergency exemption. (Attach supporting data.)

iv. Prices received for commodity (in appropriate units) over the last 5 years. If a reduction in quality is the nature of the emergency, provide prices for each grade over the last 5 years. (Attach supporting data.)

v. Cost of pesticides (or other pest control techniques) used over the last 5 years and cost of pesticide requested under the emergency exemption. Whenever possible these costs should include both materials and application. (Attach supporting data.)

For most agricultural commodities, the information requested in the above items is both available and applicable. When it is not available, an applicant must explain the lack of availability and provide the best data which are available. When the information is not applicable (e.g., for structures, museum pieces, park land), an applicant should explain the inapplicability, discuss the expected economic losses in other reasonable terms, and provide the best available supporting data.

c. *Specific information, quarantine exemption.* Proposed § 166.20(c) requires specific information needed to support a request for a quarantine exemption. The Committee agreed that the following information should be submitted for a quarantine exemption: the scientific and common name of the pest, the origin of the pest and its means of introduction or spread, and the impact of not controlling the pest.

d. *Specific information, public health exemption.* Proposed § 166.20(d) discusses specific information required to support a request for a public health exemption. The Committee agreed that the following information shall be submitted for a public health exemption: the scientific and common name of the pest and, if the pest to be controlled is a vector, a description of the disease it is expected to transmit; a discussion of the magnitude of the health problems expected to occur; and a discussion of the availability of medical treatment for the health problem.

2. Consultation

Proposed § 166.24 contains the provision whereby the Agency may consult with the Secretary of Agriculture, the Governor of a State, or their representatives, regarding whether an emergency exists. The Agency included this section to reflect the provision in section 18 FIFRA. Committee members were in agreement that this would be useful in certain, but not all, instances. Such instances may include, but are not limited to:

(1) Uses proposed on large acreages of major crops.

(2) Similar exemptions requested by a large number of States.

(3) Uses proposed which could represent a significant impact on a State's agriculture.

3. Notice of Receipt

Proposed § 166.24 identifies those instances in which the Agency will issue a notice of receipt of an application for a specific, quarantine, or public health exemption for publication in the **Federal Register** for public comment. This section also specifies what information the **Federal Register** notice will contain and the length of time allowed for comment.

a. *When a notice of receipt will be issued.* The Committee's discussion of when publication of receipt of an application for an emergency exemption for public comment is needed was extensive. The possibility of providing for public comment in all instances was discussed as well as not providing for public comment at all. The Agency expressed a reluctance to issue a notice of receipt of all applications due to the increased workload, cost of publication,

and the delays which could be caused in responding to emergency situations. It also questioned the benefits to be derived based on the limited amount of interest expressed through public comments in the past.

After much discussion, it was agreed that notice of receipt would be most beneficial in those instances where the application requested pesticide uses with the greatest potential for adverse impacts on human health and the environment or where the use has been requested under section 18 for 3 previous years. The following are instances where public comment is proposed to be solicited for an application for an emergency exemption:

(1) An exemption request for the use of a new chemical. A new chemical is defined as any pesticide containing an active ingredient not contained in any currently registered pesticide. Such chemicals have not undergone the more rigorous review required under section 3 of FIFRA and it was the consensus of the Committee that solicitation of public comment may be useful.

(2) An exemption request for the first food use of a pesticide. Publication is proposed in those instances where, even though the pesticide is registered, it has not yet been registered for a food use. The rationale for this was basically the same as in Unit II.B.3.a.(1).

(3) An exemption proposing any use of a pesticide if such pesticide has been subject to a suspension notice under section 6(c) of the Act. The Agency does not issue section 6(c) suspension notices in the absence of a very good indication that there is a potential risk associated with use of the pesticide. The Committee therefore believes the public should have a chance to comment on any proposed use of a pesticide for which a section 6(c) suspension notice was issued.

(4) An exemption proposing use of a pesticide if such pesticide has been subject to a cancellation notice under section 6(b) of the Act and subsequently cancelled and the intended use is one that poses a risk similar to the risk posed by any use of the pesticide which was the subject of the notice under section 6(b). The rationale for this was basically the same as in Unit II.B.3.a.(3).

(5) An exemption proposing use of a pesticide if such pesticide contains an active ingredient which is or has been the subject of a Special Review (refer to § 166.3(h)) and the intended use is one that poses a risk similar to the risk posed by any use of the pesticide which was the subject of the Special Review. This provision is not intended to apply to a Special Review pesticide if all health and safety effects concerning the pesticide are successfully rebutted. The Agency does not subject a pesticide to Special Review unless there is evidence there is a potential risk associated with use of the pesticide. The Committee therefore agreed that the public should have a chance to comment on these types of uses.

(6) A specific or public health exemption request for use of a pesticide where an emergency exemption for that use has been requested for the previous 3 years and a complete application for registration under section 3 of FIFRA and/or a petition for tolerance for residues in or on the commodity has not been submitted to the Agency. The Committee felt that if, after 3 years of a particular pesticide use, a complete registration request and/or petition for tolerance had not been submitted, the public should have an opportunity to comment on any further use.

(7) An exemption request where the Administrator has determined that publication for public comment is appropriate. The Committee believes that since all requests will not be subject to public comment, the Administrator should have the discretion to issue notice of a request other than those listed above if he determines public comment is appropriate.

Some examples where the Administrator may desire to seek public comment include those applications the Agency believes may be controversial for one reason or another and applications which involve uses voluntarily cancelled or withdrawn where the Agency may have taken adverse action if such cancellation or withdrawal did not occur.

b. *Contents of public notice and length of comment period.* Proposed § 166.24 (b) and (c) outline the information that will be made available to the public in notices of receipt of requests for emergency exemptions and establish the length of time generally provided for comment. The Committee agreed that the Agency must be able both to respond to the emergency need as well as provide sufficient information and time to allow for meaningful public comment. The Committee agreed that a 15-day comment period would suffice based on the following:

(1) The notice would be for purposes of alerting people concerning proposed uses under section 18.

(2) If a concerned person wanted to comment and needed further information, the notice would give a contact person from whom to get this information.

(3) The Agency will make copies of the application available within 24 hours of receipt of a request via telephone or letter.

On the above bases, the Committee agreed that the following information was sufficient to be printed in the **Federal Register**: the name of the applicant; the name of the chemical requested for use, including, if available, the common name and the Chemical Abstracts Service (CAS) number; the total amount of product or active ingredient proposed for use; the geographical location where treatment is proposed; the proposed number of acres or other appropriate units proposed to be treated; a summary of the applicant's description of the emergency conditions including the pest and the site or crop to be treated; a description of the major conditions of use of the pesticide as proposed by the applicant; if the pesticide proposed for use meets the criteria of § 166.24(a) (3), (4), or (5), an identification of the types of risks that were the bases for EPA's regulatory action; and the name, telephone number, and address of a person in the Agency who can provide further information. The **Federal Register** notice title will contain the type of exemption and the chemical, site, and State concerned in the applicant's request.

The Committee also then agreed that normally, a notice of receipt shall give the public 15 days to file comments. The comment period may be shortened or eliminated if it is determined that the time available for a decision on the application requires it but reasons for such action will be given in a notice in the **Federal Register**. The comment period may be extended if additional time for comment is requested and would not interfere with a timely decision on the application.

4. Agency Review

Proposed § 166.25 provides general information on how the Agency will review applications for specific, quarantine, and public health exemptions as well as the criteria the Administrator uses in making a decision as to whether to approve such applications.

The Committee discussed the need to review exemption requests as expeditiously as possible in order to have a decision prior to the proposed use of a pesticide. The Committee agreed that exemption requests should have a high priority within the Office of Pesticide Programs and the Agency should commit adequate resources to the emergency exemption program in order to obtain timely responses to deal with emergency conditions.

a. *General review.* The Committee expressed a desire that the Agency provide a general overview as to how it reviews exemption applications. The logic behind this was that as applicants become more familiar with how the Agency evaluates applications, they can better prepare applications which contain the information necessary for EPA to make a decision.

The Agency first reviews applications to determine whether supporting information meets the criteria established in the definition of an emergency condition. Once a determination has been made that an emergency condition exists, the Agency will quantify potential risks from the proposed pesticide use to the environment.

In considering risks to man, the Agency will review available data with respect to acute, subchronic and chronic exposure. In connection with acute exposure the Agency will rely on acute oral and acute dermal LD_{50} studies as well as primary skin and eye irritation studies. Results of these studies will be used with information on the chemical's half-life and persistence, including actual field studies, if necessary, to quantify the extent of exposure to the pesticide to mixers/loaders, applicators, field workers, and the public. Based on the acute toxicity and extent of exposure, the Agency will estimate the potential risks to these groups.

The Agency will also review available subchronic and chronic toxicity data to determine potential dietary risks posed by food uses under section 18. The Agency will rely on subchronic data (i.e., feeding, teratogenic or reproduction studies) to establish a provisional no-observed-effect level (PNOEL) or on chronic feeding study(ies) to establish a no-observed-effect level (NOEL). In instances where a completed study is not available, the Agency may utilize interim reports. Information required to be contained in an interim report is discussed in Subdivision I of the Pesticide Assessment Guidelines.

In those instances where the total theoretical maximal residue contribution (TMRC)[1] exceeds 50 percent of the maximal permitted intake (MPI),[2] the Agency will ordinarily require, in addition to those studies listed above, a 1-year (or longer) interim report on a chronic feeding study and a first generation (or longer) interim report on a reproduction study.

When appropriate, an acute inhalation LC_{50} study and an acute delayed neurotoxicity study will be required. Toxicological studies utilized in evaluation of an exemption shall be conducted in accordance with Subdivision F of the Pesticide Assessment Guidelines. These guidelines are available through the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161.

In reviewing chemicals with only a subchronic data base, a 2,000-fold safety factor will be used in determining the provisional allowable daily intake (PADI).[3] A 200-fold safety factor will be used for cholinesterase inhibition effects. For those chemicals with a chronic data base, a 100-fold safety factor will be used to determine the PADI and a 10-fold safety factor for cholinesterase inhibition.

The Agency will utilize the results of the above studies in connection with residue data and animal and plant metabolism studies to estimate potential risks posed to the public through dietary exposure. It will also consider the pesticide's potential to leach and contaminate ground water used for drinking or irrigation.

In considering risks to the environment, the Agency will consider available toxicity studies with respect to nontarget organisms and determine possible risks to a species' population.

When reviewing a repetitive exemption request the Agency will consider the higher level of exposure which would result from a subsequent use of the chemical over that which was estimated when the exemption was approved the first time.

In those instances where the Agency determines that a significant risk exists from a proposed use, it will expand its risks/benefits analysis to include community, regional or larger area impacts in addition to the impacts at the pesticide user level.

For the in-depth benefit analysis, economic impacts of the following types will be considered, whenever they are fully addressd in the application:

(1) Impacts at the pesticide user level.

(2) Measurable change in price and availability of the commodity to consumers resulting from a sufficiently large reduction in quantity to affect total supply.

(3) Measurable reduction in sales and/or employment of organizations supplying the affected producers.

(4) Measurable reduction in business volume and/or employment of organizations marketing the output of the affected producers.

(5) Measurable reduction in the economic base, including employment, of communities affected by the supplier and marketing organizations.

The Agency will also take into consideration any non-economic or qualitative information which describes benefits from using the pesticide.

Except for those data that are considered confidential, the Agency is willing to make available to health agencies or interested parties any information that was considered in making a decision on the emergency exemption application.

b. *Criteria for approval.* Proposed § 166.25(b) describes the criteria the Administrator will consider when making a decision whether or not to authorize an exemption. The Committee was in agreement that a determination that an emergency condition exists and use of the pesticide under the exemption would not cause unreasonable adverse effects to the environment were two criteria necessary to the decision-making process. Consideration shall be given to the potential future positive and/or negative impact(s) on the long-term pest situation when issuing an emergency exemption.

The Committee requested inclusion of a provision specifying that an exemption could not be granted for a use whose registration had been suspended under section 6(c) or cancelled under section 6(b), unless the use is authorized in accordance with the provisions of Subpart D of 40 CFR Part 164. This has been done.

At the suggestion of Committee members, the proposed regulations also provide for consideration in the Agency's decisionmaking process of two additional items. One is the progress, if any, which has been made in securing the registration of the use if it is a repeat exemption, and the other is the applicant's past record of compliance with the section 18 program. An exemption could be refused if the Agency determines that either of these items is unsatisfactory.

The Committee discussed the problem of repeat emergency exemptions and the potential for such uses circumventing the more rigorous section 3 registration process. In order to avert this the Committee agreed that there should be

[1] "TMRC" is the amount of a chemical residue which is calculated to remain in an "average" adult human diet. The "average" diet weighs 1.5 kg and is composed of different food items in amounts equal to the calculated average intake for each food item. The TMRC calculation is based on the assumption that each food item contains the maximum level of residues authorized by existing or pending tolerances.

[2] "MPI" is the acceptable allowable daily intake times 60 kg (average body weight of humans).

[3] "PADI" is calculated by dividing a NOEL by the appropriate safety factor.

significant progress towards registration of section 18 uses. The Committee recognized that the Agency is in the best position to know the registration progress of section 18 uses. However, it was pointed out that if there was not significant progress towards registration of a section 18 use, requests for that use by a State or Federal agency would be denied and an additional year's use by State and Federal agencies while an alternative was sought would generally not be allowed. Thus it would be to a State or Federal agency's advantage to keep abreast of the progress made towards a section 3 registration.

5. Duration

Proposed § 166.28 establishes the length of time for which specific, quarantine and public health exemptions will be authorized.

The Committee discussed instances in the past where the Agency had authorized emergency exemptions for a 1-year period even though in many cases the use season was for a much shorter period of time. It was agreed that when an exemption application is approved, the time the exemption is allowed be limited to reflect the time that actual use will be needed, but in no case longer than 1 year. This is the same time period allowed by the existing regulations for specific and public health exemptions. However, at the suggestion of the Agency, the maximum time for a quarantine exemption was lengthened from 1 year to 3 years. The rationale for this extension is that:

(1) The goal of many of the quarantine exemptions is to eradicate a pest rather than just provide control of it for one season.

(2) The fact that many of the uses requested may or may not be used depends on whether the pest actually is present at ports of entry.

The Agency and the Animal Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, believe that the paperwork necessary to process the same exemptions every year is burdensome and unnecessary.

The benefits of requiring the submission of interim reports annually for quarantine exemptions authorized for longer than 1 year were discussed. The Committee agreed that such information would be useful.

6. Notice of Agency Decision

Proposed § 166.30 indicates that applicants will be notified of decisions regarding an application for a specific, quarantine or public health exemption in a timely manner. In addition to notifying the applicant, the Agency will, if the use is on food, inform the Food and Drug Administration, U.S. Department of Health and Human Services and/or the Food Safety and Inspection Service, U.S. Department of Agriculture, and will periodically issue notice in the **Federal Register**.

This section indicates that if an application is submitted which does not contain all of the information required in § 166.20, the Agency may halt and further evaluation of it until the time that the missing information is supplied.

This provision will provide an incentive for the applicant to ensure that all of the information specified in the regulations has been addressed or else risk experiencing delays in the processing by EPA of such requests. It should also quicken the response time that it takes an applicant to supply information missing from an application once so informed by the Agency.

The Agency will outline the specific reasons for a denial action and provide specific terms and conditions for use when an application is approved.

The Committee agreed that notification should be in a timely manner rather than try to define the exact mechanism whereby such notification would occur. Changes in technology could outdate a system specified in the regulations.

One type of condition which EPA may impose is a requirement that crops treated with a pesticide under an exemption must be destroyed or diverted to non-food uses. If the Agency determines that residues on food resulting from use of a pesticide under an exemption will pose an unacceptable risk to public health; EPA will require destruction or other appropriate disposition of such food as a condition of approval of the exemption. Imposition of this condition is seldom necessary.

The Committee members agreed that if a use under a specific, quarantine, or public health exemption is expected to result in residues in or on food, the Agency will notify FDA and/or USDA, whichever is appropriate, of the residue level(s) expected. This information is currently conveyed to these agencies to inform them that the Agency has evaluated this level(s), and based on available data, has determined it to be adequate to protect the public health. These agencies are concerned with interstate movement of treated food. Even though this is a current procedure of the Agency, it is not contained as a requirement in the existing regulations. The Committee further agreed that State food and health officials should be notified of this information since they are responsible for movement of treated food in intrastate commerce.

The Committee also agreed that State food and health officials and the Office of Drinking Water of EPA be notified when use of a pesticide under a specific, quarantine, or public health exemption is expected to result in residues in potable water.

This section also provides for publication in the **Federal Register** of approvals of all specific, quarantine, and public health exemptions. Generally, the information in that notice will be brief, indicating the pesticide, crop/site, the name of the applicant and the name, address and telephone number of a person in the Agency who could be contacted for more information. In those instances where a notice of receipt of application was published, the Agency will issue of notice of its final decision (approval or denial) and the basis for that decision. Again, although this is current Agency procedure, it is not a requirement of the existing regulations.

Committee members agreed that due to the cost in terms of both publication and manpower, and based on interest expressed in this type of information in the past, this notice could be brief as long as the notice identified a contact person within the Agency who could be contacted for more information.

7. Recordkeeping and Reporting Requirements for Specific, Quarantine, or Public Health Exemption

Proposed § 166.32 contains information the Agency requires to be submitted for specific, quarantine, or public health exemptions. It also indentifies what records should be available with respect to the first food use of a pesticide.

8. EPA Review of Information Obtained in Connection With an Emergency Exemption

The Committee agreed that information obtained in connection with emergency exemptions will be reviewed and utilized, as appropriate, with other regulatory decisions under FIFRA. The benefits of the Agency utilizing the information submitted by State and Federal agencies to assess whether alternative pesticide products are effective in controlling a pest or situation were discussed. The possibility of requiring registrants to amend registered labels to delete or modify their claims, as appropriate, based on this information was suggested. The Agency discussed the results of a project it had conducted in 1981 based on exemption request claims from 1980. EPA found that there are many reasons why available alternative controls were not effective; however, it was rarely

because the registered pesticide no longer controlled a pest within a State, much less its entire range. There are many factors which determine whether a registered pesticide will control the pest it is labeled for to the extent necessary to avoid such factors. These include weather, population pressure, pre-harvest intervals, time of application, pockets of resistance as well as the development of general resistance. The Agency currently keeps track of claims made by State or Federal agencies concerning why alternative pesticides will not control a pest or situation and takes appropriate action whenever such claims appear to be widespread. For example, if resistance to a certain fungicide is the cause for a number of States to request similar exemptions to deal with the same emergency condition, the Agency may want to pursue deleting the claim on the label or requiring use of the fungicide only as a tank mixture for that particular use.

9. Revocation or Modification of Exemptions

Proposed § 166.35 describes the conditions under which the Agency may revoke or modify a specific, quarantine, or public health exemption.

C.Crisis Exemptions

The Committee discussed the usefulness of the provisions in the current regulations concerning crisis exemptions. It was pointed out that the results of the 1982 OPP audit as well as the 1982 Congressional hearing on the section 18 program indicated misuse of the crisis provisions in some instances. In addition, the large increase in the number of crisis exemptions issued over the years provided some concern that misuse of this provision had occurred. The Committee questioned whether such provisions should be retained and, if so, whether they should be modified. It was agreed that the crisis provisions should be invoked only in dire situations where the emergency condition is unpredictable and there is no other way to mitigate the emergency.

1. Authorization

Proposed § 166.40 specifies who has the authority to issue crisis exemptions and when such exemptions may be granted. In accordance with the statute, heads of Federal or State agencies or the Governors of States are entitled to issue exemptions. In addition, it was agreed upon that their designees should be entitled to issue a crisis exemption. This is consistent with the authority to request exemptions under § 166.20.

A crisis exemption may be issued when an unpredictable emergency condition exists and the time element with respect to the application of the pesticide is critical, and there is not sufficient time either for a State or Federal agency to request a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the request.

The Committee discussed whether the word "unpredictable" in defining the emergency situation whereby a crisis exemption could be utilized would preclude an agency from declaring a crisis exemption if it had requested a specific exemption which the Agency had not yet acted upon. It was the consensus of the Committee that this should not be the function of this word.

The Committee went one step further along these lines by describing a means to reduce the use of crisis exemptions. It agreed that emergency exemption applications be entertained based on an expectation that an emergency condition will exist in the future. This type of exemption application would be authorized based on the presence as a "threshold level." A threshold level would be a level for which the Agency had determined that an emergency condition would exist. Once a pest population or a situation progressed to this threshold level, use under the exemption would be allowed.

When an exemption application is submitted prior to the existence of an emergency condition, a detailed explanation of why such emergency condition is expected must be submitted (i.e., the pest problem is due to resistance to registered pesticides and unless a new pesticide is registered for this use, the emergency can be expected again). The Committee agreed that this could be useful in reducing the number of crisis exemptions and felt it to be a feasible method of dealing with emergency conditions.

2. Limitations

Proposed § 166.41 sets forth the limitations regarding which pesticide uses may not be authorized under a crisis exemption.

The current regulations prohibit utilization of the crisis provisions for any use which has been prohibited under a suspension or final cancellation order for a product. The Committee felt that there should be more limitations on utilizing the crisis provision. It was the consensus that crisis exemptions should not be utilized if the Agency, after being notified of a State or Federal agency's intent to issue a crisis exemption, informs the State/Federal agency not to do so. The Committee also agreed that use of these provisions would not be appropriate for a pesticide containing a new chemical or for the first food use of a pesticide.

3. Notice to EPA and Manufacturers

Proposed § 166.43 contains the requirement that a Federal or State agency provide a 36-hour advance notice, when feasible, to the Agency prior to utilizing the crisis provisions, and in no case later than 24 hours after the decision to avail itself of a crisis exemption.

The Agency is currently, in the majority of the cases, notified by a State/Federal agency prior to issuance of a crisis exemption. This is generally done to ensure that there will be no overt problems from this use, and is a safeguard most lead agencies choose to employ. The Committee members felt that this was a good practice which should be included in the proposed regulations. Because advance notification may not be possible in all instances, it was agreed that when feasible, prior notification could occur at least 36 hours in advance of utilization of the crisis provisions and in no case later than 24 hours after the agency decides to avail itself of a crisis exemption. It was agreed that prior notification should occur except in rare instances.

The Committee also believed that the registrants of all pesticide products to be used under the crisis exemption or, if appropriate, the basic manufacturer, be notified of the use of their chemical under a crisis exemption, in order to provide their thoughts and/or objections based on their extensive knowledge of the chemical. Such notification should occur at the same time as the Agency is notified or as soon thereafter as possible.

The Committee agreed that only essential information would be required in the advance notification of issuance of a crisis exemption due to the time element involved. This includes the name of the pesticide (common name and Chemical Abstracts Service number if available), the amount of product/active ingredient to be used, the site to be treated, the use pattern, date of treatment and an estimate of residue levels likely to result on food.

4. Duration

Proposed § 166.45 sets forth the length of time a pesticide may be utilized under a crisis exemption. The Committee agreed that the current regulations regarding duration of a crisis exemption were adequate and should be

incorporated without substantial change in the proposed regulations. A crisis exemption may be issued only for the time period necessary to control the pest or conditions causing the emergency but not longer than 15 days, unless an application requesting a specific, quarantine, or public health exemption for that use has been submitted to the Agency.

5. Notification of FDA and USDA

Proposed § 166.47 provides for notification of the Food and Drug Administration (FDA), U.S. Department of Health and Human Services and/or the Food Safety and Inspection Service, U.S. Department of Agriculture, if a food use is involved.

The Agency will immediately notify the USDA and/or FDA, as appropriate, of uses authorized under a crisis exemption. If the Agency has determined residue levels are likely to result in food commodities, USDA and/or FDA will be so notified along with a determination as to whether such residues pose an unacceptable risk to human health. If residue levels are unknown, the Agency will notify USDA and/or FDA of residue levels and their safety as soon as the determination is made. This notification is necessary because these agencies are responsible for enforcement of the statutes designed to protect the food supply. The Committee further agreed that State food and health officials should be notified of this information since they are responsible for movement of treated food in intrastate commerce.

The Committee also agreed that State food and health officials and the Office of Drinking Water of EPA be notified when use of a pesticide under a crisis exemption is expected to result in residues in potable water.

6. Public Notification

Proposed § 166.49 provides for public notice of crisis exemptions taken by Federal or State agencies through publication in the **Federal Register**. The Agency will issue at least quarterly a list of all crisis exemption(s). Information to be provided will include the name of the State or Federal agency issuing the crisis exemption, the name of the pesticide authorized for use (the common name and Chemical Abstracts Service (CAS) number if available), the site to be treated, whether a specific, quarantine, or public health exemption has been requested, and an Agency contact person who can provide further information.

The Committee also believed that the Agency should issue yearly, for publication in the **Federal Register**, a report listing the number of crisis exemptions declared and revoked. This would allow the public to scrutinize the use of the crisis provisions of section 18. This provision has been added to these regulations.

7. Reporting and Recordkeeping for Crisis Exemptions

Proposed § 166.50 outlines the information required in connection with the use of a pesticide under a crisis exemption and recordkeeping requirements.

It calls for immediate notification of the Agency of any adverse effects resulting from use of a pesticide under a crisis exemption. It also provides for final reports which summarize use of a pesticide under a crisis exemption. Information required is the same as that required under § 166.32(b) for a specific, quarantine, or public health exemption.

Authorizing agencies are required to record the locations where the pesticide was applied, the date of application (range), and the total quantity of pesticide used (product and/or active ingredient). Such information shall be made available to the Agency upon request. It was understood that the Agency intends to request such information only when there is a specific need for it.

8. Review and Revocation

Proposed § 166.53 describes the Agency's review procedure for a crisis use and the conditions under which EPA may revoke an agency's crisis exemption or its authority to issue crisis exemptions, in whole or in part.

Upon notification by a State or Federal agency, in accordance with § 166.43, that a crisis exemption has been authorized or is about to be authorized, EPA will undertake a rapid review of the pesticide and the proposed use to determine if the use of the pesticide will cause an unreasonable risk to human health. Based on this review the Agency will determine whether the crisis authority should be exercised or, if already exercised, whether the exemption should be revoked.

The Committee agreed that the Agency should retain the authority to revoke a crisis exemption if the Administrator determines that there is insufficient data to determine the risks posed from a use, or if such action is necessary to protect man or the environment, or if a State or Federal agency is not in compliance with the requirements of this Subpart.

The Committee also agreed that the Agency should retain the right to revoke a State or Federal agency's authority in part or in whole to utilize the crisis provisions of this Subpart. However, the Committee believes that a State or Federal agency should lose its right to the crisis provisions only when such action is necessary to protect man or the environment or when an agency is not complying with the requirements of this Subpart.

Statutory Requirements

As required by FIFRA sec. 25(a), a copy of this proposal was provided to the Secretary of Agriculture, the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the FIFRA Scientific Advisory Panel. No comments on the proposed rule were received from the Congressional Committees. The FIFRA Scientific Advisory Panel waived its review of this proposal. The Secretary of Agriculture had no comment on the proposal; USDA was represented on the negotiating committee.

Executive Order 12291

Under Executive Order (E.O.) 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency has determined that this proposed revision of Part 166 is not a major regulation as defined by E.O. 12291.

The revisions are primarily a recodification and clarification of established procedures. Although several additions have been made, they are not expected to have a major regulatory impact which would trigger the criteria of E.O. 12291.

This proposed rule was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

Regulatory Flexibility Act

This proposed rule has been reviewed under the provisions of section 3(a) of the Regulatory Flexibility Act and it has been determined that this proposal does not contain provisions which would have a significant adverse impact on a substantial number of small entities. The proposed revisions clarify the regulations and thus should make it easier for applicants to comply with them. Moreover, the applicants utilizing these regulations are exclusively Federal and State agencies. Although their constituents may consist of some small entities, they are not affected adversely by these revisions. For these reasons, I hereby certify that the proposed revisions to 40 CFR Part 166 do not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2000–0458. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 166

Pesticides and pests.

Dated: April 1, 1985.

Lee M. Thomas,

Administrator.

Therefore, it is proposed that 40 CFR be amended by revising Part 166 to read as follows:

PART 166—EXEMPTION OF FEDERAL AND STATE AGENCIES FROM USE OF PESTICIDES UNDER EMERGENCY CONDITIONS

Subpart A—General Provisions

Sec.

166.1 Purpose of organization.
166.2 Types of exemptions.
166.3 Definitions.
166.7 User notification and advertising.

Subpart B—Specific, Quarantine, and Public Health Exemptions

166.20 Application for a specific, quarantine, or public health exemption.
166.22 Consultation with the Secretary of Agriculture and Governors of the States.
166.24 Public notice of receipt of application and opportunity for public comment.
166.25 Agency review.
166.28 Duration of exemption.
166.30 Notice of Agency decision.
166.32 Reporting and recordkeeping requirements for specific, quarantine, and public health exemptions.
166.34 EPA review of information obtained in connection with emergency exemptions.
166.35 Revocation or modification of exemptions.

Subpart C—Crisis Exemptions

166.40 Authorization.
166.41 Limitations.
166.43 Notice of EPA and registrants or basic manufacturers.
166.45 Duration of crisis exemption.
166.47 Notification of FDA, USDA, and State health officials.
166.49 Public notice of crisis exemptions.
166.50 Reporting and recordkeeping requirements for crisis exemptions.
166.53 EPA review of crisis exemption and revocation of authority.

Authority: Secs. 18 and 25, 89 Stat. 754 and 751, 92 Stat. 833 and 836, 94 Stat. 3194, 3195, and 3196 (7 U.S.C. 136 p and w).

Subpart A—General Provisions

§ 166.1 Purpose and organization.

(a) *Purpose and scope.* Section 18 of the Act authorizes the Administrator to exempt State and Federal agencies from any provisions of the Act, if he determines that emergency conditions exist which require an exemption. The regulations in this Part establish procedures whereby the Administrator may exempt a Federal or State agency from the provisions of the Act which regulate the manner in which a pesticide is made available for use or is used.

(b) *Organization.* (1) The provisions in Subpart A describe the four types of emergency exemptions authorized by the Agency and define terms used in this Part.

(2) Subpart B establishes procedures and criteria for specific, quarantine, and public health exemptions.

(3) Subpart C establishes procedures and criteria for crisis exemptions.

§ 166.2 Types of exemptions.

There are four types of emergency exemptions which may be authorized: Specific, quarantine, public health, and crisis exemptions.

(a) *Specific exemption.* A specific exemption may be authorized in an emergency condition to avert:

(1) A significant economic loss, or

(2) A significant risk to:

(i) Endangered species,

(ii) Threatened species,

(iii) Beneficial organisms, or

(iv) The environment.

(b) *Quarantine exemption.* A quarantine exemption may be authorized in an emergency condition to control the introduction or spread of any pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States and its territories.

(c) *Public health exemption.* A public health exemption may be authorized in an emergency condition to control a pest that will cause a significant risk to human health.

(d) *Crisis exemption.* A crisis exemption may be utilized in an emergency condition when the time from discovery of the emergency to the time when the pesticide use is needed is insufficient to allow for the authorization of a specific, quarantine, or public health exemption.

§ 166.3 Definitions.

Terms used in this Part shall have the meanings established by the Federal Insecticide, Fungicide, and Rodenticide Act. In addition, as used in this Part, the following terms shall also apply:

(a) The term "the Act" means the Federal, Insecticide, Fungicide, and Rodenticide Act, as amended.

(b) The terms "the Agency" and "EPA" mean the U.S. Environmental Protection Agency.

(c) The term "beneficial organism" means any pollinating insect, or any pest predator, parasite, pathogen or other biological control agent which functions naturally or as part of an integrated pest management program to control another pest.

(d) The term "emergency condition" means an urgent non-routine situation that requires the use of a pesticide(s) and shall be deemed to exist when:

(1) No effective pesticides are available under the Act that have labeled uses registered for control of the pest under the conditions of the emergency; and

(2) No economically or environmentally feasible alternative practices which provide adequate control are available; and

(3) The situation:

(i) Involves the introduction or dissemination of a pest new to or not theretofore known to be widely prevalent or distributed within or throughout the United States and its territories; or

(ii) Will present significant risks to human health; or

(iii) Will present significant risks to threatened or endangered species or beneficial organisms; or

(iv) Will cause significant economic loss due to:

(A) An outbreak or an expected outbreak of a pest; or

(B) A change in plant growth or development caused by unusual environmental conditions where such changes can be rectified by the use of a pesticide(s).

(e) The term "food" means any article used for food or drink for man or animals.

(f) The term "new chemical" means an active ingredient not contained in any currently registered pesticide.

(g) The term "significant economic loss" means that, under the emergency conditions: for a productive activity, the profitability would be substantially below the expected profitability for that activity; or, for other types of activities, where profits cannot be calculated, the value of public or private fixed assets would be substantially below the expected value for those assets. Only losses caused by the emergency conditions, specific to the impacted site, and specific to the geographic area

affected by the emergency conditions are included. The contribution of obvious mismanagement to the loss will not be considered in determining loss. In evaluating the significance of an economic loss for productive activities, the Agency will consider whether the expected reduction in profitability exceeds what would be expected as a result of normal fluctuations over a number of years, and whether the loss would affect the long-term financial viability expected from the productive activity. In evaluating the significance of an economic loss for situations other than productive activities, the Agency will consider reasonable measures of expected loss.

(h) The term "Special Review" refers to any interim administrative review of the risks and benefits of the use of a pesticide conducted pursuant to the provisions of EPA's Rebuttable Presumption Against Registration rules, 40 CFR 162.11(a), or any subsequent version of those rules.

(i) The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

§ 166.7 User notification and advertising.

The applicant, State or Federal agency, through user groups and other means, is responsible for notifying eligible users of the availability of the exempted pesticide(s). Notification may include distributing copies of the section 18 approval letter, labeling, or other information to eligible persons. Exemptions which are advertised are subject to withdrawal by EPA.

Subpart B—Specific, Quarantine, and Public Health Exemptions

§ 166.20 Application for a specific, quarantine, or public health exemption.

(a) *General information required in an application for a specific, quarantine or public health exemption.* An application must be submitted in writing by the head of the Federal or State agency, the Governor of the State involved, or their official designee. If a designee has been delegated authority to request exemptions, written authorization of such delegation must accompany the request or be on file with the Agency. In addition, the application must contain all applicable information specified in paragraphs (a) (1) through (11) of this section.

(1) *Identity of contact persons.* (i) Unless otherwise specified, the person who submits the application will be considered the contact person for all matters relating to administration of the emergency exemption.

(ii) Requests should identify by name and telephone number one or more qualified experts who may be contacted in case any questions arise concerning the application.

(2) *Description of the pesticide.* The application shall contain a description of the pesticide(s) proposed for use under the exemption. Such information shall include:

(i) For a federally registered pesticide product:

(A) The registration number and the name of the pesticide product if a specific product is requested; or the formulation(s) requested if a specific product is not desired; and

(B) A copy of any additional labeling proposed for the emergency exemption, or

(ii) For any other pesticide products:

(A) A confidential statement of formula or reference to one already submitted to the Agency, and

(B) Complete labeling to be used in connection with the proposed exemption use.

(3) *Description of the proposed use.* The application shall identify all of the following:

(i) Sites to be treated including their locations within the State.

(ii) The method of application.

(iii) The rate of application in terms of active ingredient and product.

(iv) The total acreage or other appropriate unit proposed to be treated.

(v) The total amount of pesticide proposed to be used in terms of both active ingredient and product.

(vi) All applicable restrictions and requirements concerning the proposed use and the qualifications of applicators using the pesticide.

(4) *Alternative methods of control.* The application shall contain:

(i) A detailed explanation of why the pesticide(s) currently registered for the particular use proposed in the application is not available in adequate supplies and/or effective to the degree needed to control the emergency. If the applicant states that an available registered pesticide is ineffective for the given situation, the statement must be supported by:

(A) Field date which demonstrate ineffectiveness of registered pesticides, or, if such data are unavailable,

(B) Statements by qualified agricultural experts, extension personnel, university personnel or other persons similarly qualified in the field of pest control.

(ii) A detailed explanation of why alternative practices, if available, either would not provide adequate control or would not be economically or environmentally feasible.

(5) *Effectiveness of proposed use.* The application shall contain data, a discussion of field trials, or other evidence which provide the basis for the conclusion that the proposed pesticide treatment will be effective in dealing with the emergency.

(6) *Discussion of residues for food uses.* If the proposed use is expected to result in residues of the pesticide in or on food, the application shall list the food likely to contain such residues and shall contain an estimate of the maximum amount of the residue likely to result from the proposed use, together with the information on which such estimates are based.

(7) *Discussion of risk information.* The application shall address the potential risks to human health, endangered or threatened species, beneficial organisms, and the environment expected to result from the proposed use, together with references to data and other supporting information.

(8) *Coordination with other affected State or Federal agencies.* If the proposed use of the pesticide is likely to be of concern to other Federal or State agencies, the application shall indicate that such agencies have been contacted prior to submission of the application, and any comments received from such agencies shall be submitted to EPA.

(9) *Notification of registrant or basis manufacturer.* The application shall contain a statement that the registrants of all pesticide products proposed for use or, if appropriate, the basic manufacturer have been notified that a request has been made to the Agency for use of the pesticide under a specific, quarantine, or public health exemption.

(10) *Description of proposed enforcement program.* Prior to approval, the applicant shall provide an explanation of the authority of the applicant or related State or Federal agencies for ensuring that use of the pesticide under the proposed exemption would comply with any special requirements imposed by the Agency and a description of the program and procedures for assuring such compliance.

(11) *Repeat uses.* Applications for the use of a pesticide at a site for which the application has previously been exempted under section 18 shall contain an interim report summarizing the results of the specific, quarantine, or public health exemption previously issued, if the application is submitted prior to the time the final report for the previous exemption is due. The interim

report shall contain that information specified in § 166.32 to the extent available at the time the application is made.

(b) *Information required for a specific exemption.* An application for a specific exemption shall provide all of the following information, as appropriate, concerning the nature of the emergency:

(1) The scientific and common name of the pest or pest complex.

(2) A discussion of the events which brought about the emergency condition.

(3) A discussion of the anticipated risks to endangered or threatened species, beneficial organisms, or the environment that would be remedied by the proposed use of the pesticide.

(4) A discussion of the anticipated significant economic loss, together with data and other information supporting the discussion, which addresses all of the following:

(i) Historical net and gross revenues for the site.

(ii) The estimated net and gross revenues for the site without the use of proposed pesticide.

(iii) The estimated net and gross revenues for the site with use of the proposed pesticide.

(c) *Information required for a quarantine exemption.* An application for a quarantine exemption shall provide all of the following information concerning the nature of the emergency:

(1) The scientific and common name of pest.

(2) The origin of pest and the means of its introduction or spread if known.

(3) The anticipated impact of not controlling the pest.

(d) *Information required for a public health exemption.* An application for a public health exemption shall provide all the following information concerning the nature of the emergency:

(1) The scientific and common name of pest to be controlled and if the pest is a vector, a description of the disease it is expected to transmit.

(2) A discussion of the magnitude of the health problems which are expected to occur without the pesticide use.

(3) Discussion of the availability of medical treatment for the health problem.

(Approved by Office of Management and Budget under control No. 2000-0458)

§ 166.22 Consultation with the Secretary of Agriculture and Governors of the States.

The Agency, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination.

§ 166.24 Public notice of receipt of application and opportunity for public comment.

(a) *Publication requirement.* The Administrator shall issue a notice of receipt in the **Federal Register** for a specific, quarantine, or public health exemption and request public comment when any one of the following seven criteria is met:

(1) The application proposes use of a new chemical.

(2) The application proposes the first food use of an active ingredient.

(3) The application proposes any use of a pesticide if such pesticide has been subject to a suspension notice under section 6(c) of the Act.

(4) The application proposes use of a pesticide if such pesticide:

(i) Was the subject of a notice under section 6(b) of the Act and was subsequently cancelled, and

(ii) Is intended for a use that poses a risk similar to the risk posed by any use of the pesticide which was the subject of the notice under section 6(b).

(5) The application proposes use of a pesticide if such pesticide:

(i) Contains an active ingredient which is or has been the subject of a Special Review, and

(ii) Is intended for a use that could pose a risk similar to the risk posed by any use of the pesticide which is the subject of the Special Review.

(6) The application proposes use of a pesticide for a specific or public health exemption where:

(i) An emergency exemption has been requested or granted for that use for each of the previous 3 years, and

(ii) A complete application for registration of that use and/or a petition for tolerance for residues in or on the commodity has not been submitted to the Agency.

(7) The Administrator determines that publication of notice is appropriate.

(b) *Contents.* The notice of receipt of an application for an emergency exemption shall contain all the following information:

(1) The name of the applicant.

(2) The name of the chemical requested for use, including, if available, the common name and the Chemical Abstracts Service (CAS) number.

(3) The total amount of product or active ingredient proposed for use.

(4) The geographical location where treatment is proposed.

(5) The proposed number of acres or other appropriate units proposed to be treated.

(6) A summary of the applicant's description of the emergency conditions including the pest and the site or crop to be treated.

(7) A description of the major conditions of use of the pesticide as proposed by the applicant.

(8) If the pesticide proposed for use meets the criteria of paragraphs (a) (3), (4), or (5) of this section, an identification of the types of risks that were the basis for EPA's regulatory action.

(9) The name, telephone number, and address of a person in the Agency who can provide further information.

(c) *Length of comment period.* Normally, a notice of receipt shall give the public 15 days in which to file comments on the application. The Administrator may shorten or eliminate the comment period if he determines that the time available for a decision on the application requires it and shall state reasons for such action in a notice in the **Federal Register**. The Administrator may extend the comment period if additional time for comment is requested and such an extension would not interfere with a timely decision on the application.

§ 166.25 Agency review.

(a) *General.* The Agency will review all requests as expeditiously as possible, making every attempt to respond to requests prior to the time when the proposed use is needed. The Agency will review the application and other available data necessary to make a determination with respect to all of the following:

(1) Whether an emergency condition exists or will exist.

(2) The level of residues in or on all food resulting from the proposed use.

(3) The anticipated benefits to be derived from the proposed use.

(4) The potential risks to the human health, endangered or threatened species, beneficial organisms, and the environment from the proposed use.

(b) *Criteria for approval.* The Administrator may authorize a specific, public health, or quarantine exemption, based on the information available to the Agency, after:

(1) He determines that:

(i) An emergency condition exists;

(ii) The use of the pesticide under the exemption will not cause unreasonable adverse effects on the enviornment;

(iii) Registration of the pesticide use for which the exemption is requested has not been suspended under section 6(c) of the Act or cancelled following a notice under section 6(b) of the Act, unless the use is authorized in accordance with the provisions of §§ 164.130 through 164.133 of this chapter;

(2) Giving due consideration to:

(i) Whether the pesticide is reasonably likely to be used in compliance with the requirements imposed by the Agency under the exemption, and

(ii) The progress which has been made toward registration of the proposed use, if a repeat specific or public health exemption is sought. It shall be presumed that if a complete application for registration of a use, which has been under a specific or public health exemption for the previous 3 years, has not been submitted, reasonable progress towards registration has not been made.

§ 166.28 Duration of exemption.

(a) *Specific or public health exemptions.* EPA shall allow use of a pesticide under a specific or public health exemption for as long a period as is reasonably expected to be necessary but in no case for longer than 1 year.

(b) *Quarantine exemption.* EPA shall allow use of a pesticide under a quarantine exemption for as long a period as is deemed necessary but in no case for longer than 3 years. Quarantine exemptions may be renewed. Interim reports containing the information specified in § 166.32(b) to the extent available shall be filed annually.

§ 166.30 Notice of Agency decision.

(a) *Notification of applicants.* The Agency shall notify an applicant of its decision to approve or deny an application request for an emergency exemption in a timely manner.

(1) *Incomplete applications.* The Agency may discontinue the processing of any application which does not contain all of the information required by § 166.20 until such time the additional information is submitted by the applicant.

(2) *Complete applications*—(i) *Denials.* The Agency will provide the specific reasons and rationale for denying the exemption request. If the denial is based on a specific information gap the decision shall be reconsidered in a timely manner when the information gap is filled.

(ii) *Approvals.* The Agency will provide the specific terms and conditions under which the exempted pesticide may be used.

(b) *Notification of FDA, USDA, and State health officials.* If a use authorized under a specific, quarantine, or public health exemption will result in residues of the pesticide chemical in or on food, the Agency will notify the Food and Drug Administration, U.S. Department of Health and Human Services and the Food Safety and Inspection Service, U.S. Department of Agriculture, as appropriate, of the level of residues expected to result. Additionally, the Agency will ensure that State health and food officials, as appropriate, are also provided with the information specified in this paragraph.

(c) **Federal Register** *publication.* (1) At least quarterly, the Administrator shall issue a notice in the **Federal Register** announcing approvals of all specific, quarantine, and public health exemptions. The notice shall contain all of the following:

(i) The name of the applicant.

(ii) The pesticide authorized for use.

(iii) The crop or site to be treated.

(iv) The name, address, and telephone number of a person in the Agency who can provide further information.

(2) In addition, if EPA has issued a Notice of Receipt of an application for an exemption, it will issue a notice of its final decision and the reasons for that decision.

§ 166.32 Reporting and recordkeeping requirements for specific, quarantine, and public health exemptions.

(a) *Unexpected adverse effects information.* Any unexpected adverse effects resulting from the use of a pesticide under a specific, quarantine, or public health exemption must be immediately reported to the Agency.

(b) *Final reports.* A report summarizing the results of pesticide use under specific, quarantine, and public health exemptions must be submitted to the Agency within 6 months from the expiration of the exemption unless otherwise specified by the Agency. The information in this report shall include all of the following:

(1) Total acreage, amount of commodity or other unit treated and the total quantity of the pesticide used.

(2) A discussion of the effectiveness of the pesticide in dealing with the emergency condition.

(3) A description of any unexpected adverse effects which resulted from use of the pesticide under the exemption.

(4) The results of any monitoring required and/or carried out under the exemption.

(5) A discussion of any enforcement actions taken in connection with the exemption.

(6) Method(s) of disposition of a food crop, if required to be destroyed under an exemption.

(7) Any other information requested by the Administrator.

(c) *Records.* Records for all treatments involving the first food use of a pesticide will be maintained a minimum of 2 years following the date of use of the exemption. On request by the Agency these records shall be made available to the Administrator. Records will include all of the following:

(1) Location where the pesticide was applied.

(2) Dates of application (range).

(3) Total quantity of the pesticide used.

(Approved by the Office of Management and Budget under control No. 2000-0458)

§ 166.34 EPA review of information obtained in connection with emergency exemptions.

EPA shall review information submitted in connection with emergency exemptions and, when applicable, use it in connection with other regulatory decisions under the Act.

§ 166.35 Revocation or modification of exemptions.

(a) *Grounds.* The Administrator may revoke or modify the terms or conditions of a specific, quarantine, or public health exemption if he determines one of the following:

(1) An emergency no longer exists.

(2) Use of the pesticide under the exemption may cause unreasonable adverse effects on the environment.

(3) The pesticide authorized under the exemption is not effective at controlling the pest or conditions causing the emergency.

(4) The terms and conditions established by the exemption and these regulations are not being complied with.

(b) *Implementation.* The revocation or modification becomes effective as soon as the Administrator notifies the State or Federal agency which submitted the application. Upon notification, the applicant is required immediately to take all necessary steps to assure that further use complies with the terms and conditions of any modification or, if the exemption has been revoked, to stop further use.

Subpart C—Crisis Exemptions

§ 166.40 Authorization.

The head of a Federal or State agency, the Governor of a State, or their official designee, is entitled to issue a crisis exemption in situations involving an unpredictable emergency situation when:

(a) An emergency condition exists; and

(b) The time element with respect to the application of the pesticide is critical, and there is not sufficient time either to request a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the request.

§ 166.41 Limitations.

The crisis provisions may not be utilized to authorize a pesticide use if any of the following has occurred:

(a) EPA has informed the head of the Federal or State agency, the Governor, or their official designee, not to issue such an exemption.

(b) The pesticide use has been suspended under section 6(c) of the Act.

(c) The pesticide use has been cancelled following a notice issued under section 6(b) of the Act.

(d) The pesticide contains a new chemical.

(e) The application proposes the first food use of a pesticide.

§ 166.43 Notice to EPA and registrants or basic manufacturers.

(a) *Timing of notice.* (1) When feasible, the State or Federal Agency issuing the crisis exemption must notify the Administrator at least 36 hours in advance of utilization of the crisis provisions. In no case shall notice be given to the Agency later than 24 hours after the decision to avail itself of a crisis exemption.

(2) The State or Federal agency issuing the crisis exemption shall notify the registrant(s) or, if appropriate, the basic manufacturer(s) of the pesticide(s) being used under the crisis exemption at the same time notice is given to EPA or as soon thereafter as possible.

(b) *Contents of notice.* Information required to be provided in notices shall include all of the following:

(1) The name of the chemical, including, if available, the common name and the Chemical Abstracts Service (CAS) number.

(2) The site on which the pesticide is to be used or is being used.

(3) The use pattern.

(4) The date on which the pesticide use is to begin or the date on which use of the pesticide began.

(5) An estimate of the level of residues of the pesticide expected to result from use under the crisis exemption.

(6) Any other pertinent information available at the time.

(Approved by the Office of Management and Budget under control No. 2000-0458)

§ 166.45 Duration of crisis exemption.

A crisis exemption may be authorized for:

(a) Only as long as is necessary to control the pest or conditions causing the emergency, and

(b) No longer than 15 days, unless an application requesting a specific, quarantine, or public health exemption for this use has been submitted to the Agency.

§ 166.47 Notification of FDA, USDA, and State health officials.

If a use authorized under a crisis exemption will result in residues of the pesticide chemical in or on food, the Agency will notify the Food and Drug Administration, U.S. Department of Health and Human Services and the Food Safety and Inspection Service, U.S. Department of Agriculture, as appropriate, of the level of residues expected to result and whether such residues pose an unacceptable risk to public health. This notice shall be provided as soon as the Agency makes its determination. Additionally, the Agency will ensure that State health and food officials, as appropriate, are also provided with this information.

§ 166.49 Public notice of crisis exemptions.

(a) *Periodic notices.* At least quarterly, the Administrator shall issue a notice in the **Federal Register** announcing issuance of crisis exemptions. The notice shall contain all of the following:

(1) The name of the State or Federal agency using a crisis exemption.

(2) The name of the chemical authorized for use, including, if available, the common name and the Chemical Abstracts Service (CAS) number.

(3) The site to be treated.

(4) The name, telephone number, and address of a person in the Agency who can provide further information.

(5) Whether a specific, quarantine, or public health exemption has been requested.

(b) *Annual reports.* Annually, the Agency shall issue a notice in the **Federal Register** that shall summarize:

(1) The number of crisis exemptions declared.

(2) The number of crisis exemptions revoked.

§ 166.50 Reporting and recordkeeping requirements for crisis exemption.

(a) *Adverse effects information.* Any adverse effects resulting from the use of a pesticide under a crisis exemption must be immediately reported to the Agency.

(b) *Final reports.* (1) A report summarizing the results of treatment under a crisis exemption will be required to be submitted to the Agency within 3 months following the last date of treatment. If a specific, quarantine, or public health exemption has been approved while the crisis exemption is in effect, however, the crisis exemption report may be incorporated into the specific, quarantine, or public health exemption final report required under § 166.32(b) and submitted at the time it is due.

(2) Information to be included in the crisis exemption report includes the same information as required in § 166.32(b) and an explanation as to why there was a need to utilize the crisis provisions.

(c) *Records.* Records will be maintained for a minimum of 2 years following the date of use of the exemption. On request by the Agency, these records shall be made available to the Administrator. Records will include all of the following:

(1) Location where the pesticide was applied.

(2) Dates of application (range).

(3) Total quantity of the pesticide used.

(Approved by the Office of Management and Budget under control No. 2000-0458)

§ 166.53 EPA review of crisis exemption and revocation of authority.

(a) *Review.* When a crisis exemption is about to be or has already been declared by a State or Federal agency, EPA will undertake an expedited review of the chemical to determine if use of the chemical may result in such unreasonable health or environmental risks that the crisis authority should not be exercised or the crisis exemption should be revoked.

(b) *Revocation*—(1) *Individual crisis exemptions.* A crisis exemption for the use of a specific pesticide may be revoked if the Administrator determines that:

(i) There are insufficient data to determine the risks posed from the use,

(ii) Such action is necessary to protect man or the environment, or

(iii) The State or Federal agency is not complying with the requirements of this Subpart C.

(2) *State or Federal agency authority.* The Administrator may revoke the authority of a State or Federal agency to issue crisis exemptions for any pesticide if he determines that:

(i) Such action is necessary to protect man or the environment, or

(ii) The State or Federal agency is not complying with the requirements of this Subpart C.

[FR Doc. 85-8327 Filed 4-5-85; 8:45 am]

BILLING CODE 6560-50-M

federal register

Monday
April 8, 1985

Part IV

Department of the Treasury

Internal Revenue Service

26 CFR Part 602

OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act; Correction

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

[T.D. 8011]

OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the **Federal Register** publication beginning at 50 FR 10221, March 14, 1985. Final regulations that were the subject of Treasury Decision 8011 adopted the display of control numbers that are required for Internal Revenue Service regulations that solicit or obtain information from the public.

EFFECTIVE DATE: The regulations that are the subject of these corrections are effective March 14, 1985. The corrections are also effective March 14, 1985.

FOR FURTHER INFORMATION CONTACT: George H. Bradley, Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224. Telephone 202-566-3486 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1985, the **Federal Register** published amendments to Title 26 of the Code of Federal Regulations. Those amendments set forth in display format a table of the control numbers that the Office of Management and Budget had assigned to regulations issued by the Internal Revenue Service that solicit or obtain information from the public.

Need for Correction

As published, Treasury Decision 8011 (FR Doc. 85-6015) contained an incorrect identification of a paragraph of a regulations section, and five incorrect identifications of CFR part numbers.

Correction of Publication

PART 602—[CORRECTED]

Accordingly, FR Doc. 85-6015 (50 FR 10221) is amended as follows:

Paragraph 1. On page 10226, in the third column, the reference § 31.6011 (d) 4 is corrected to read § 31.6011 (a)-4.

Par. 2. On page 10227, in the third column, the references § 57.6011 (a)-1(a), § 57.6011 (a)-1(b), § 57.6011 (a)-2 (a) and (b), and § 57.6302 (c)-1 (a) and (b) are corrected to read § 52.6011 (a)-1(a), § 52.6011 (a)-1(b), § 52.6011 (a)-2(a) and (b), and § 52.6302 (c)-1(a) and (b), respectively.

Par. 3. On page 10227, in the third column, the reference § 151.4997-2(a), (b), (c), (d), and (e) is corrected to read § 150.4997-2(a), (b), (c), (d), and (e).

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-8526 Filed 4-5-85; 10:46 am]

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Vol. 50, No. 67

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H.J. Res. 134 / Pub. L. 99-9

Authorizing and requesting the President to designate the week of March 10 through 16 1985, as "National Employ-the-Older-Worker Week". (April 3, 1985; 99 Stat. 25) Price $1.00

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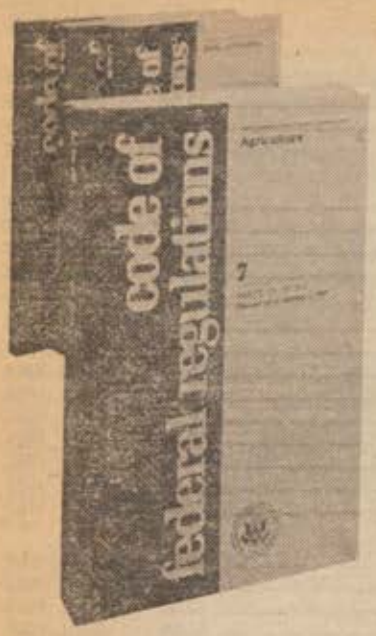

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