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Monday
May 9, 1988

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, Kansas City, MO, and New York, NY, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 26; at 9:00 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
RESERVATIONS: Laurice Clark, 202–523–3517

KANSAS CITY, MO

WHEN: June 10; at 9:00 a.m.
WHERE: Room 147–148, Federal Building, 601 East 12th Street, Kansas City, MO
RESERVATIONS: Call the St. Louis Federal Information Center;
Missouri: 1–800–392–7711
Kansas: 1–800–432–2934

NEW YORK, NY

WHEN: June 13; at 1:00 p.m.
WHERE: Room 305C, 26 Federal Plaza, New York, NY
RESERVATIONS: Call Arlene Shapiro or Stephen Colon at the New York Federal Information Center, 212–264–4810.

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Separate Parts In This Issue

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 5811 of May 5, 1988

National Defense Transportation Day and National Transportation Week, 1988

By the President of the United States of America

A Proclamation

Transportation is essential to American life. Our safe, fast, economical, and convenient movement of people and goods is the cornerstone of our country's social and economic welfare and of our national defense. Now, as in the past, our transportation systems—highways, airports, inland waterways, railroads and public transit, our merchant fleet and the Great Lakes and St. Lawrence Seaway—provide a superior emergency response network and are available as a critical component of our national defense. As our citizens travel in record numbers for business or pleasure, our local, State, and Federal governments continue to work with the transportation industry to enhance transportation safety.

The growth of our Nation and the development of transportation have been intertwined throughout our history. Those who first explored this vast country were followed by pioneers who established settlements. Most of the road routes, river systems, and ocean ports used by our earliest settlers are still in use today. Many of our great cities originated as towns that were starting or end points for transportation systems. As trade and commerce grew, transportation provided the necessary link to vital resources that in turn enabled further national growth. On land and water, in the air, and in space, our transportation systems have become an essential element of our Nation's economic health, providing indispensable services and generating employment for millions of people.

This week we acknowledge the contributions of the dedicated people who build, maintain, and safeguard our transportation systems—from the flagman on a highway project to the space engineer. We honor those who led the way in the development and improvement of ships, waterways, motor vehicles, highways, trains, airplanes, and our newest transportation vehicles, spacecraft. The recent announcement of our National Space Policy means that we continue to call for the help of modern-day pioneers on the frontiers of space technology. With public and private cooperation, our Nation is building a highway to space that will serve as an economic bridge to the 21st century.

In recognition of the importance of transportation and of the millions of Americans who serve and supply our transportation needs, the Congress has requested, by joint resolution approved May 16, 1957 (36 U.S.C. 160), that the third Friday in May of each year be designated as "National Defense Transportation Day"; and by joint resolution approved May 14, 1962 (36 U.S.C. 166), that the week in which that Friday falls be proclaimed "National Transportation Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Friday, May 20, 1988, as National Defense Transportation Day and the week of May 15 through May 21, 1988, as National Transportation Week. I urge the people of the United States to observe these occasions with appropriate ceremonies that will give full recognition to the citizens and groups that operate the transportation systems of our country.

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

Ronald Reagan

[FR Doc. 88-10381
Filed 5-5-88; 4:32 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 53, No. 89
Monday, May 9, 1988

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 252

Food Distribution Program; National Commodity Processing Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule will extend the National Commodity Processing (NCP) Program until September 30, 1990. NCP was established in the June 23, 1983 rule and extended through June 30, 1988 by the June 30, 1986 and May 5, 1987 interim rules. This action will promote a regular supply of processed end products to eligible recipient agencies for the 1988–89 and 1989–90 agreement years.

EFFECTIVE DATE: June 8, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph E. Shepherd, Director, Nutrition and Technical Services Division, U.S. Department of Agriculture, 3101 Park Center Drive—Room 602, Alexandria, Virginia 22302, (703) 756–3585.

SUPPLEMENTARY INFORMATION: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), information collection requirements contained in the current interim rules have been approved by the Office of Management and Budget (OMB #0584–0325) for use through September 30, 1990.

Classification

This action has been reviewed under Executive Order 12291 and has been classified not major. We anticipate that this proposal will not have an annual impact on the economy of more than $100 million. No major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions is anticipated. The action is not expected to have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.550. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 29114), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This action has also been reviewed with regard to the requirements of The Regulatory Flexibility Act (5 U.S.C. 601–612). Anna Kondratas, Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities.

Background

To comply with the amendment made by section 6 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Pub. L. 100–237), the Department is hereby extending the operations of the NCP Program through September 30, 1990. The provisions of the interim rules published on June 30, 1986 (51 FR 23519) and July 2, 1987 (52 FR 16369) will remain in effect. Only one change is being made by this interim rule—amending the reference to the agreement termination date specified in the May 5, 1987 rule.

In order to improve the program, the Department has issued a proposed rulemaking, published on March 7, 1988, which would amend the interim rule governing the NCP Program.

List of Subjects in 7 CFR Part 252

Agricultural commodities, Grant programs-social programs, Price support programs, Surplus agricultural commodities.

PART 252—NATIONAL COMMODITY PROCESSING PROGRAM

1. The authority citation for Part 252 continues to read as follows:

Authority: Sec. 416, Agricultural Act of 1949 (7 U.S.C. 1431).

2. In § 252.4, paragraph (b) is revised to read as follows:

§ 252.4 Application to participate and agreement.

* * * * *

(b) *Agreement between FNS and Participating Food Processors.* Upon approval of an application for participating in the NCP Program, FNS shall enter into an agreement with the applicant food processor. All agreements under the NCP Program will terminate on the June 30th following the agreement approval date.

* * * * *

Date: May 3, 1988.

Ana Kondratas,

Administrator.

[FR Doc. 88–10227 Filed 5–6–88; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–NM–42–AD; Amdt. 39–5913]

Airworthiness Directives; Lockheed Model 382 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model 382 series airplanes, which requires inspection, and repair or modification, if necessary, of certain heat shield and aft nacelle fairing attachment fastener holes. This amendment is prompted by results of recent testing and analyses by the manufacturer, which revealed that failure of the wing can occur at less than ultimate load due to cracking at fastener holes in the dry bay area between outer wing stations 161 to 195. Failure to detect and repair cracks could result in severe damage to the Nos. 3 and 4 lower surface panels of the outer wings, which could lead to failure of the wing to withstand design loads.

EFFECTIVE DATE: May 25, 1988.

ADDRESSES: The applicable service information may be obtained from Lockheed Aeronautical Systems Company-Georgia, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Bentley, Airframe Branch (ACE-120A), FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION: Recent residual strength testing performed by Lockheed Aeronautical Systems Company-Georgia on wings removed from United States Air Force (USAF) Model C-130 airplanes revealed that catastrophic failure of a wing can occur at less than ultimate load, due to cracking present at a fastener hole in the dry bay area between outer wing stations 161 and 195. Such cracking, if not corrected, could result in severe damage to the Nos. 3 and 4 lower surface panels of the outer wings, which could lead to failure of the wing to withstand design loads.

In light of the foregoing, the FAA has determined that inspection, and repair or modification, if necessary, are required on certain Lockheed Model 382 series airplanes with wings of the same configuration as the Model C-130 airplanes.

The FAA has reviewed and approved Lockheed Service Bulletins A382-57-71, dated November 30, 1987, and 382-57-73, dated January 28, 1988, which describe procedures for nondestructive inspections of heat shield and aft nacelle fairing attachment fastener holes from outer wing station 161 to 195 to determine if cracking exists, and modification, if necessary, of the outer wing lower surface skin panels between outer wing stations 161 and 195.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection of heat shield and aft nacelle fairing attachment fastener holes for cracking, and modification of the outer wing lower surface skin panels, if necessary, in accordance with the service bulletins previously mentioned. Repair of detected cracking must be accomplished in accordance with a method approved by the FAA.

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

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation 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 is not required).

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed Aeronautical Systems Company—Georgia: Applies to Model 382 series airplanes, Serial Numbers 3946 through 4250, and 4299 through 4303, except those having outer wings installed to a configuration equivalent to Serial Number 4542 or subsequent; certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent severe damage to the lower surface panels of the outer wings, accomplish the following:

A. Within the next 50 hours time-in-service after the effective date of this AD; or upon the accumulation of 11,000 flight hours total time-in-service for airplanes Serial Numbers 3946 through 4250, or 18,000 flight hours total time-in-service for airplanes Serial Numbers 4299 through 4303; whichever occurs later, perform an inspection of the outer wing lower surface panels 1, 2, 3, and 4, in accordance with Lockheed Service Bulletin A382-57-71, dated November 30, 1987, to determine the existence of doublers on those panels between outer wing stations 161 and 195.

B. If doublers have been installed on panels 1, 2, 3, and 4, left and right, in accordance with Northwest Industries (NWI) Drawing 3609103, the airplane may be returned to normal service.

C. If doublers have been installed on panels 1 and 2 in accordance with Lockheed Service Bulletin 382-152 (382-57-35), dated September 2, 1987, or later FAA-approved revisions, prior to further flight, accomplish either of the following:

1. Inspect the heat shield and nacelle fairing attachment fastener holes from outer wing station 161 to 195, in accordance with Lockheed Service Bulletin A382-57-71, dated November 30, 1987.

a. If no cracks are found, repeat this inspection at intervals not to exceed 300 flight hours.

b. If cracks are found, prior to further flight, repair in accordance with an FAA-approved method.

2. Modify the wing in accordance with Lockheed Service Bulletin 382-57-73, dated January 28, 1988. Installation of this modification constitutes terminating action for the repetitive inspections required by paragraph C.1.a., above.

D. If doublers have not been installed on panels 1, 2, 3, and 4, prior to further flight, accomplish either of the following:

1. Inspect the heat shield and nacelle fairing attachment fastener from outer wing station 161 to 195, in accordance with Lockheed Service Bulletin A382-57-71, dated November 30, 1987.

a. If no cracks are found, repeat this inspection at intervals not to exceed 300 flight hours.

b. If cracks are found, prior to further flight, repair in accordance with an FAA-approved method.

2. Modify the wing in accordance with Northwest Industries (NWI) Drawing 3609103. Installation of this modification constitutes terminating action for the repetitive inspections required by paragraph D.1.a., above.

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

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

Note.—The request for alternate means of compliance should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Atlanta Aircraft Certification Office.

All persons affected by this directive who have not already received the applicable service information from the manufacturer may obtain copies upon request to Lockheed Aeronautical Systems Company—Georgia, Attn: Commercial and Customer Support, Department 72–05, Zone 80, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

This amendment becomes effective May 25, 1988.

Issued in Seattle, Washington, on April 27, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88–10142 Filed 5–6–88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88–NM–43–AD; Amdt. 39–5914]

Airworthiness Directives; Lockheed Model 382 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Lockheed Model 382 series airplanes, which requires inspection of the interior surface of the wing lower panels from outer wing station 0.0 to 360 for previous repairs and cracks, and for repair of cracks and/or modification of existing riser repairs, if necessary. This amendment is prompted by results of recent testing and analyses by the manufacturer, which revealed that failure of the wing can occur at less than ultimate load due to cracking at the end of a previously installed repair. Failure to detect and repair these cracks could result in severe damage to the lower surface panels of the wings, and could lead to failure of the wing to withstand design loads.

EFFECTIVE DATE: May 25, 1988.

ADDRESSES: The applicable service information may be obtained from Lockheed Aeronautical Systems Company—Georgia, Attn: Commercial and Customer Support, Department 72–05, Zone 80, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Bentley, Airframe Branch (ACE–120A), Atlanta Aircraft Certification Office, FAA, Central Region, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; telephone (404) 991–2910.

SUPPLEMENTARY INFORMATION: Recent residual testing performed by Lockheed Aeronautical Systems Company—Georgia on wings removed from United States Air Force (USAF) Model C–130 airplanes revealed that catastrophic failure of a wing can occur at less than ultimate load due to cracking at the end of a previously installed repair. Such cracking, if not detected and corrected, could result in severe damage to the lower surface panels of the wings, and could lead to failure of the wing to withstand design loads.

The FAA has determined that inspection, and modification and/or repair, if necessary, is required on certain Lockheed Model 382 series airplanes with wings of the same configuration as those of the Model C–130 airplanes.

The FAA has reviewed and approved Lockheed Service Bulletins A382–57–69, dated November 30, 1987, and 382–57–70, dated January 28, 1988, and Work Card SP–209 of SMP515A, Lockheed Hercules Airfreighter Inspection Procedures, which describe inspection procedures for identification of cracks, and modifications to existing riser repairs to reduce the susceptibility to cracking that may occur at the ends of existing repairs.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection for existing repairs and cracks, and repair and/or modification to existing riser repairs, as necessary, of the outer wing lower surface skin panels, outer wing stations 0.0 to 360, in accordance with the service bulletins previously mentioned. Repair of identified cracking must be accomplished in accordance with a method approved by FAA.

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

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation 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 is not required).

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed Aeronautical Systems Company—Georgia: Applies to Model 382 series airplanes; Serial Numbers 3946 through 4541, except those airplanes having outer wings installed of a configuration equivalent to Serial Number 4542 or subsequent; certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent severe damage to the outer wing lower surface panels, accomplish the following:

A. Within the next 50 hours time-in-service after the effective date of this AD, perform an inspection in accordance with Lockheed Service Bulletin A382–57–69, dated November 30, 1987, to determine the existence of repairs on the interior of the outer wing lower surface panel risers between outer wing stations 0.0 and 360.

B. If no outer wing lower surface panel riser repair exists, the airplane may be returned to normal service.

C. If any outer wing lower surface panel riser repair exists that does not conform to Lockheed Service Bulletin 382-57-70, dated January 28, 1988, prior to further flight, perform inspections in accordance with Lockheed Service Bulletin A382-57-69, dated November 30, 1987, and Work Card SP-209 of SMP515A, Lockheed Hercules Airfreighter Inspection Procedures.

1. If crack(s) are found, prior to further flight, repair in accordance with an FAA-approved method.

2. If no cracks are found, accomplish either of the following:

a. Prior to further flight, install repair modification in accordance with Lockheed Service Bulletin 382-57-70, dated January 28, 1988; or

b. Reinspect repairs in accordance with Work Card SP-209 of SMP515A, Lockheed Hercules Airfreighter Inspection Procedures, at intervals not to exceed 450 flight hours, until the repair modification is installed, in accordance with Lockheed Service Bulletin 382-57-70.

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

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Aircraft Certification Office, FAA, Central Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Atlanta Aircraft Certification Office.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Lockheed Aeronautical Systems Company—Georgia, Attn: Commercial and Customer Support, Department 72-05, Zone 80, 86 South Cobb Drive, Marietta, Georgia 30063. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia.

This amendment becomes effective May 25, 1988.

Issued in Seattle, Washington, on April 27, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-10141 Filed 5-6-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-36-AD; Amdt. 39-5906]

Airworthiness Directives; McDonnell Douglas Model DC-10 and KC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC-10 and KC-10 series airplanes, which requires inspection and modification or repair, if necessary, of the DC power feeder cable installation at the R1 passenger door. This amendment is prompted by reports of a DC power feeder cable chafing against the forward right cabin entrance door push-pull cable. This condition, if not corrected, could result in an in-flight fire in the overhead of the cabin near the forward right cabin entrance door.

EFFECTIVE DATE: May 20, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information 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. Richard S. Saul, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6323.

SUPPLEMENTARY INFORMATION: A United States Air Force (USAF) Model KC-10 airplane experienced an in-flight electrical fire while flying at an altitude of 35,000 feet. The crew noticed a DC Ground Service Bus Off indication and smoke in the upper forward cargo compartment, and declared an in-flight emergency. Flames found behind a cargo liner were extinguished with a Halon fire extinguisher bottle. Substantial smoke and fumes in the cargo area and cockpit caused the crew to don oxygen masks. The airplane made an emergency landing without incident.

Subsequent investigation revealed that the DC Ground Service Bus power feeder cable had chafed against the forward right cabin entrance door push-pull cable approximately one foot aft of the entrance door. The push-pull cable rubbed through the DC power feeder cable insulation and contacted the power cable which, in turn, caused the fire and smoke behind the cargo liner.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin A24-140, dated March 24, 1988, which describes procedures for inspection for minimum clearance between the DC power feeder cable and the forward right cabin entrance door push-pull cable, and for chafing of the DC power feeder cable. The service bulletin also provides modification instructions if the clearance is less than minimum, and repair instructions if DC power feeder cable chafing is found.

Since this condition is likely to exist or develop on other airplanes of the same type design, this Adopted Rule requires inspection and modification or repair, if necessary, in accordance with the service bulletin previously mentioned.

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

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Action of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation 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).

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10 and KC–10 series airplanes, as listed in McDonnell Douglas Service Bulletin A24–140, dated March 24, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent fire and smoke resulting from chafing of the DC Ground Service Bus power feeder cable against the forward right cabin entrance door push-pull cable, accomplish the following:

A. Within 30 days after the effective date of this airworthiness directive (AD), inspect the DC power feeder cable for evidence of chafing and inspect for minimum clearance between the DC power feeder cable and the forward right cabin entrance door push-pull cable, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin A24–410, dated March 24, 1988.

1. If the clearance is less than the minimum allowable, modify the installation in accordance with the service bulletin.

2. If there is evidence of chafing on the DC power feeder cable, repair the power cable in accordance with the service bulletin.

B. Alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Los Angeles 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 in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective May 20, 1988.

Issued in Seattle, Washington, on April 22, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88–10148 Filed 5–6–88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-NM-34-AD; Amdt. 39-5912]

Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 airplanes, which requires inspections and rework or replacement, if necessary, of both the left and right inboard wing flap drive link assemblies at wing station $X_w = 97.906$. This amendment is prompted by reports of fatigue cracking on flap drive link assemblies. This condition, if not corrected, could result in the loss of control of the airplane in a critical flight regime due to the loss of structural integrity of the flap system.

EFFECTIVE DATE: May 25, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). This information 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. David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6319.

SUPPLEMENTARY INFORMATION: The FAA has recently received two reports from operators of McDonnell Douglas Model DC–8 series airplanes where momentary loss of airplane control was experienced during landing approach. The loss of control has been attributed to the failure of an inboard wing flap drive link assembly, which led to a split flap condition. Over the past several years, there have been numerous reports of instances of flap drive link assembly failure at wing station $X_w = 97.906$. Failures have occurred on airplanes having accumulated approximately 25,000 flight-hours or more, and have been attributed to fatigue which is aggravated by insufficient lubrication. If not corrected, a failed link assembly could result in the loss of structural integrity of the flap system, the loss of a flap, and possible loss of control of the airplane in a critical flight regime.

The FAA has reviewed and approved McDonnell Douglas DC–8 Alert Service Bulletin A27–269, dated March 25, 1988, which describes procedures for inspections for fatigue cracking, and rework or replacement of the inboard wing flap drive link assembly at wing station $X_w = 97.906$.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires inspections for fatigue cracking and rework or replacement, as necessary, of the flap drive link assemblies at wing station $X_w = 97.906$, in accordance with the service bulletin previously mentioned.

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

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation 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).

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–8 series airplanes, equipped with P/N(s) 5644642 or 5751152, LH and RH wing flap drive link assembly installed at wing station $X_w = 97.906$, certificated in any category. Compliance required as indicated.

To prevent the loss of airplane control in a critical flight regime due to metal fatigue failure of the flap drive link assembly, accomplish the following:

A. Prior to the accumulation of 6,250 landings on the inboard flap drive link assembly, P/N 5644642 or 5751152, or within the next 375 landings after the effective date of this AD, whichever occurs later, unless already accomplished within the last 375 landings, conduct inspections for fatigue cracking of specific areas of the link assembly in accordance with Figure 2. of McDonnell Douglas DC–8 Alert Service Bulletin A27–269, dated March 25, 1988 (hereafter referred to as SB A27–269).

B. If no cracks are found, repeat inspections in accordance with Figure 2. of SB A27–269, at intervals not to exceed 750 landings.

C. If cracks are found, accomplish the following before further flight:

1. If cracks are within the blend limits of Figure 3. of SB A27–269, rework in accordance with Figure 3. of SB A27–269 and repeat inspections in accordance with Figure 2. of SB A27–269, prior to the accumulation of 750 landings and at intervals thereafter not to exceed 300 landings.

2. If cracks exceed the blend limits of Figure 3. of SB A27–269, replace with new part of the same part number, in accordance with Figure 4. of SB A27–269.

D. Alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1–L00 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective May 25, 1988.

Issued in Seattle, Washington, on April 27, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88–10143 Filed 5–6–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 88–ASW–14; Amdt. 39–5897]

Airworthiness Directives; McDonnell Douglas Helicopter Co., Model 369 (YOH–6A), A(OH–6A), H, HM, HS, HE, D, E, F, and FF Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a one-time inspection and replacement of the outer race component of the overrunning clutch assembly (sprag clutch) on McDonnell Douglas Helicopter Company (MDHC) Model 369 (YOH–6A), A(OH–6A), H, HM, HS, HE, D, E, F, and FF helicopters. The AD is prompted by reports that the outer race component of the overrunning clutch has failed in flight which could result in loss of power to the main rotor transmission and possible loss of the helicopter.

DATES: *Effective Date:* May 20, 1988.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 20, 1988.

Compliance: As indicated in the body of this AD.

ADDRESSES: The applicable service information notice may be obtained from McDonnell Douglas Helicopter Company, ATTN: Mr. Barry Hautz, LH3/G35, 5000 E. McDowell Road, Mesa, Arizona 85205–9797.

A copy of each document supporting the AD is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John Golinski, Aerospace Engineer, Propulsion Section, ANM–174W, Western Aircraft Certification Office, Northwest Mountain Region, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007; telephone (213) 297–1128.

SUPPLEMENTARY INFORMATION: There have been two reported cases of failure of the outer race component (P/N 369A5352) of the overrunning clutch assembly (P/N 369A5350) resulting from improper heat treatment processes. One of the cases involved an autorotation that resulted in a hard landing with substantial aircraft damage. Helicopters which have outer race Part Number (P/N) 369A5352, serial numbers 0692 through 0927, must have the outer race assemblies removed from service. MDHC has issued a Mandatory Service Information Notice (SIN) HN–215/DN–156/EN–46/FN–34, dated March 18, 1988. Since this condition is likely to exist or develop in other helicopters of the same type design, an airworthiness directive is being issued which requires a one-time inspection of the clutch assembly to identify the outer race serial number and determine whether the outer race assembly is airworthy or needs to be removed from service on MDHC Model 369 (YOH–6A), A(OH–6A), H, HM, HS, HE, DE, E, F, and FF helicopters.

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

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this regulation 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 action 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

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983), and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

McDonnell Douglas Helicopter Company (MDHC) (Hughes Helicopters, Inc.): Applies to Model 369 (YOH–6A), A(OH–6A), H, HM, HS, HE, D, E, F, and FF helicopters, certificated in any category.

Compliance is required as indicated, unless previously accomplished.

To prevent possible loss of power to the main rotor transmission, accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, perform a one-time inspection of the outer race (P/N 369A5352) component of the overrunning clutch (sprag) assembly (P/N 369A5350) to identify the serial number and remove unairworthy components in accordance with MDHC SIN HN–215/DN–156/EN–46/FN–34, dated March 18, 1988, Procedure Section, paragraphs a through g. The outer race (P/N 369A5352) with serial numbers 0692 through 0927 is unairworthy and must be removed from service prior to further flight.

(b) Special flight permits may be issued in accordance with FAR §§ 21.197 and 21.199 to ferry aircraft to a maintenance base in order to comply with the requirements of this AD.

Note.—At certain flight conditions a failure of the outer race may result in an engine overspeed condition.

(c) An alternate method of compliance, which provides an equivalent level of safety, may be used when approved by the Manager, Western Aircraft Certification Office, Department of Transportation, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Hawthorne, California 90009–2007.

The procedure shall be done in accordance with MDHC Mandatory SIN HN–215/DN–156/EN–46/FN–34, dated March 18, 1988. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a)(1) and 1 CFR Part 51. Copies may be obtained from MDHC ATTN: Mr. Barry Hautz, LH3/G35, 5000 E. McDowell Road, Mesa, Arizona 85205–9797. Copies may be inspected at the Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment becomes effective May 20, 1988.

Issued in Fort Worth, Texas, on April 15, 1988.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 88–10150 Filed 5–6–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–152–AD; Amdt. 39–5917]

Airworthiness Directives; SAAB-Fairchild Model SF–340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain SAAB-Fairchild Model SF–340A series airplanes, which currently requires the installation of a positive stop to limit the maximum flap setting to 20° to prevent an uncommanded pitch excursion. This amendment provides for optional modifications which, if incorporated, allow removal of the limitations required by the AD.

EFFECTIVE DATE: June 17, 1988.

ADDRESSES: The applicable service information may be obtained from SAAB-Scania, Product Support, S–58188, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Armella Donnelly, Standardization Branch, ANM–113; telephone (206) 431–1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to revise Part 39 of the Federal Aviation Regulations by amending AD 86–06–03, Amendment 39–5258 (51 FR 8791; March 14, 1986), applicable to SAAB-Fairchild SF–340A series airplanes, to provide for the optional installation of two modifications that would constitute terminating action for certain limitations to flap operations, was published in the **Federal Register** on February 3, 1988 (53 FR 3048).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received. The commenter supported the proposal.

Since the issuance of the Notice, SAAB has issued Service Bulletin SF340–55–008, Revision 2, dated March 31, 1988, which merely clarifies and updates the procedures for installation of optional Modification 1462. Paragraph 5 of the final rule has been revised to reflect this latest revision to the service bulletin. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with the change previously mentioned.

It is estimated that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 94 manhours per airplane to accomplish the optional modification, and that the average labor cost will be $40 per manhour. Parts are estimated to be $83,709 per airplane. Based on these figures, the cost impact to U.S. operators to incorporate the optional modification is estimated to be $87,469 per airplane.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and

Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because it does not impose a requirement, but provides an optional means of complying with an existing regulation. A final evaluation has been prepared for this regulation and has been placed in the docket.

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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending AD 86–06–03, Amendment 39–5258 (51 FR 8791; March 14, 1986), to read as follows:

SAAB-Fairchild: Applies to Model SF-340A series airplanes, serial numbers 003 through 048, inclusive, certificated in any category. Compliance is required as indicated below, unless previously accomplished.

To prevent uncommanded pitch excursions, accomplish the following:

1. Within the next 7 days after the effective date of this AD, incorporate the following into the limitations section of the airplane flight manual: "More than 20° flap is not authorized at any time." This may be accomplished by including a copy of this AD in the airplane flight manual.

2. Within the next 21 days after the effective date of this AD, install a mechanical stop on the flap handle to limit the flap extension to a maximum setting of 20°, in accordance with SAAB-Fairchild Service Bulletin SF340–27–036, dated February 13, 1986.

3. 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 the inspections and/or modifications required by this AD.

4. Alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

5. Installation of Modification 1784 in accordance with SAAB Service Bulletin SF340–27–049, Revision 1, dated July 21, 1987, and Modification 1462 in accordance with SAAB Service Bulletin SF340–55–008, Revision 2, dated March 31, 1988, constitutes terminating action for the requirements of paragraphs 1. and 2., above.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to SAAB-Scania, Product Support, S.58188, Linkoping, Sweden. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment amends AD 86–06–03, Amendment 39–5258.

This amendment becomes effective June 17, 1988.

Issued in Seattle, Washington, on April 28, 1988.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 88–10147 Filed 5–6–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–ANE–16; Amdt. 39–5902]

Airworthiness Directives; TEXTRON Lycoming (Formerly Avco Lycoming TEXTRON) LTS101 Turboshaft and LTP101 Turboprop Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of TEXTRON Lycoming LTS101 series turboshaft and LTP101 series turboprop engines by individual priority letter AD 87–11–09, issued May 29, 1987, which superseded priority letter AD 87–10–09, issued May 15, 1987. The AD requires an initial and repetitive dye or fluorescent penetrant inspection of all power turbine (PT) rotors for blade cracking. A PT rotor with a blade containing a crack must be removed from service. The AD is needed to prevent failure of PT rotor blades installed in TEXTRON Lycoming LTS101 turboshaft and LTP101 turboprop series engines.

DATES: Effective—May 19, 1988, as to all persons except those persons to whom it was made immediately effective by priority letter AD 87–11–09, issued May 29, 1987, which contained this amendment.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of May 19, 1988.

ADDRESSES: The applicable service bulletins may be obtained from TEXTRON Lycoming, Williamsport Division, LT101 Product Support, 652 Oliver Street, Williamsport, Pennsylvania 17701.

A copy of the service bulletins is contained in Rules Docket Number 87–ANE–16, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Robbin Goulet, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7089.

SUPPLEMENTARY INFORMATION: On May 29, 1987, priority letter AD 87–11–09, which superseded priority letter AD 87–10–09, issued May 15, 1987, was issued and made effective immediately as to all known U.S. owners and operators of TEXTRON Lycoming LTS101 series turboshaft and LTP101 series turboprop engines. This AD requires an initial and repetitive dye or fluorescent penetrant inspection of all PT rotors for blade cracking.

The FAA has determined that an engine power loss, possibly resulting in a forced landing and minor airframe damage, may occur following a PT blade failure. Twelve PT blade fracture events have occurred of which one was uncontained, three resulted in penetration of the tailpipe, and eight were contained. Although the cause of blade fracture has not yet been identified. PT rotors have been documented with blade cracking in the trailing edge root area. One hundred and seventeen reports of PT rotors with cracked blades have been received by the FAA. A PT rotor with a blade containing a crack must be removed from service. The investigation of these failures is continuing, and pending the results, this AD may be amended.

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 priority letter AD 87–11–09.

issued May 29, 1987, to all known U.S. owners and operators of TEXTRON Lycoming LTS101 series turboshaft and LTP101 series turboprop engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The regulations set forth in this amendment are promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C 1301. *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this regulation 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 Executive 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 action 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

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

TEXTRON Lycoming (formerly Avco Lycoming Textron): Applies to TEXTRON Lycoming LTS101 series turboshaft and LTP101 series turboprop engines.

Compliance is required as indicated, unless already accomplished.

To prevent power turbine (PT) blade fracture which could result in engine power loss and aircraft damage, accomplish the following:

(a) Perform a dye penetrant inspection or a fluorescent penetrant inspection of all part number PT rotors installed in engines, in accordance with the procedures in Avco Lycoming TEXTRON Service Bulletin (SB) Number LT 101–72–00–0093, Revision 2, dated May 12, 1987, or Revision 3, dated May 29, 1987, as follows:

(1) Inspect for blade cracks within 10 hours in service after receipt of priority letter AD 87–10–09, dated May 15, 1987, or within 10 hours in service after the effective date of this AD, unless already accomplished within the last 40 hours in service prior to receipt of priority letter AD 87–10–09, or within the last 40 hours in service prior to the effective date of this AD, respectively.

(2) Thereafter, inspect for blade cracks at intervals not to exceed 50 hours in service since the last dye or fluorescent penetrant inspection.

(3) Remove airframe exhaust interface components, including tailpipe and exhaust cone, prior to conducting the above inspections.

(4) Remove from service, prior to further flight, PT rotors in which blade cracks are found during the above inspections and replace with serviceable parts.

(b) Perform a fluorescent penetrant inspection of all part number PT rotors prior to installation into a PT module in accordance with the procedures pertaining to fluorescent penetrant inspection given in Avco Lycoming TEXTRON SB Number LT 101–72–00–0093, Revision 2, dated May 12, 1987, or Revision 3, dated May 29, 1987. PT rotors in which blade cracking is found during this fluorescent penetrant inspection may not be returned to service and must be replaced with serviceable parts.

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(e) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, may adjust the compliance times specified in this AD.

Avco Lycoming TEXTRON SB Number LT 101–72–00–0093, Revision 2, dated May 12, 1987, and Revision 3, dated May 29, 1987, identified and described in this document are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies, upon request, from TEXTRON Lycoming, Williamsport Division, LT101 Product Support, 652 Oliver Street, Williamsport, Pennsylvania 17701. These documents may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 87–ANE–16, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

This amendment becomes effective on May 19, 1988 as to all persons except those persons to whom it was made immediately effective by priority letter AD 87–11–09, issued May 29, 1987, which contained this amendment.

Issued in Burlington, Massachusetts, on April 14, 1988.

Lawrence C. Sullivan,

Acting Director, New England Region.

[FR Doc. 88–10149 Filed 5–6–88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ASW-18]

Alteration of VOR Federal Airways; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The Hyman, TX, very high frequency omni-directional radio range (VOR) has been scheduled for decommissioning on June 30, 1988. Several Federal Airways are affected by the decommissioning and their descriptions must be amended to reflect these changes. This action amends the descriptions of all airways where necessary.

DATES: Effective date—0901 UTC, June 30, 1988.

Comments must be received on or before June 7, 1988.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 88–ASW–18, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

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

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

FOR FURTHER INFORMATION CONTACT; Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

This action is in the form of a final rule, which involves amending the descriptions of VOR Federal Airways V-66, V-76, and V-94 located in the vicinity of Hyman, TX. The HYMAN VOR is being decommissioned June 30, 1988, and this action is being implemented to coincide with that action. For that reason, this action is not preceded by notice and public procedure. Comments are invited on the rule and when the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the descriptions of VOR Federal Airways V-66, V-76, and V-94 due to the decommissioning of the HYMAN VOR. These airways have been redescribed and several intersections associated with the decommissioned VOR have been redefined. This action supports and coincides with the decommissioning of that facility. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the descriptions of all airways that have HYMAN in their descriptions due to the decommissioning of the HYMAN, TX, VOR. Because this action involves a minor, technical amendment which does not significantly affect the airspace configuration and in which the public would not be particularly interested in commenting, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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, VOR Federal airways.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-66 [Amended]

By removing the words "Midland, TX; Hyman, TX, INT Hyman 074° and Abilene, TX, 251° radials;" and substituting the words "Midland, TX; INT Midland 081° and Abilene, TX, 253° radials;"

V-76 [Amended]

By removing the words "Big Spring; Hyman, TX; San Angelo, TX;" and substituting the words "Big Spring; INT Big Spring 129° and San Angelo, TX, 323° radials; San Angelo;"

V-94 [Amended]

By removing the words "Midland, TX; Hyman, TX; Tuscola, TX;" and substituting the words "Midland, TX; INT Midland 081° and Tuscola, TX; 265° radials; Tuscola;"

Issued in Washington, DC, on April 21, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-10146 Filed 5-6-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25600; Amdt. No. 1373]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination

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

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

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

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

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

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

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

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

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

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

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. For the same reason, the FAA certifies that this amendment 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 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC, on April 29, 1988.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

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

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§ 97.23 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . *Effective July 28, 1988*

Oshkosh, WI—Wittman Field, VOR RWY 36, Amdt. 16

Oshkosh, WI—Wittman Field, NDB RWY 36, Amdt. 5

Oshkosh, WI—Wittman Field, ILS RWY 36, Amdt. 6

. . . *Effective June 30, 1988*

Kingman, AZ—Kingman, VOR/DME RWY 21, Amdt. 6

Atlanta, GA—Fulton County Airport-Brown Field, VOR/DME RWY 26, Orig.

Atlanta, GA—Fulton County Airport-Brown Field, RADAR-1, Amdt. 17

Brunswick, GA—Malcolm McKinnon, NDB RWY 4, Amdt. 4

Brunswick, GA—Malcolm McKinnon, NDB RWY 22, Amdt. 4

Columbus, GA—Columbus Metropolitan, LOC BC RWY 23, Amdt. 12

Kahului, HI—Kahului, VOR RWY 20, Amdt. 11

Kahului, HI—Kahului, VOR/DME or TACAN RWY 20, Amdt. 7

Kahului, HI—Kahului, LOC/DME (BC) RWY 20, Amdt. 11

Danville, IL—Vermilion County, VOR/DME RWY 3, Amdt. 11

Danville, IL—Vermilion County, VOR RWY 21, Amdt. 13

Danville, IL—Vermilion County, ILS RWY 21, Amdt. 5

Danville, IL—Vermilion County, RNAV RWY 34, Amdt. 4

Flora, IL—Flora Muni, NDB RWY 21, Amdt. 4

Auburn, IN—Auburn-DeKalb, VOR-A, Amdt. 8

Wabash, IN—Wabash Muni, VOR-A, Amdt. 8

Wabash, IN—Wabash Muni, NDB RWY 27, Amdt. 10

Winamac, IN—Arens Field, VOR/DME-A, Amdt. 3

Corning, IA—Corning Muni, NDB RWY 17, Amdt. 4, CANCELED

Oelwein, IA—Oelwein Muni, NDB RWY 13, Amdt. 2

Perry, IA—Perry Muni, NDB RWY 13, Amdt. 1

Perry, IA—Perry Muni, NDB RWY 31, Amdt. 4

Baltimore, MD—Baltimore-Washington Intl, RADAR 1, Amdt. 11, CANCELED

New Bedford, MA—New Bedford Muni, LOC BC RWY 23, Amdt. 6

New Bedford, MA—New Bedford Muni, NDB RWY 5, Amdt. 10

Motley, MN—Morey Fish House, VOR RWY 9, Amdt. 1

Morriston, NJ—Morristown Muni, ILS RWY 23, Amdt. 7

East Hampton, NY—East Hampton, RNAV RWY 10, Amdt. 4

East Hampton, NY—East Hampton, RNAV RWY 28, Amdt. 1
Washington, NC—Warren Field, NDB RWY 5, Orig.
Washington, NC—Warren Field, NDB-A, Amdt. 2, CANCELED
Ashland, OH—Ashland County, VOR-A, Amdt. 5
Ashland, OH—Ashland County, NDB RWY 18, Amdt. 7
Cleveland, OH—Cuyahoga County, LOC BC RWY 5, Amdt. 8
Cleveland, OH—Cuyahoga County, NDB RWY 23, Amdt. 5
Cleveland, OH—Cuyahoga County, ILS RWY 23, Amdt. 10
Lorain/Elyria, OH—Lorain County Regional, VOR RWY 7, Amdt. 12
Lorain/Elyria, OH—Lorain County Regional, ILS RWY 7, Amdt. 5
Oklahoma City, OK—Will Rogers World, LOC BC RWY 17L, Amdt. 5
Lawrenceburg, TN—Lawrenceburg Muni, NDB RWY 16, Amdt. 1
Lubbock, TX—Lubbock Intl, VOR-A, Amdt. 5
Lubbock, TX—Lubbock Intl, VOR/DME or TACAN RWY 26, Amdt. 8
Lubbock, TX—Lubbock Intl, LOC BC RWY 35L, Amdt. 13
Roanoke, VA—Roanoke Regional/Woodrum Field, VOR/DME-A, Amdt. 3
Roanoke, VA—Roanoke Regional/Woodrum Field, VOR RWY 33, Amdt. 6
Roanoke, VA—Roanoke Regional/Woodrum Field, RADAR 1, Amdt. 8
Petersburg, WV—Grant County, VOR/DME-A, Orig.
Summersville, WV—Summersville, NDB RWY 4, Amdt. 2
LaCrosse, WI—LaCrosse Muni, VOR RWY 13, Amdt. 26
LaCrosse, WI—LaCrosse Muni, VOR RWY 36, Amdt. 27
LaCrosse, WI—LaCrosse Muni, NDB RWY 18, Amdt. 14
LaCrosse, WI—LaCrosse Muni, ILS RWY 18, Amdt. 15
Watertown, WI—Watertown Muni, NDB RWY 5, Amdt. 2
Watertown, WI—Watertown Muni, NDB RWY 23, Amdt. 4
Watertown, WI—Watertown Muni, RNAV RWY 5, Amdt. 1

. . . *Effective June 2, 1988*

Washington, DC—Dulles Intl, RADAR-1, Amdt. 11, CANCELED
St. Paul, MN—St. Paul Downtown Holman Fld, LOC RWY 32, Orig., CANCELED
St. Paul, MN—St. Paul Downtown Holman Fld, ILS RWY 32, Orig.
Mobridge, SD—Mobridge Muni, NDB RWY 12, Orig.

. . . *Effective April 22, 1988*

Providence, RI—Theodore Francis Green State, ILS/DME RWY 34, Amdt. 5

. . . *Effective April 20, 1988*

St. Paul Island, AK—St. Paul Island, NDB/DME RWY 18, Amdt. 1

The FAA published an Amendment in Docket No. 25584, Amdt. No. 1371 to Part 97 of the Federal Aviation Regulations (VOL 53 FR No. 72, Page 12377; dated Thursday, April 14, 1988), under Section 97. Effective March 25, 1988, which is hereby amended as follows:

Boston, MA—General Edward Lawrence Logan Intl, VOR/DME RWY 33L, Orig., should read Boston, MA—General Edward Lawrence Logan Intl, VOR/DME RWY 33L, Amdt. 1

The FAA published an Amendment in Docket No. 25584, Amdt. No. 1371 to Part 97 of the Federal Aviation Regulations (VOL 53 FR No. 72, Page 12377; dated Thursday, April 14, 1988), under Section 97. Effective 30 JUN 88, which is hereby amended as follows:

Charlotte, NC—Charlotte/Douglas Intl, LOC BC RWY 23, Amdt. 7
Charlotte, NC—Charlotte/Douglas Intl, NDB RWY 5, Amdt. 31
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 5, Amdt. 33
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 36L, Amdt. 11
Charlotte, NC—Charlotte/Douglas Intl, ILS RWY 36R, Amdt. 3
Gastonia, NC—Gastonia Muni, NDB RWY 3, Amdt. 6
Southern Pines, NC—Moore County, VOR-A, Amdt. 2

Effective Dates changed to 25 AUG 88.

[FR Doc. 88-10145 Filed 5-6-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 372

[Docket No. 71160-7260]

Clarification of Emergency License Procedures; Correction

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule; correction.

SUMMARY: A final rule that clarified the procedures for submitting emergency license applications, reexport authorization requests, and amendment requests for expedited processing to the Office of Export Licensing was published in the **Federal Register** on January 21, 1988 (53 FR 1614). That rule amended paragraph (h) of § 372.4. However, paragraph (h) ("emergency clearance") had been redesignated as paragraph (i) by an earlier rule (52 FR 48808, Dec. 28, 1987) that established the procedure for the electronic submission of validated export license application.

This document corrects the January rule to reflect the December redesignation of the emergency clearance provisions.

FOR FURTHER INFORMATION CONTACT: Joan Maguire, Regulations Branch, Bureau of Export Administration, Telephone: (202) 377-4479.

Accordingly, the following corrections are made to "Clarification of Emergency License Procedure," which was published in the **Federal Register** on January 21, 1988:

On page 1615, in the middle column, item 3 amendatory language is corrected to read as follows:

"3. Section 372.4 is amended by revising paragraphs (i)(1) and (i)(3) and adding a new paragraph (i)(6) to read as follows:"

§ 372.4 [Corrected]

On page 1615, in the middle column, the first line of regulatory text under § 372.4 is corrected to read "(i) *Emergency clearance.* (1) When an".

On page 1615, in the third column, in correctly redesignated paragraph (i)(1)(iii), the references to "paragraphs (h)(1) (i) and (ii)" are corrected to read "paragraphs (i)(1) (i) and (ii) of this section".

On page 1615, in the third column, in correctly redesignated paragraph (i)(6), the reference to "paragraph (h) of this section" is corrected to read "paragraph (i) of this section".

§ 372.11 [Corrected]

On page 1616, in the first column, in § 372.11(h)(5), the reference to "§ 372.4(h)" is corrected to read "§ 372.4(i)".

Dated: May 4, 1988.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 88-10222 Filed 5-6-88; 8:45 am]

BILLING CODE 3500-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 455

Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Grant of an exemption from the Commission's Used Car Rule to the State of Maine.

SUMMARY: The Federal Trade Commission has determined that the request by the State of Maine for exemption from the Used Motor Vehicle Trade Regulation Rule, 16 CFR Part 455 (1987), meets the standards for such exemptions as set out in § 455.6 of the Rule. The granting of this exemption will allow Maine used vehicle dealers to use the disclosure label prescribed by a Maine administrative regulation in the place of the Buyers Guide required by the FTC Rule. The Commission therefore grants Maine's request and sets forth its reasons for reaching this determination in this notice.

DATE: This statewide exemption will become effective on May 24, 1988. The Commission's Used Car Rule will remain in effect until that date.

FOR FURTHER INFORMATION CONTACT: Matthew D. Gold (202/326–3019) or Joyce E. Plyler (202/326–3021), Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

On June 1, 1987, the Maine Secretary of State filed a petition for statewide exemption (the "Petition") from the Federal Trade Commission's (the "Commission") Used Motor Vehicle Trade Regulation Rule (the "FTC Rule"), 16 CFR Part 455 (1987).[1] The Petition, filed pursuant to § 455.6 of the Rule, sought to allow Maine used vehicle dealers to use a disclosure label prescribed by the Maine Used Car Information Act Sticker Rule (the "Maine Rule"), a Maine administrative regulation, in place of the Buyers Guide required by the FTC Rule.[2]

Currently, in addition to posting the FTC Buyers Guide, Maine used car dealers must post on each used vehicle a statement containing pre-purchase disclosures required by the Maine Used Car Information Act ("MUCIA").[3] The Maine Rule, which has an effective date of twenty-one days after the Commission grants an exemption, prescribes a single, uniform window sticker that incorporates the MUCIA disclosures and the requirements of the FTC Rule.

On December 28, 1987, the Commission published a notice in the **Federal Register** seeking comment on whether the Maine Petition satisfies the FTC Rule's exemption criteria.[4] The notice contained the following: (1) An explanation of the standards applicable to and the appropriate procedures for Used Car Rule state exemption petitions; (2) a provision-by-provision comparison of the Maine Rule and the FTC Rule; (3) a discussion regarding Maine's willingness and ability to enforce its Rule; and (4) specific questions designed to focus public comment on several important issues involved in the Commission's consideration of the Petition. The period for public comment expired on January 27, 1988. The Commission received no comments.

This notice explains the reasons for the Commission's approval of Maine's request for statewide exemption from the FTC Rule. Because most of the provisions of the Maine Rule, including the disclosure requirements for the Maine window sticker, are virtually identical to analogous provisions in the FTC Rule, the Commission's analysis focuses on the areas in which the Rules substantially differ.

II. Exemption Standards and Procedures

Section 455.6 of the FTC Rule sets forth the Commission's standards for exemption a state from the Rule's requirements. It states:

(a) If, upon application to the Commission by an appropriate state agency, the Commission determines, that—

(1) There is a state requirement in effect which applies to any transaction to which this rule applies; and

(2) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this Rule; then the Commission's Rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the state administers and enforces effectively the state requirement.

(b) Applications for exemption under subsection (a) should be directed to the Secretary of the Commission. When appropriate, proceedings will be commenced in order to make a determination described in subsection (a), and will be conducted in accordance with Subpart C of Part 1 of the Commission's Rules of Practice.

III. The Merits of the Petition

A. Does the Maine Rule Apply to the Same Transactions to which the FTC Rule Applies?

In granting Maine's request for exemption from the FTC Rule, the Commission has concluded that the Maine Rule applies to the same transactions as does the FTC Rule. This section sets out the reasons for this conclusion.

The definition sections of both the FTC Rule and the Maine Rule govern the scope of each Rule. Both rules cover sales and offers of "used vehicles" [5] from "dealers" [6] to "consumers." [7] In its definition of "dealer," the FTC Rule excludes from coverage banks, financial institutions and some sales by leasing companies and other businesses. The Maine Rule's definition of dealer covers all of these entities. On the other hand, unlike the FTC Rule, the Maine Rule excludes auction houses from coverage. However, because dealers selling their vehicles through auctions are required to comply with the Maine Rule, both rules effectively cover such sales. In general, therefore, the definition of "dealer" under the Maine Rule is considerably more expansive than that included in the FTC Rule.

Similarly, the definition of "consumer" in the Maine Rule is more expansive than the definition of that term in the FTC Rule. While dealer-to-dealer sales are not covered by the FTC Rule, such sales are covered by the Maine Rule.

The definitions of "vehicle" and "used vehicle" in the two rules are almost identical. Both rules define "vehicle" in terms of size and weight specifications, and one of the weight limits in the Maine Rule is larger than its FTC Rule counterpart.

In sum, the Maine Rule applies to the same transactions as does the FTC Rule. Where the rules differ, the definitions of the terms "dealer," "consumer," "vehicle," and "used vehicle" are more inclusive in the Maine Rule.

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[1] The Maine Petition included the following materials: (1) A provision-by-provision comparison of the Used Car Rule and the Maine Rule (Appendix A); (2) a copy of the Maine Rule, which was adopted on January 22, 1987, with an effective date of twenty-one days after a statewide exemption is granted (Appendix B); (3) a copy of the Maine window label (Buyer's Guide) required by the Maine Rule (Appendix C); (4) copies of the relevant Maine statutes (Appendix D); (5) a discussion of Maine's willingness and ability to enforce the MUCIA and the Maine Rule (Appendix E); and (6) a letter from Maine Attorney General James E. Tierney stating that Maine law provides adequate authority to support the Maine Rule, as well as the conclusions, interpretations, policies and procedures describes in the Petition and in the Appendices (Appendix F). The Maine Petition has been placed on the public record and is identified as Document 100–8 in FTC File No. 215–54. It and other documents referred to in this notice are available for inspection at the Office of the Secretary of the Federal Trade Commission.

[2] The Buyers Guide is the standard disclosure form which must be affixed to a side window of each used vehicle offered for sale by a dealer to a consumer, under § 455.2 of the FTC Rule. Both the FTC and the Maine disclosure forms are printed at the end of this notice.

[3] Me. Rev. Stat. Ann. tit. 10, §§ 1471–1477 (1980 & Supp. 1985–1986). The MUCIA was amended in 1985 to require, *inter alia*, Maine used vehicle dealers to affix a written disclosure statement to each used vehicle offered for sale, and to authorize the Division of Motor Vehicles to promulgate rules implementing this requirement. *See* §§ 1475(1); 1475(2)(G). The Maine Rule was promulgated under this authority. Section 1475(2)(G) of the MUCIA specifically authorizes the Division of Motor Vehicles to 'nclude on its uniform disclosure sticker any information contained on the FTC Buyers Guide, unless such information were to conflict with information required by the MUCIA.

[4] 52 FR 48908.

[5] The terms "vehicle" and "used vehicle" are defined in §§ 455.1(d) (1) and (2) of the FTC Rule, and sections I(A) (5) and (8) of the Maine Rule.

[6] The term "dealer" is defined in § 455.1(d)(3) of the FTC Rule and section I(A)(2) of the Maine Rule.

[7] The term "consumer" is defined in § 455.1(d)(4) of the FTC Rule and section I(A)(1) of the Maine Rule.

B. Does the Maine Rule Provide an Overall Level of Protection to Consumers Which is as Great as or Greater than that Provided by the FTC Rule?

In granting Maine's request for exemption from the FTC Rule, the Commission has concluded that the Maine Rule provides an overall level of protection to consumers which is at least as great as that provided by the FTC Rule. This section sets out the reasons for this conclusion.

1. The Buyer's Guide

(a) *Format.* Both rules require dealers to complete and display a disclosure form on a side window of each used vehicle offered for sale to consumers.[8] The provisions of the Maine Rule regarding format and display of the Maine Buyer's Guide are virtually identical to analogous provisions in the FTC Rule.[9] The printing specifications for the Maine Buyer's Guide are designed to create a window form that is very similar in appearance to the FTC Buyers Guide. To accommodate additional disclosures, the Maine Buyer's Guide is larger.[10]

(b) *Text of Window Stickers—Similar Provisions.* All of the disclosures required on the FTC Rule Buyers Guide are also required on the Maine Rule Buyer's Guide. In some instances, the wording of these disclosures on the Maine window sticker varies from the language used on the FTC sticker. However, these differences do not individually, or as a whole, adversely affect the overall level of protection provided by the Maine Rule.[11]

The major differences between the Maine Buyer's Guide and the FTC Buyers Guide (apart from the additional disclosures required by the Maine Rule) stem from specific motor vehicle regulations in Maine. First, Maine does not permit "as is" sales of used cars. Maine law states that a dealer may not sell or transfer a vehicle unless it meets the state inspection standards and displays a valid inspection sticker.[12] A Maine dealer's minimum post-sale responsibility extends to the repair of any defect in systems or components on the state inspection "checklist," if the purchaser can show that the defect existed at the time of sale. Consequently, unless the vehicle is a reconstructible motor vehicle,[13] the Maine Rule requires Maine dealers to check a box on the Buyer's Guide next to the words "WARRANTY OF INSPECTABILITY."

Second, the Maine Buyer's Guide contains a more detailed disclosure regarding implied warranties than does the FTC Buyers Guide. Unlike the FTC sticker, the Maine Buyer's Guide refers to both the implied warranty of merchantability and the implied warranty of fitness for a particular use.[14] In addition, Maine dealers must check one of three boxes to disclose whether or not they are disclaiming implied warranties, or whether they are limiting the duration of implied warranties to the duration of an express warranty. The FTC Rule does not contain a comparable provision.

(c) *Text of Window Stickers—Additional Disclosures Required by Maine.* Unlike the FTC Rule, the Maine Rule requires that dealers disclose, on the Buyer's Guide, all mechanical defects known at the time of sale, even if the dealer has fully repaired the defect.[15] The Maine Rule also requires dealers to disclose on the Buyer's Guide "any and all substantial damage that the vehicle has sustained that is known to [the dealer], including damage to the body or engine from collision, fire, water or other causes. [The dealer] must make this disclosure even if [the dealer has] fully repaired the damage." [16]

The Commission considered, but ultimately rejected, a provision that would have required dealers to disclose known defects on the FTC Buyers Guide. One of the Commission's reasons for rejecting such a provision was its determination that consumers should not be encouraged to rely on dealer-provided information about the vehicle.[17] The Commission therefore substituted, at the bottom of the FTC Buyers Guide, a suggestion that the consumer request an independent inspection of the vehicle prior to purchase.

The Maine Rule Buyer's Guide also contains an independent inspection suggestion. In large letters under the spaces for the disclosures of known mechanical defects and prior substantial damage is the following statement:

"IMPORTANT: THESE ARE THE ONLY PROBLEMS KNOWN TO THE DEALER. ASK IF YOU MAY GET AN INDEPENDENT INSPECTION BEFORE PURCHASE."

This disclosure is in larger type than its FTC Rule counterpart. It is placed adjacent to the mechanical defects and prior substantial damage disclosures, rather than on the bottom of the form, as is the case with the FTC Buyers Guide.

It is possible that consumers may misinterpret the Maine Rule Buyer's Guide if the spaces for disclosure of mechanical defects and prior substantial damage are left blank. If there are no entries in these spaces, one might believe that the vehicle is in perfect condition, when blank spaces may mean only that the dealer has no knowledge of existing mechanical defects or prior substantial damage. However, this possibility is diminished by both the size and prominent placement of the Maine Rule's independent inspection disclosure. On balance, the Commission concludes that the inclusion of these disclosures on the Maine Buyer's Guide does not adversely affect the overall level of protection provided by the Maine Rule.

The following disclosures are also included on the Maine Buyer's Guide but not on the FTC Buyers Guide: (1) The prior use of the vehicle; (2) how the vehicle was acquired; (3) the availability of the prior owner's name and address; and (4) whether the vehicle has been returned to the manufacturer. These disclosures provide information that may or may not be material to consumers.[18] Even if they are not

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[8] Maine's sticker is called a "Buyer's Guide," while the FTC's sticker is called a "Buyers Guide" (no apostrophe).

[9] *Compare* Sections I(C)(1) (a) and (b) of the Maine Rule *with* 16 CFR 455.2(a) (1) and (2) (1987).

[10] The Maine Rule requires a minimum size of 12½ inches by 8½ inches. The FTC Rule requires a minimum size of 11 inches by 7¼ inches.

[11] All of the wording differences are described in the December 28, 1987 Federal Register notice. *See* 52 FR at 48910–48912.

[12] Me. Rev. Stat. Ann. tit. 10, § 1471, subsection 6-A.

[13] *Id.* This section defines a "reconstructible" motor vehicle as "a used motor vehicle which does not meet the [state] inspection standards * * * and which is sold, offered for sale or negotiated for sale to a person other than another dealer for the purpose of transportation after repair or rebuilding."

[14] *See* section 1(C)(2)(j) of the Maine Rule. This disclosure reads: "Maine's implied warranty law may give you additional rights. If the vehicle is still within its useful life and has not been abused, you may have the right to have the dealer repair defects in materials or workmanship that were not apparent when you bought the vehicle. Or you may be able to return the car if the dealer promised you it was fit for a particular use and it was not." In contrast, the FTC "Implied Warranties Only" Buyers Guide refers only to the implied warranty of merchantability by stating that " 'implied warranties' may give you some rights to have the dealer take care of serious problems that were not apparent when you bought the vehicle."

[15] Section 1(C)(2)(c) of the Maine Rule; Me. Rev. Stat. Ann. tit. 10, section 1475(2)(C).

[16] Section 1(C)(2)(e) of the Maine Rule; Me. Rev. Stat. Ann. tit. 10, section 1475(2)(D).

[17] SBP, 49 FR at 45716.

[18] In rejecting a prior use disclosure requirement when issuing its rule, the Commission

Continued

material, their presence on the Maine Buyer's Guide does not detract from the other information so as to affect significantly the overall level of protection provided to consumers by the Maine Rule.

2. Spanish Language Sales

Unlike the FTC Rule, the Maine Rule does not contain a requirement that dealers prepare, display, and provide a Spanish language Buyer's Guide if the transaction is conducted in that language. The Maine petition states that such a requirement is not necessary in Maine due to Maine's low percentage of Spanish-speaking people.[19] According to the 1980 census,[20] Maine had both the lowest percentage and the lowest raw number of Spanish speaking persons in the United States.[21]

The Commission has no indication that the number of Spanish speaking persons in Maine has increased substantially since the 1980 census.[22] Although the lack of a Spanish language requirement in the Maine Rule may reduce the level of consumer protection for persons in Maine who speak only Spanish, the Commission, based upon the evidence before it, concludes that any potential adverse effect on the overall level of protection is minimal.

C. Does Maine Evidence a Willingness and Ability to Enforce Its Sticker Rule?

In granting Maine's request for exemption from the FTC Rule, the Commission has concluded that Maine has the resources necessary to administer and enforce effectively the Maine Rule. This section sets out the reasons for this conclusion.

Both the Maine Department of the Attorney General and the Maine Department of Motor Vehicles enforce the provisions of the Maine Used Car Information Act, the enabling statute for the Maine Rule. A violation of the Maine Rule will be a *per se* violation of the Maine Unfair Trade Practices Act, which the Maine Attorney General's office is primarily responsible for enforcing.[23] The Department of Motor Vehicles has the power to deny, suspend or revoke the license of any dealer who does not comply with the Maine Rule.[24]

1. Funding and Staffing of Agencies

The Maine Department of the Attorney General has four assistant attorneys general, five paralegals, one investigator and two clerical workers assigned exclusively to consumer protection matters in the state.[25] The enforcement staff at the Department of Motor Vehicles consists of fifteen investigators and two clerical workers.[26] There are also two state police officers who conduct MUCIA inspections on a part-time basis.[27]

2. Enforcement Procedures

(a) *Department of Attorney General.* According to the Maine Petition, enforcement of the MUCIA can commence in at least two ways. First, investigators within the Consumer and Antitrust Division of the Attorney General's Office have been instructed generally to survey used car lots during their travels around the state and to submit reports of their findings to the Director of Investigations.[28] Second, mediators in that office attempt to resolve complaints involving used motor vehicle transactions. As part of this process, the mediator determines whether the dealer in question has been making the disclosures required by both the Maine Rule and the FTC Rule. According to the Petition, repeated failure to make the required disclosures results in an unfair trade practice investigation, which may lead to an Assistant Attorney General initiating a formal enforcement action.

(b) *Department of Motor Vehicles.* The Department of Motor Vehicles employs investigators who enforce the disclosure requirements of the MUCIA.[29] According to the Petition, the DMV typically gives a violating dealer ten days to comply. Failure to do so results in the issuance of a civil complaint in state district court.[30]

3. History of Enforcement of the MUCIA

The mediation program of the Consumer and Antitrust Division of the Attorney General's Office has resolved 197 out of 481 complaints received since January, 1985.[31] During the past two years, that Division has conducted 59 MUCIA civil or criminal investigations, eleven of which were litigated. All eleven resulted in either a consent decree or a court injunction with penalties.[32]

4. Penalties

Each violation of the MUCIA subjects the violator to a civil penalty of between $100 and $1,000.[33] Under the FTC Act, violators of trade regulation rules may be punished by penalties of up to $10,000 per violation.[34] The Maine Rule contains a two-year statute of limitations.[35] This contrasts with the five-year statute of limitations applicable to enforcement of FTC trade regulation rules.[36] Additionally, the Maine Rule specifically provides dealers with a defense if the alleged violations are shown to be "unintentional" and "bona fide error[s]." [37] Neither the FTC Rule nor the FTC Act contains a defense based on intent.[38]

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acknowledged that such a disclosure might be material to consumers, but concluded that it would not "[provide] consumers with an accurate indication of a car's mechanical condition." SBP, 49 FR at 45720.

[19] Petition, Appendix A, at 4.

[20] June 12, 1987, Letter from Paul M. Siegel, Chief, Education and Social Stratification Branch, Population Division, Bureau of the Census, United States Department of Commerce, Washington, DC 20233.

[21] These data are derived from two census questions. First, the subject was asked: "Does this person speak a language other than English at home?" If the answer to that question was yes, the person was asked: "What is that language?" 2,987 Maine citizens, or 0.3% of Maine's population, answered "Yes" and "Spanish," respectively, to these questions in 1980. This data compares to 3,270,267, or 14.5% of California residents. Of course, many of the persons who answered "yes" to both census questions might also speak English well enough that they would not need a Spanish language Buyer's Guide while shopping for a used vehicle.

[22] The Commission did not receive a response to its specific request for more up-to-date information concerning the number of Spanish-speaking persons in Maine.

[23] *See* Section I(E) of the Maine Rule; Appendix E of Petition, at 1; Letter from Maine Attorney General James E. Tierney to Secretary, Federal-Trade Commission, Appendix F of Petition, at 2.

[24] *See* Me. Rev. Stat. Ann. tit. 29, section 343(1)(F); Me. Rev. Stat. Ann. tit. 29, section 350-A(F); Appendix E of Petition, at 2. To qualify as a "dealer" under this provision, one must comply with the disclosure requirements of the MUCIA.

[25] September 17, 1987 telephone conversation between James McKenna and Matthew Gold. Mr. McKenna stated that the yearly budget for the attorney general's office is not broken down among the various divisions, so he is unable to provide staff with a specific dollar amount representing the budget for his division.

[26] *Id.*

[27] *Id.*

[28] *See* attachment to Appendix E.

[29] Petition, Appendix E, at 2. *See also supra* text accompanying note 31.

[30] *Id.*

[31] Petition, Appendix E, at 1.

[32] *Id.*

[33] Me. Rev. Stat. Ann. tit. 10, § 1477(2).

[34] 15 U.S.C. 45(m)(1)(A) (1978 & Supp. 1987).

[35] Me. Rev. Stat. Ann. tit. 10, section 1477(2). The statute reads: "No action may be brought for a civil violation under this subsection more than 2 years after the date of the occurrence of the violation."

[36] 28 U.S.C. 2462 (1978 & Supp. 1987).

[37] *Id.* The statute reads: "No dealer may be held liable for a civil violation under this subsection if he shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error."

[38] *But see* Section 45(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A) (1978 & Supp. 1987), which requires the Commission to prove "actual knowledge [of a trade regulation rule] or knowledge fairly implied on the basis of objective circumstances." The Main Rule does not contain a specific notice requirement.

5. Private Right of Action

A dealer who violates the MUCIA may be liable to the purchaser in an amount not less than $100 and not more than $1,000 in liquidated damages, in addition to costs and reasonable attorneys fees.[39] This penalty may be imposed in addition to any civil penalty awarded in a separate action brought by a state agency.[40]

6. Conclusion With Regard to Enforcement

The Petition demonstrates that, based on its enforcement of the Maine Used Car Information Act and other state laws regulating used vehicle dealers, Maine has in place a statewide enforcement program adequate to enforce its Rule effectively.[41] The Maine Attorney General states that his office "has in the past aggressively enforced [the Maine Used Car Information Act] and will continue to do so." [42]

The Commission believes that continued aggressive enforcement should offset the lower civil penalties available under state law. Further, the two-year statute of limitations does not appear to be a significant hindrance to effective enforcement, because rule violations are relatively easy to detect. Additionally, the private right of action available in Maine should increase the overall level of protection provided to consumers. In sum, the Commission concludes that the Petition demonstrates Maine's willingness and ability to enforce its Rule.

IV. Conclusion

For the reasons set forth above, the Commission has determined that Maine has met the exemption standard set out in § 455.6 of the FTC Rule. Specifically, the Commission has determined that: (1) The Maine Rule applies to the same transactions to which the FTC Rule applies; (2) the Maine Rule affords an overall level of protection to consumers that is as great as, or greater than, that afforded by the FTC Rule; and (3) Maine has demonstrated its willingness and ability to enforce its Rule. Accordingly, the Commission grants a statewide exemption, which will be in effect for as long as the State of Maine administers and enforces effectively its Rule.

To ensure that the standards for statewide exemption continue to be met, the State of Maine shall, as a condition to the statewide exemption, be required to provide timely notice to the Commission of any changes in state law, policies or procedures, including court decisions, that significantly affect: (1) Whether state law continues to afford consumers an overall level of protection that is equal to or greater than that provided by the FTC Rule; or (2) whether the state is administering and enforcing effectively its Rule.[43]

The Commission reserves the right to revise this reporting requirement at a later date or to request additional information, should circumstances warrant such action. The Commission also specifically reserves the right to revise, modify, or revoke this statewide exemption, should the public interest so require.

The effective date of the Maine Rule is twenty-one days after the date the Commission grants the exemption. Accordingly, the FTC Rule remains in effect in Maine until May 24, 1988.

List of Subjects in 16 CFR Part 455

Used cars, trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

Editorial Note.—This form, which appears in the Code of Federal Regulations in 16 CFR Part 455, is republished for the convenience of the reader.

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[39] Me. Rev. Stat. Ann. tit. 10, section 1477(3).

[40] *Id.*

[41] Of course, because the Maine Rule itself will not be in effect until twenty-one days after the Commission grants this exemption, there is no record of state enforcement of the Rule to aid the Commission in its consideration of the Petition.

[42] Petition, Appendix F, at 2.

[43] The Commission included these notice requirements when it granted the Wisconsin Petition. *See* 51 FR at 20943–20944.

BUYERS GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE ____ MODEL ____ YEAR ____ VIN NUMBER ____

DEALER STOCK NUMBER (Optional) ____

WARRANTIES FOR THIS VEHICLE:

☐ AS IS - NO WARRANTY

YOU WILL PAY ALL COSTS FOR ANY REPAIRS. The dealer assumes no responsibility for any repairs regardless of any oral statements about the vehicle.

☐ WARRANTY

☐ FULL ☐ LIMITED WARRANTY. The dealer will pay _____% of the labor and _____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under state law, "implied warranties" may give you even more rights.

SYSTEMS COVERED:	DURATION:

☐ SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, state law "implied warranties" may give you additional rights.

PRE PURCHASE INSPECTION: ASK THE DEALER IF YOU MAY HAVE THIS VEHICLE INSPECTED BY YOUR MECHANIC EITHER ON OR OFF THE LOT.

SEE THE BACK OF THIS FORM for important additional information, including a list of some major defects that may occur in used motor vehicles.

Below is a list of some major defects that may occur in used motor vehicles.

Frame & Body
- Frame-cracks, corrective welds, or rusted through
- Dogtracks—bent or twisted frame

Engine
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

Transmission & Drive Shaft
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

Differential
- Improper fluid level or leakage excluding normal seepage
- Cracked or damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

Cooling System
- Leakage including radiator
- Improperly functioning water pump

Electrical System
- Battery leakage
- Improperly functioning alternator, generator, battery, or starter

Fuel System
- Visible leakage

Inoperable Accessories
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

Brake System
- Failure warning light broken
- Pedal not firm under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfgr. Specs)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than 1/4 inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

Tires
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Leakage

DEALER ______________________________

ADDRESS ______________________________

____

SEE FOR COMPLAINTS ______________________________

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of federal law (16 C.F.R. 455).

Editorial Note: This form will not appear in the Code of Federal Regulations.

USED VEHICLE BUYER'S GUIDE

IMPORTANT: Spoken promises are difficult to enforce. Ask the dealer to put all promises in writing. Keep this form.

VEHICLE MAKE ______ MODEL ______ YEAR ______ VIN NUMBER ______

DEALER STOCK NUMBER (Optional) ______

PRIOR USE: ☐ PERSONAL: ☐ OTHER ______

HOW ACQUIRED: ☐ TRADE-IN: ☐ OTHER ______

MECHANICAL DEFECTS IF ANY KNOWN: ______

PRIOR SUBSTANTIAL DAMAGE TO BODY OR ENGINE IF ANY KNOWN: ______

IMPORTANT: THESE ARE THE ONLY PROBLEMS KNOWN TO THE DEALER. ASK IF YOU MAY GET AN INDEPENDENT INSPECTION BEFORE PURCHASE.

☐ WARRANTY OF INSPECTABILITY

STATE LAW REQUIRES THAT THIS VEHICLE MEETS STATE INSPECTION STANDARDS AND HAS A VALID INSPECTION STICKER ISSUED WITHIN 30 DAYS OF THE SALE OF THIS VEHICLE.

☐ NO EXPRESS WARRANTY EXCEPT THAT VEHICLE MEETS STATE INSPECTION STANDARDS

YOU WILL PAY ALL COSTS FOR ANY REPAIRS NOT RELATED TO MEETING STATE INSPECTION STANDARDS. REGARDLESS OF ANY ORAL STATEMENTS ABOUT THE VEHICLE, THE DEALER ACCEPTS NO RESPONSIBILITY FOR REPAIRS EXCEPT THOSE NECESSARY TO PASS STATE INSPECTION.

☐ DEALER EXPRESS WARRANTY

☐ FULL

☐ LIMITED WARRANTY. The dealer will pay ____% of the labor and ____% of the parts for the covered systems that fail during the warranty period. Ask the dealer for a copy of the warranty document for a full explanation of warranty coverage, exclusions, and the dealer's repair obligations. Under Maine law, "implied warranties" may give you even more rights and cannot be limited by the dealer while this express warranty is still in effect. For each repair the buyer will pay a deductible of $ ______

SYSTEMS COVERED:	DURATION:

☐ SERVICE CONTRACT. A service contract is available at an extra charge on this vehicle. Ask for details as to coverage, deductible, price, and exclusions. If you buy a service contract within 90 days of the time of sale, Maine "implied warranties" cannot be limited by the dealer and may give you additional rights.

IMPLIED WARRANTIES

☐ YES ☐ NO ☐ LIMITED TO DURATION OF EXPRESS WARRANTY

Maine's implied warranty law may give you additional rights. If the vehicle is still within its useful life and has not been abused, you may have the right to have the dealer repair defects in materials or workmanship that were not apparent when you bought the vehicle. Or you may be able to return the car if the dealer promised you it was fit for a particular use and it was not.

IMPORTANT INFORMATION

• PRIOR OWNERS NAME AND ADDRESS IS AVAILABLE FROM THE DEALER UPON REQUEST.

• SEE THE BACK OF THIS FORM FOR ADDITIONAL INFORMATION, INCLUDING A LIST OF SOME MAJOR DEFECTS THAT MAY OCCUR IN USED MOTOR VEHICLES.

IMPORTANT NOTE: THIS FORM HAS BEEN REDUCED FROM THE 8½" x 12½" MINIMUM SIZE PRESCRIBED BY SECTION I(C) (1)(b) of the MAINE USED CAR INFORMATION ACT STICKER RULE

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Below is a list of some major defects that may occur in used motor vehicles.

Frame & Body
- Frame-cracks, corrective welds, or rusted through
- Dogtracks — bent or twisted frame

Engine
- Oil leakage, excluding normal seepage
- Cracked block or head
- Belts missing or inoperable
- Knocks or misses related to camshaft lifters and push rods
- Abnormal exhaust discharge

Transmission & Drive Shaft
- Improper fluid level or leakage, excluding normal seepage
- Cracked or damaged case which is visible
- Abnormal noise or vibration caused by faulty transmission or drive shaft
- Improper shifting or functioning in any gear
- Manual clutch slips or chatters

Differential
- Improper fluid level or leakage excluding normal seepage
- Cracked or damaged housing which is visible
- Abnormal noise or vibration caused by faulty differential

Cooling System
- Leakage including radiator
- Improperly functioning water pump

Electrical System
- Battery leakage
- Improperly functioning alternator, generator, battery or starter

Fuel System
- Visible leakage

Inoperable Accessories
- Gauges or warning devices
- Air conditioner
- Heater & Defroster

Brake System
- Failure warning light broken
- Pedal not worn under pressure (DOT spec.)
- Not enough pedal reserve (DOT spec.)
- Does not stop vehicle in straight line (DOT spec.)
- Hoses damaged
- Drum or rotor too thin (Mfr. Specs.)
- Lining or pad thickness less than 1/32 inch
- Power unit not operating or leaking
- Structural or mechanical parts damaged

Steering System
- Too much free play at steering wheel (DOT specs.)
- Free play in linkage more than ¼ inch
- Steering gear binds or jams
- Front wheels aligned improperly (DOT specs.)
- Power unit belts cracked or slipping
- Power unit fluid level improper

Suspension System
- Ball joint seals damaged
- Structural parts bent or damaged
- Stabilizer bar disconnected
- Spring broken
- Shock absorber mounting loose
- Rubber bushings damaged or missing
- Radius rod damaged or missing
- Shock absorber leaking or functioning improperly

Tires
- Tread depth less than 2/32 inch
- Sizes mismatched
- Visible damage

Wheels
- Visible cracks, damage or repairs
- Mounting bolts loose or missing

Exhaust System
- Leakage

Vehicle Returned to Manufacturer.

This vehicle has _____ has not _____ been returned to the manufacturer, its agent or authorized dealer, for its non-conformity with express warranties. These non-conformities were: ______________________________

____

____

Notice of Breach of Warranty.

If a dealer fails to perform his obligation under the warranty, the purchaser shall give the dealer written notice of such failure before the purchaser initiates a civil action in accordance with 10 MRSA § 1476. This notice must be sent by registered or certified mail to the dealer's last known business address.

____
Dealer

____
Address

____

If you have a complaint about this vehicle contact the following representative of the dealer:

____
Name

____
Title Phone

IMPORTANT: The information on this form is part of any contract to buy this vehicle. Removal of this label before consumer purchase (except for purpose of test-driving) is a violation of the Used Car Information Act (10 MRSA §§ 1471-1477) and the Rules promulgated by the Maine Secretary of State.

[FR Doc. 88-10174 Filed 5-6-88; 8:45 am]

BILLING CODE 6750-01-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Rel. No. 34-25631; IC-16387; File Nos. S7-11-87 and S7-23-87]

Facilitation of Shareholder Communications; Exclusion of Specified Employee Benefit Plan Participants From Application of the Proxy Processing and Direct Communications Provisions

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission ("Commission") today announced the adoption of amendments that would exclude specified employee benefit plan participants from the operation of the proxy processing and direct communications provisions of the shareholder communications rules. The exclusion would apply only with respect to securities held by an employee benefit plan established by the issuer of the securities or, at the option of the issuer, by its affiliate. Under the amendments, registrants would be required to cause proxy material to be furnished, in a timely manner, to plan participants excluded from the operation of the proxy processing provisions. Finally, the Commission also is adopting an amendment to the definition of employee benefit plan, for purposes of the shareholder communications rules, to include those plans that are established primarily for employees but also include other persons, such as consultants.

EFFECTIVE DATE: These amendments are effective September 1, 1988.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, Sarah A. Miller, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. After the effective date, contact Cecilia D. Blye, (202) 272-2573, Office of the Chief Counsel, Division of Corporation Finance.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of amendments to Rules 14a-1,[1] 14a-13,[2] 14b-1,[3] 14b-2,[4] 14c-1,[5] 14c-7,[6] and 17a-3(a)(9)[7] under the Securities Exchange Act of 1934 ("Exchange Act").[8]

[1] 17 CFR 240.14a-1.

[2] 17 CFR 240.14a-13.

[3] 17 CFR 240.14b-1.

[4] 17 CFR 240.14b-2.

[5] 17 CFR 240.14c-1.

I. Background and Summary

On November 25, 1986, the Commission adopted new shareholder communications rules and related amendments [9] to effect the Shareholder Communications Act of 1985.[10]

The new rules set forth the obligations of banks, associations and other entities that exercise fiduciary powers ("banks") in connection with forwarding proxy material [11] to beneficial owners and facilitating registrants' communications with beneficial owners of securities registered in the banks' names. At the time it adopted the new rules, the Commission deferred, until July 1, 1987, the effectiveness of paragraphs (a) through (c) of Rule 14b-2,[12] which set forth the proxy processing obligations of banks and the omnibus proxy system, to give banks sufficient time to establish workable procedures for the implementation of the proxy processing system. Banks' obligations with respect to the direct communications systems, however, became effective on December 28, 1986.

While the new bank rules, as adopted, covered employee benefit plan participants, the Commission indicated that it would consider, in a separate rulemaking proceeding, the application of the shareholder communications rules to employee benefit plans with securities held in nominee name by either brokers and dealers ("brokers") or banks. On March 27, 1987, the Commission issued a release proposing rules to exclude, under specified circumstances, employee benefit plan participants from the proxy processing and direct communications provisions at the option of the registrant.[13] Specifically, under the March proposal, the registrant could choose to exclude plan particpants with securities held in nominee name pursuant to the plan from the proxy processing system established under the shareholder communications rules, where the plan contained a mechanism for timely dissemination of proxy material to plan participants and action was taken reasonably calculated to assure that plan participants received such materials in accordance with that mechanism. With regard to the direct communications provisions, the proposal provided that a registrant could choose to exclude plan participants from a request for a list of beneficial owners, if the registrant had access, by some means other than the direct communications provisions, to the names and addresses of the plan participants.

[6] 17 CFR 240.14c-7.

[7] 17 CFR 240.17a-3(a)(9).

[8] 15 U.S.C. 78a, *et seq.*

[9] Release No. 34-23847 (November 25, 1986) (51 FR 44267).

[10] Pub. L. No. 99-222, 99 Stat. 1737 (1985), amending 15 U.S.C. 78n(b) (1982).

[11] The phrase "proxy material" is used in this release to refer collectively to proxy cards or requests for voting instructions, proxy soliciting material and annual reports to security holders.

[12] 17 CFR 240.14b-2 (a) through (c).

[13] Release No. 34-24274 (March 27, 1987) (52 FR 11083) (the "March proposal").

In addition, the release set forth a number of alternatives to the proposal. These alternatives included: (1) Making one or both of the exclusions mandatory rather than optional; (2) basing automatic or optional exclusion from the shareholder communications rules on satisfaction of both prerequisites; (3) basing automatic or optional exclusion on satisfaction of only one prerequisite; and (4) an automatic across-the-board mandatory exclusion of employee benefit plan participants from all aspects of the proxy processing and direct communications systems.

Twenty-one commentators responded to the Commission's request for comment on the March proposal.[14] Sixteen of these commentators favored mandatory exclusion of plan participants from the proxy processing system either on an automatic across-the-board basis or on satisfaction of the prerequisite that the plan have a system for obtaining and forwarding proxy material to plan participants.

Two commentators favored an exclusion at the option of the registrant. One commentator opposed, on recordkeeping grounds, any exclusion of plan participants from the proxy processing system. Another commentator, the American Bankers Association ("ABA"), suggested an additional approach to excluding plan participants. The ABA recommended an amendment to the proxy processing provisions that would make registrants solely responsible for ensuring that proxy material is distributed to participants who hold securities of the registrant in nominee name pursuant to an employee benefit plan that provides pass-through voting (the "ABA approach"). Another commentator, the Department of Labor, stated that it had no objections to the ABA approach.

To permit consideration of the ABA approach in addition to the March proposal, the Commission, on June 18,

[14] The comment letters are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7-11-87).

1987, published for comment another proposal for the treatment of plan participants under the proxy processing rules that reflected the ABA approach.[15] Under the June proposal, beneficial owners who are employee benefit plan participants would be excluded from the proxy processing provisions with respect to securities of a registrant held in nominee name pursuant to the plan, if two prerequisites were satisfied. The first prerequisite would require the registrant to have access to the names and addresses of such participants by some means other than the direct communications provisions. The second prerequisite would require that the registrant not be prohibited by the terms of the plan from communicating directly with such participants. The June proposal did not require that the plan itself contain a mechanism for furnishing proxy material to plan participants. Rather, it included a requirement that registrants cause proxy material to be furnished to plan participants.

With respect to the direct communications provisions, registrants' requests for lists of beneficial owners would not cover employee benefit plan participants with securities of that registrant held in nominee name pursuant to the plan. Just as for the proxy processing provisions, the exclusion would be conditioned on registrant access to participant names and addresses, by some means other than the direct communications provisions.

Under the June proposal, registrants would have been required to notify brokers and banks of those plans satisfying the necessary prerequisites. Once such notice was received, a broker or bank would not include plan participants when fulfilling its obligations under either the proxy processing or direct communications systems.

Sixteen commentators addressed the June proposal.[16] Of the 15 commentators that addressed this issue, 12 supported a mandatory exclusion of plan participants from the shareholder communications rules, while two commentators opined that the exclusion should be optional. The Department of Labor stated that it had no objection to adoption of the proposed amendments.

Exclusion of employee benefit plan securities from the shareholder communications rules will result in cost savings to registrants and lessen the administrative burden on brokers and banks. Absent the exclusion, registrants would be required to reimburse brokers and banks for expenses incurred in connection with complying with their obligations with respect to such beneficial owners under the proxy processing and direct communications systems. This would be true even if the registrant has an established system for communicating with such plan participant beneficial owners. In addition, brokers and banks would be required to maintain records regarding plan participants' names, addresses and securities positions, if such participants were covered by the shareholder communications rules.

At the same time, when coupled with a requirement that registrants cause proxy materials to be furnished to these plan participants, the exclusion presents little danger that plan participants will be disenfranchised. Accordingly, as proposed in June, the Commission is adopting a mandatory exclusion from the shareholder communications rules. In contrast, securities of companies unaffiliated with the plan sponsor that are held in an employee benefit plan will continue to be subject to the shareholder communications rules.

The amendments adopted today differ from the June proposal in a number of respects. First, the exclusion is effected through a definition of "exempt employee benefit plan securities," while the June proposal structured the exclusion through prerequisites. Second, the notice requirement has been eliminated for plans established by the registrant ("registrant-sponsored plans"). A notice requirement has been retained, however, with regard to plans established by an affiliate of the registrant and holding securities of the registrant ("affiliate-sponsored plans"). Third, while the exclusion from the shareholder communications rules for securities held by registrant-sponsored plans is mandatory, the exclusion for those held by affiliate-sponsored plans is optional.

The Commission also is amending the definition of employee benefit plan applicable to the shareholder communications rules. As proposed in June, the amendment would expand the term to cover plans primarily for employees, but that also include other persons.

Finally, other technical and clarifying amendments, necessitated by the amendments adopted today, have been made.[17]

II. Discussion

Under the proxy processing exclusion adopted today, registrants generally will be responsible for providing proxy material to employee benefit plan participants. Brokers and banks generally will have no obligation with regard to either responding to registrants' requests for the number of sets of proxy material needed for forwarding to beneficial owners or forwarding such material to these plan participants. Brokers' and banks' sole obligation will be to sign the proxy card on behalf of the voting plan participant. Getting instructions to brokers and banks on the timing and method of signing the proxy card will be the responsibility of the registrant.

The proxy processing exclusion is only an exclusion in the sense that beneficial owner plan participants generally will not receive proxy material in accordance with the shareholder communications procedures. These plan participants, however, will receive such material directly from the registrant, and in a timely manner. In contrast, the exclusion from the direct communications rules is a total exclusion. No alternate procedure for obtaining the names, addresses and securities positions of plan participants is mandated under these rules. Registrants should note, however, that they may be required under the Employee Retirement Income Security Act ("ERISA")[18] to forward directly to plan participants the same shareholder communications they forward to beneficial owners through the direct communications system.[19]

A. Proxy Processing Provisions

1. The Exclusion

The amendments exclude from operation of the proxy processing provisions securities of the registrant held by an employee benefit plan established or sponsored by either the

[15] Release No. 34-24607 (June 18, 1987) (52 FR 23855) (the "June proposal"). Pending further consideration of the manner in which employee benefit plan participants would be treated under the shareholder communications rules, the Commission temporarily deferred imposing on banks an obligation under the shareholder communications rules to distribute proxy material to employee benefit plan participants. Corollary amendments to Rules 14a-13 and 14c-7 temporarily relieved registrants of their corresponding obligations under the shareholder communications rules with respect to such beneficial owners. Release No. 34-24606 (June 18, 1987) (52 FR 23643). The deferral did not apply to employee benefit plans with securities held in nominee name by brokers.

[16] The comment letters are available for public inspection and copying at the Commission's Public Reference Room (*see* File No. S7-23-87).

[17] All proxy rule amendments discussed below also have been made, where appropriate, to Rules 14c-1 and 14c-7, which govern information statements.

[18] 29 U.S.C. 1001, *et seq.*

[19] *See* n. 23 *infra.*

same registrant or an affiliate [20] of the registrant.[21] Securities of a registrant held by a plan sponsored by the same registrant are automatically excluded, while securities held by a plan sponsored by an affiliate of the registrant are excluded only at the option of the registrant.[22] The registrant is required to furnish proxy material to plan participants excluded (either automatically or at the election of the registrant) from the proxy processing provisions.[23]

a. Mandatory—Registrant-Sponsored Employee Benefit Plans. With regard to the mandatory exclusion, the amendments add a proviso to paragraph (a)(2) of Rule 14a–13 specifying that a registrant's Rule 14a–13(a)(1)[24] and (a)(2)[25] search card inquiry shall not cover beneficial owners[26] of exempt employee benefit plan securities. The term "exempt employee benefit plan securities" is defined in new paragraph (d) to Rule 14a–1[27] to include securities of the registrant held by an employee benefit plan[28] established by the same registrant (as well as specified securities held by an affiliate-sponsored plan, which are exempt at the option of the registrant, as discussed below).

All other proxy processing obligations of the registrant are derived from the Rule 14a–13(a) search card inquiry. Accordingly, no other revisions are required to exclude employee benefit plan securities from the proxy processing procedures. Corollary amendments have been made to Rules 14b–1(d)(1)[29] and 14b–2(g)(1),[30] making it clear that brokers and banks have no obligation under the proxy processing provisions to respond to registrants' Rule 14a–13(a) search card inquiries with respect to beneficial owners of exempt employee benefit plan securities or to forward proxy material to such security holders.

The exclusion from the proxy processing provisions does not excuse a bank from executing an omnibus proxy under Rule 14b–2(b)[31] in favor of respondent banks with respect to exempt employee benefit plan securities. Although proxy material will not be distributed to beneficial owners of exempt employee benefit plan securities under Commission shareholder communications procedures and, instead, will be distributed directly by the registrant, the omnibus proxy procedure still will be required to ensure that legal voting authority reaches the bank with which plan securities have been deposited. Alternatively, banks may comply with the terms of any Commission-approved alternate procedure to the omnibus proxy under Rule 14b–2 (d).[32]

New paragraph (d) to Rule 14a–13[33] requires that a registrant cause proxy material to be furnished, in a timely manner, to beneficial owners of exempt employee benefit plan.[34] Under this provision, a registrant may adopt in-house procedures to perform its obligations under paragraph (d) of Rule 14a–13 or designate an agent, such as the plan administrator or trustee, to perform the service.[35] These amendments are intended to ensure that employee benefit plan participants, like other beneficial owners, receive proxy material in a timely fashion.

Because banks often do not perform recordkeeping functions for employee benefit plans, they may not have access to the names and addresses of plan participants. Thus, these amendments eliminate the need to require, banks to obtain that information and maintain records regarding plan participants that duplicate those of the registrant. Once a determination has been made that securities held by a registrant-sponsored plan are exempt from the shareholder communications rules, a bank, to the extent it maintains such information, would be free to delete plan participant information, insofar as it relates to the exempt securities, from its beneficial owner records.

To permit brokers to delete information from their records regarding whether or not beneficial owners of exempt employee benefit plan securities objected to disclosure of their names, addresses and securities positions to registrants,[36] Rule 17a–3(a)(9)(ii) [37] has been amended to eliminate the requirement that brokers maintain this information as part of their recordkeeping obligations.[38] This recordkeeping obligation was added as part of the shareholder communications rules.[39] By deleting this requirement as it applies to exempt employee benefit plan securities held by registrant-sponsored plans, the Commission is leaving unchanged what is required under the general broker recordkeeping rules.

b. Optional—Affiliate-Sponsored Employee Benefit Plans. The June proposal generally would have required registrants to exclude employee benefit plan holdings of their securities if the plan was sponsored by an affiliate of the registrant. The exclusion would have been accomplished through the prerequisite that the registrant have

[20] The term "affiliate" should be interpreted as defined in Rule 12b–2 (17 CFR 240.12b–2).

[21] The term "registrant" means the issuer of the securities in respect of which proxies are to be solicited. *See* Rule 14a–1(j) (17 CFR 240.14a–1(j)).

[22] *See* Section II.A.1.b. *infra* for discussion of the optional exclusion for affiliate-sponsored plans.

[23] Compliance with the provisions of this requirement does not necessarily establish compliance with the fiduciary responsibility provisions of ERISA. Under section 404(a)(1)(D) of ERISA (29 U.S.C. 1104(a)(1)(D)), fiduciaries of employee benefit plans generally are required to discharge their duties in accordance with the documents and instruments governing the plan insofar as they are consistent with requirements of ERISA. In this respect, under sections 403 and 404(a) of ERISA (29 U.S.C. 1103 and 1104(a)), every plan fiduciary must discharge his duties for the exclusive benefit, and solely in the interest, of plan participants and beneficiaries. A fiduciary must adhere strictly to these standards in implementing any plan provisions relating to proxy materials. The Department of Labor has indicated that, in the case of a plan which permits participants to direct plan responses to tender offers, plan trustees would be relieved of liability for losses resulting from participant decisions only if, among other things, they assure that participants are provided information necessary to make independent decisions. *See* letter to John Welch dated April 30, 1984, reprinted in BNA Pens. Rptr., vol. 11, no. 19, at 833 (May 7, 1984). The Department of Labor views the duties of plan fiduciaries under ERISA with respect to pass-through voting of securities similar to those with respect to pass-through of tender offers as articulated in the Welch letter. Thus, in discharging their duties under ERISA, plan trustees may be obliged to take steps to disseminate materials to participants in addition to the materials required to be distributed under the plan.

[24] 17 CFR 240.14a–13(a)(1).

[25] 17 CFR 240.14a–13(a)(2).

[26] If voting authority rests with the plan trustee, the trustee is the beneficial owner for purposes of the shareholder communications rules. *See* Rule 14b–2(i) (17 CFR 240.14b–2(i)).

[27] 17 CFR 240.14a–1(d).

[28] *See* Section II.C.1 *infra* for discussion of the revised definition of "employee benefit plan."

[29] 17 CFR 240.14b–1(d)(1).

[30] 17 CFR 240.14b–2(g)(1).

[31] 17 CFR 240.14b–2(b).

[32] 17 CFR 240.14b–2(d).

[33] 17 CFR 240.14a–13(d).

[34] A new Note 3 to Rule 14a–13(a) directs registrants' attention to their obligations under paragraph (d) of Rule 14a–13. In addition, Note 2 to Rule 14a–13(a) has been amended to add a reference to the newly adopted exclusion.

[35] A registrant that chooses to carry out these obligations through an agent may be liable for the acts or omissions of its agent.

[36] Brokers are required to collect this information pursuant to their obligations under the direct communications provisions. *See* Rule 14b–1(c) (17 CFR 240.14b–1(c)).

[37] 17 CFR 240.17a–3(a)(9)(ii).

[38] In both the March and June proposals comment was solicited on whether Rule 17a–3(a)(9) should be amended to permit brokers to delete such information. Data on the costs associated with brokers continuing to request beneficial owner information from plan participants and maintain this information also was requested. No comments on this issue were received.

[39] Release No. 34–20021 (July 28, 1983) (48 FR 35082).

access to plan participants' names and addresses, which presumably would be the case with regard to most affiliate-sponsored plans. However, because such access cannot be presumed for all affiliate-sponsored plans, the amendments provide for an exclusion at the option of the registrant that will permit registrants to exclude from the proxy processing provisions their securities held by such plans.

If a registrant has access to the names and addresses of participants in an affiliate-sponsored plan, the amendments would permit the registrant to realize the cost savings associated with the exclusion. If, however, the registrant does not have access to the names and addresses of these plan participants, the registrant will be unable to comply with its obligation under the exclusion to forward proxy materials to plan participants and, instead, will comply with its obligations under the proxy processing provisions of the shareholder communications rules.

Specifically, the amendments provide that the term "exempt employee benefit plan securities" includes securities of the registrant held by an employee benefit plan where such plan is established by an affiliate of the registrant and notice regarding the current solicitation has been given pursuant to Rule 240.14a-13(a)(1)(ii)(C).[40] Once all requirements of the definition are satisfied, registrants would be required under Rule 14a-13(d) to cause proxy material to be furnished, in a timely manner, to beneficial owners of these exempt employee benefit plan securities. The corollary amendments made to Rules 14b-1(d)(1) and 14b-2(g)(1) provide that brokers and banks have no obligation under the proxy processing provisions to respond to registrants' Rule 14a-13 (a)(1) and (a)(2) search card inquiries with respect to beneficial owners of these exempt employee benefit plan securities or to forward proxy material to such security holders.[41]

The June proposal provided that brokers and banks would have been aware of excluded affiliate-sponsored plans through the notice requirement. In the absence of a notice provision, brokers and banks might have difficulty ascertaining which employee benefit plan securities are subject to the exclusion. Thus, the definition of exempt employee benefit plan securities provides for a notification procedure that will inform brokers and banks by means of the search card that securities of the registrant held by an affiliate-sponsored plan are not to be included in responding to registrants' Rule 14a-13 (a)(1) and (a)(2) search cards. New paragraph (a)(1)(ii)(C) of Rule 14a-13 provides that registrants, at their option, may give notice of any affiliate-sponsored plan of the registrant holding securities of the registrant that the registrant elects to treat as exempt employee benefit plan securities. Once such notice is received, a broker or bank will know not to include such beneficial owners in its response to that search card or to forward the forthcoming proxy material to such security holders.

Because the relationship between a registrant and its affiliates may change, the rules have been structured so the notice does not trigger a permanent exclusion from the Commission's proxy processing procedures. Rather, the exclusion only applies to the particular solicitation with respect to which the registrant provided notice through its search card. Accordingly, the definition of exempt employee benefit plan securities refers to notice regarding the current solicitation.

Since the exclusion is optional with respect to securities held by an affiliate-sponsored plan and notice is to be given for every proxy solicitation, the amendments to Rule 17a-3(a)(9)(ii) [42] do not permit brokers to exclude from their records beneficial owner information regarding whether such beneficial owners objected to disclosure of their name, address and securities position to registrants. Similarly, because the exclusion is an optional one with regard to affiliate-sponsored plans and information regarding participants in such plans can be requested at any time, banks should not delete affiliate plan participant information from their beneficial owner records.

2. Proposed Access Prerequisite

The June proposal conditioned mandatory exclusion on the registrant having access to the names and addresses of beneficial owners who are employee benefit plan participants, by some means other than the direct communications provisions of paragraph (b) of Rule 14a-13.[43] This access prerequisite was intended to ensure that registrants could obtain the information necessary to forward proxy material to such plan participants in accordance with the obligation proposed to be placed on registrants. For example, registrants could obtain information as to names, addresses and securities positions of plan participants through payroll deductions or a list of plan participants provided by the plan administrator. Commentators generally opposed the access prerequisite as introducing unnecessary lack of definitiveness, stating that plan sponsor registrants always will have access to the names and addresses of plan participants. As proposed, the access requirement also compelled a notice requirement commentators viewed as burdensome.[44]

The proposed access prerequisite also was designed to limit the exclusion to participants in employee benefit plans only with respect to their holdings of securities issued by a registrant that is the plan sponsor or an affiliate of the sponsor. Ordinarily, a registrant would not have access to the names and addresses of beneficial owners who are participants in employee benefit plans that it does not sponsor.[45] Under the June proposal, the exclusion would not have been applicable to such securities. Rather, the proxy material would have been furnished to plan participants pursuant to the shareholder communications rules.

The rules, as adopted, address commentators' concerns about the access and notice prerequisites by mandating delivery of proxy material to plan participants by the registrant. The mandated delivery requirement is based on the premise that all registrants have or can obtain access to the names and addresses of participants in plans sponsored by them. With respect to affiliate-sponsored plans, the Commission was unable to conclude that all registrants would have access to the names and addresses of such plan participants or that brokers and banks would know which plans are affiliate-sponsored. Therefore, the exclusion was made optional and a notice provision was necessary to effect the exclusion. The registrant, of course, should not give notice regarding affiliate-sponsored plans unless it has access to the information needed to enable it to comply with its obligation to deliver proxy material to the plan participants holding its securities.

In contrast, the definition does not encompass securities held by plans

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[40] 17 CFR 240.14a-13(a)(1)(ii)(C).

[41] As with the mandatory exclusion, the optional exclusion from the proxy processing provisions would not excuse a bank from executing an omnibus proxy under Rule 14b-2(g) in favor of respondent banks with respect to these exempt employee benefit plan securities. *See* discussion *supra* Section II.A.1.a.

[42] *See* discussion *supra* Section II.A.1.a.

[43] 17 CFR 240.14a-13(b).

[44] *See* discussion at Section II.A.5. *infra* regarding the proposed notice requirement.

[45] For example, some plans permit the participants to designate investments in securities other than those issued by the sponsoring registrant.

established by parties other than the registrant or its affiliate. With respect to such securities, registrants are required to comply with the proxy processing procedures with respect to plan participant holdings of their securities. Banks and brokers, correspondingly, are required to carry out their proxy processing obligations with respect to such securities.

3. Obtaining Beneficial Owner Information for Plan Participant Holdings

The Commission recognizes that brokers and banks that do not perform participant recordkeeping duties may not necessarily have access to the information necessary to perform their proxy processing obligations regarding securities of the registrant held by either affiliate-sponsored plans (where the registrant has chosen not to trigger the exclusion) or plans sponsored by entities not affiliated with the registrant. Where there is no exclusion from the proxy processing provisions, a broker or bank, in order to satisfy the registrant's request for the number of sets of proxy material needed for forwarding to beneficial owners who are plan participants, would have to request such information from the party performing the recordkeeping function (which may be the registrant itself in the case of a non-plan sponsor's request). If the broker or bank makes a good faith effort to obtain that information from the recordkeeper and is denied access to that information, in the Commission's view, it need not take further steps to satisfy its obligations under these rules.[46]

4. Proposed Prerequisite That Registrants Not Be Prohibited From Communicating With Plan Participants

The June proposal also contained an additional requirement for mandatory exclusion of plan participants from the proxy processing provisions—that a registrant not be prohibited by the terms of the employee benefit plan from communicating directly with beneficial owners who are employee benefit plan participants. This prerequisite was intended to recognize the possibility that a registrant could be unable to fulfill its obligation to cause proxy material to be furnished to plan participants. Under the proposal, distribution of proxy material, in such a situation, would have been accomplished in the most effective manner through the proxy processing provisions of the shareholder communications rules.

Several commentators addressed this prerequisite and stated that it was unnecessary for the rules to distinguish between plans that meet the prerequisite and plans that do not because, in effect, all plans do meet the prerequisite. Plans generally do not prohibit a registrant from communicating directly with plan participants. Plan confidentiality provisions typically restrict management from learning an employee's voting or tender instructions and from gaining access to account records where a tender offeror has purchased any employer stock from the plan pursuant to a hostile tender offer. The latter type of confidentiality provision may, under limited circumstances, prevent the employer only from examining plan records to determine whether any particular employee is still a "beneficial owner" of employer stock in the aftermath of a hostile tender offer. Further, even in the most unlikely event that a plan did contain such a prohibition on communicating directly with participants, the registrant could use a third party such as the plan trustee for distributing proxy materials to plan participants.

5. Proposed Notice Requirement

The June proposal would have required registrants to notify brokers and banks of plans that met the prerequisites for exclusion from the proxy processing provisions. Under the proposed notice provision, the mandatory notice generally would have been given to only one broker or bank—the entity that directly held the registrant's securities in nominee name pursuant to an employee benefit plan. If the registrant failed to notify the appropriate broker or bank, it would have been liable for any reasonable costs incurred by the broker or bank in performing its obligations under the proxy processing provisions with regard to such excluded plan participants.

In recognition of some of the difficulties involved in requiring a notice prior to effectiveness of a mandatory exclusion, the Commission specifically stated in the June proposal that it was considering eliminating the notice requirement because of the increased administrative burdens on banks and brokers. With a notice requirement, banks and brokers would have to: (1) Determine which registrant/plan sponsors had provided notice and which had not; and (2) make provision in their recordkeeping systems for two categories of plans. In addition, a notice requirement could have the result of converting a mandatory exclusion to an optional one because brokers and banks would not be permitted to exclude securities that otherwise satisfied the requirements unless notice had been furnished by the registrant. Consistent with those concerns and commentators' general opposition to a notice requirement, the Commission has deleted the notice requirement from the amendments applicable to the mandatory exclusion. As adopted today, the mandatory exclusion will put all banks and brokers on notice that specific securities held by employee benefit plans are excluded from the proxy processing provisions of the shareholder communications rules.

As discussed above, securities held in affiliate-sponsored plans may be excluded at the option of the registrant. Notice must be given through the search card request in order to trigger the exclusion for such securities with respect to a particular proxy solicitation.

B. Direct Communications Provisions

1. The Exclusion

a. Mandatory—Registrant-Sponsored Employee Benefit Plans. Paragraph (b)(3) of Rule 14a-13[47] is amended to provide that a registrant's request for a list of beneficial owners shall not cover beneficial owners of exempt employee benefit plan securities.[48] Corollary amendments to Rules 14b-1 and 14b-2 provide that brokers and banks shall not include such information when responding to registrants' requests for lists of beneficial owners.[49] This provision is intended to permit registrants to realize cost savings in connection with requesting beneficial owner lists while, at the same time, not requiring brokers and banks that generally do not perform plan recordkeeping duties to develop and maintain such records.

b. Optional—Affiliate-Sponsored Employee Benefit Plans. The optional exclusion regarding registrants' requests for beneficial owner information concerning beneficial owners of the registrants' securities held by an affiliate-sponsored plan is structured in a similar fashion to the mandatory

[46] Non-plan sponsor registrants also would comply with the direct communications procedures under the shareholder communications rules, while registrants may wish to comply with such procedures regarding affiliate-sponsored plan holdings of its securities, *see* discussion *infra* at Section II.B. Broker or bank difficulties, in such cases, in gaining access to the necessary information also would be subject to a good faith effort standard.

[47] 17 CFR 240.14a-13(b)(3).

[48] *See* Section II.A.1 *supra* for discussion of the new definition of exempt employee benefit plan securities.

[49] Rules 14b-1(d)(2) and 14b-2(g)(2) (17 CFR 240.14b-1(d)(2) and 14b-2(g)(2)).

exclusion from the direct communications provisions. The term "exempt employee benefit plan securities" includes such securities if notice regarding the current request for a list of names, addresses and securities positions of beneficial owners has been given pursuant to Rule 14a-13(b)(3). Notice is to be given at the time the registrant makes its request for a beneficial owner list. Like the notice provision for the proxy processing provisions, the notice is to be given each time a request for beneficial owner information is made.

2. The Proposed Access Prerequisite

The June proposal provided for an access prerequisite similar to that proposed for the proxy processing exclusion.[50] Commentators similarly viewed an explicit access prerequisite as unnecessary because plan sponsor registrants always will have access to plan participants' names and addresses. The Commission agrees. Instead of an explicit prerequisite, the rules, as adopted, address the need for access through the definition of exempt employee benefit plan securities, as is done in the proxy processing system.

3. Proposed Notice Requirement

The June proposal provided for a notice requirement for the direct communications system like that proposed for the proxy processing exclusion. For the same reasons the Commission deleted the notice requirement for the proxy processing provisions, the Commission has deleted the notice requirement for the direct communications system, except with respect to the optional exclusion for affiliate-sponsored plans.

C. Other Revisions

1. Amendment to the Definition of Employee Benefit Plan

As proposed in June, amendments to paragraph (b) to Rule 14a-1 [51] and paragraph (b) to Rule 14c-1 [52] substitute the term "primarily" for the term "solely" in the definition of employee benefit plan. These definitions previously included only plans solely for employees, directors, trustees or officers.[53] The amended definitions also encompass plans that are primarily for employees but also include other persons, such as consultants.

2. Dividend or Interest Reinvestment Plans

In the June proposal, the Commission requested comment on whether the proposed exclusions from the proxy processing and direct communications provisions should be expanded further to include dividend or interest reinvestment plans. Such plans often allow holders of securities to have their dividends or interest automatically reinvested by the dividend or interest paying agent in additional securities in lieu of cash distribution. Securities purchased under the plan generally are held in nominee name. One commentator on the March proposal stated that a common requirement for such plans is that a participant must hold at least one share of the registrant's stock in his own name. According to this commentator, this requirement assures that the name and address of the participant is known to the registrant, despite the fact that the participant's ownership of the registrant's securities is in nominee name. Accordingly, the Commission solicited comment in connection with the June proposal on whether, in fact, this is a common feature of such plans.

Commentators were divided on whether this was a common feature of dividend or interest reinvestment plans. Two commentators noted that, although the plan may require the participant to be a record holder of at least one share of the registrant's stock at the time of enrolling in the plan, some plans do not require the record holder to maintain any shares directly in its name after joining the plan.

Due to the division among commentators regarding common features of these plans and the Commission's desire not to make it more difficult for security holders to exercise their right to vote, the Commission has determined that, at this time, it will not exclude securities held pursuant to a dividend or interest reinvestment plan from the shareholder communications rules. Participants in such plans will continue to receive proxy material and other corporate communications through established shareholder communications systems.

III. Cost-Benefit Analysis

The Commission requested commentators to provide views and data as to the costs and benefits associated with the proposed amendments. In the June release, the Commission noted that the proposal would obligate the registrant to furnish proxy material to beneficial owners whose securities are held in nominee name pursuant to an employee benefit plan, but eliminate both the requirement that record holders and respondent banks distribute proxy material to such plan participants, and the need for record holders and respondent banks to obtain and maintain beneficial owner information regarding such plan participants. In addition, the Commission noted that the proposals would permit further cost savings to registrants in obtaining beneficial owner lists, the charges for which are calculated on a per name basis.

The Commission also noted that additional costs would be incurred in connection with the notice requirement. The notice requirement has been deleted from the amendments as adopted, except for notice with respect to the optional exclusion for affiliate-sponsored plans.

Commentators generally expressed the view that the proposed amendments would decrease costs of complying with the shareholder communications rules for both brokers and banks and registrants.

IV. Statutory Basis and Text of Amendments

These amendments are being adopted pursuant to sections 12, 14, 17, and 23(a) of the Securities Exchange Act of 1934.[54]

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities, Banks, Associations.

V. Text Of Amendments

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

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

1. The authority citation for Part 240 continues to read, in part, as follows:

(Citations before * * * indicate general rulemaking authority).

Authority: Sec. 23, 48 Stat 901, as amended; 15 U.S.C. 78w * * * Sections 240.14a-1,

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[50] The March proposal contained a similar access prerequisite for the direct communications exclusion. That exclusion was to be optional on the part of the registrant. The exclusion adopted today, however, is mandatory, except with respect to affiliate-sponsored plans.

[51] 17 CFR 240.14a-1(b).

[52] 17 CFR 240.14c-1(b).

[53] The amended definitions apply only to the shareholder communications rules and do not modify, in any way, the definitions included in Rules 405 (17 CFR 230.405) and 701 (17 CFR 230.701) under the Securities Act of 1933 (15 U.S.C. 771a, *et seq.*), and Rule 16b-3 (17 CFR 240.16b-3) under the Exchange Act.

[54] 15 U.S.C. 78*l*, 78n, 78q and 78w(a).

240.14a-13, 240.14b-1, 240.14b-2, 240.14c-1 and 240.14c-7 also issued under sections 12, 15 U.S.C. 78l, and 14, Pub L. 99-222, 99 Stat. 1737, 15 U.S.C. 78n.

2. By revising paragraph (b), redesignating current paragraph (d) through (k) as (e) through (l) and adding new paragraph (d) to § 240.14a-1 to read as follows:

§ 240.14a-1 Definitions.

* * * * *

(b) *Employee benefit plan.* For purposes of §§ 240.14a-13, 240.14b-1 and 240.14b-2, the term "employee benefit plan" means any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan primarily for employees, directors, trustees or officers.

* * * * *

(d) *Exempt employee benefit plan securities.* For purposes of §§ 240.14a-13, 240.14b-1 and 240.14b-2, the term "exempt employee benefit plan securities" means:

(1) Securities of the registrant held by an employee benefit plan, as defined in paragraph (b) of this section, where such plan is established by the registrant; or

(2) If notice regarding the current solicitation has been given pursuant to § 240.14a-13(a)(1)(ii)(C) or if notice regarding the current request for a list of names, addresses and securities positions of beneficial owners has been given pursuant to § 240.14a-13(b)(3), securities of the registrant held by an employee benefit plan, as defined in paragraph (b) of this section, where such plan is established by an affiliate of the registrant.

* * * * *

3. By revising paragraphs (a)(1)(ii) (A) and (B), paragraph (a)(2), Notes 1 and 2 to paragraph (a), paragraph (b)(3) and paragraph (d) and adding Note 3 to paragraph (a) and new paragraph (a)(1)(ii)(C) to § 240.14a-13, to read as follows:

§ 240.14a-13 Obligations of registrants in communicating with beneficial owners. [Effective July 1, 1987]

(a) * * *

(1) * * *

(ii) * * *

(A) whether the registrant, pursuant to paragraph (c) of this section, intends to distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to § 240.14b-1(c) and § 240.14b-2(e) (2) and (3); (B) the record date; and (C) at the option of the registrant, any employee benefit plan established by an affiliate of the registrant that holds securities of the registrant that the registrant elects to treat as exempt employee benefit plan securities;

(2) Upon receipt of a record holder's or respondent bank's response indicating, pursuant to § 240.14b-2(a)(1), the names and addresses of its respondent banks, within one business day after the date such response is received, make an inquiry of and give notification to each such respondent bank in the same manner required by paragraph (a)(1) of this section; *Provided, however,* the inquiry required by paragraphs (a)(1) and (a)(2) of this section shall not cover beneficial owners of exempt employee benefit plan securities;

* * * * *

Note 1: If the registrant's list of security holders indicates that some of its securities are registered in the name of a clearing agency registered pursuant to Section 17A of the Act (e.g., "Cede & Co.," nominee for the Depository Trust Company), the registrant shall make appropriate inquiry of the clearing agency and thereafter of the participants in such clearing agency who may hold on behalf of a beneficial owner or respondent bank, and shall comply with the above paragraph with respect to any such participant (*see* § 240.14a-1(i)).

Note 2: The attention of registrants is called to the fact that each broker, dealer, bank, association and other entity that exercises fiduciary powers has an obligation pursuant to § 240.14b-1(b) and § 240.14b-2(b) (except as provided therein with respect to exempt employee benefit plan securities held in nominee name) and, with respect to brokers and dealers, applicable self-regulatory organization requirements to obtain and forward, within the time periods prescribed therein, (a) proxies (or in lieu thereof requests for voting instructions) and proxy soliciting materials to beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to beneficial owners on whose behalf it holds securities, unless the registrant has notified the record holder or respondent bank that it has assumed responsibility to mail such material to beneficial owners whose names, addresses and securities positions are disclosed pursuant to §§ 240.14b-1(c) and 240.14b-2(e) (2) and (3).

Note 3: The attention of registrants is called to the fact that registrants have an obligation, pursuant to paragraph (d) of this section, to cause proxies (or in lieu thereof requests for voting instructions), proxy soliciting material and annual reports to security holders to be furnished, in a timely manner, to beneficial owners of exempt employee benefit plan securities.

(b) * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: all brokers, dealers, banks, associations and other entities that exercises fiduciary powers; *Provided however,* such request shall not cover beneficial owners of exempt employee benefit plan securities as defined in § 240.14a-1(d)(1); and, at the option of the registrant, such request may give notice of any employee benefit plan established by an affiliate of the registrant that holds securities of the registrant that the registrant elects to treat as exempt employee benefit plan securities;

* * * * *

(d) If a registrant solicits proxies, consents or authorizations from record holders and respondent banks who hold securities on behalf of beneficial owners, the registrant shall cause proxies (or in lieu thereof requests or voting instructions), proxy soliciting material and annual reports to security holders to be furnished, in a timely manner, to beneficial owners of exempt employee benefit plan securities.

4. By redesignating current paragraph (d) as (e) and adding new paragraph (d) to § 240.14b-1 to read as follows:

§ 240.14b-1 Obligation of registered brokers and dealers in connection with the prompt forwarding of certain communications to beneficial owners.

* * * * *

(d) With regard to beneficial owners of exempt employee benefit plan securities:

(1) Not include information in its response pursuant to paragaph (a) of this section or forward proxies (or in lieu thereof requests for voting instructions), proxy soliciting material, or annual reports to security holders pursuant to paragraph (b) of this section to such beneficial owners; and

(2) Not include in its response pursuant to paragraph (c) of this section data concerning such beneficial owners.

* * * * *

5. By revising paragraphs (e)(2)(i) and (f)(1), removing current paragraph (j), redesignating paragraphs (g) through (i) as (h) through (j), adding new paragraph (g) and revising newly redesignated paragraph (h) of § 240.14b-2 to read as follows:

§ 240.14b-2 Obligation of banks, associations and other entities that exercise fiduciary powers in connection with the prompt forwarding of certain communications to beneficial owners.

* * * * *

(e) * * *

(2) * * *

(i) With respect to customer account opened on or before December 28, 1986, beneficial owners of the registrant's securities on whose behalf it holds securities who have consented affirmatively to disclosure of such information, subject to paragraph (i) of this section; and

* * * * *

(f) * * *

(1) Its obligations under paragraphs (b), (c), (e) and (i) of this section if a registrant does not provide assurance of reimbursement of its reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b), (c), (e) and (i) of this section; or

* * * * *

(g) With regard to beneficial owners of exempt employee benefit plan securities, shall not: (1) Include information in its response pursuant to paragraph (a) of this section; forward proxies (or in lieu thereof requests for voting instructions), proxy soliciting material, or annual reports to security holders pursuant to paragraph (c) of this section to such beneficial owners; or comply with any alternative to paragraph (c) of this section approved by the Commission pursuant to paragraph (d) of this section; or

(2) Include in its response pursuant to paragraphs (e) and (i) of this section data concerning such beneficial owners.

(h) For purposes of determining the fees which may be charged to registrants pursuant to § 240.14a-13(b)(5) and paragraph (f)(1) of this section for performing obligations under paragraphs (b), (c), (e) and (i) of this section, an amount no greater than that permitted to be charged by brokers or dealers for reimbursement of their reasonable expenses, both direct and indirect, incurred in connection with performing the obligations imposed by paragraphs (b) and (c) of § 240.14b-1 shall be deemed to be reasonable.

* * * * *

6. By revising paragraph (b), redesignating current paragraphs (d) through (j) as (e) through (k) and adding new paragraph (d) to § 240.14c-1 to read as follows:

§ 240.14c-1 Definitions.

* * * * *

(b) *Employee benefit plan.* For purposes of § 240.14c-7, the term "employee benefit plan" means any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive, pension or similar plan primarily for employees, directors, trustees or officers.

* * * * *

(d) *Exempt employee benefit plan securities.* For purposes of § 240.14c-7, the term "exempt employee benefit plan securities" means:

(1) Securities of the registrant held by an employee benefit plan, as defined in paragraph (b) of this section, where such plan is established by the registrant; or

(2) If notice regarding the current distribution of information statements has been given pursuant to § 240.14c-7(a)(1)(ii)(C) or if notice regarding the current request for a list of names, addresses and securities positions of beneficial owners has been given pursuant to § 240.14c-7(b)(3), securities of the registrant held by an employee benefit plan, as defined in paragraph (b) of this section, where such plan is established by an affiliate of the registrant.

* * * * *

7. By revising paragraphs (a)(1)(ii) (A) and (B), paragraph (a)(2), Note 3 to paragraph (a), paragraph (b)(3) and paragraph (d) and adding Note 4 to paragraph (a) and new paragraph (a)(1)(ii)(C) to § 240.14c-7 to read as follows:

§ 240.14c-7 Providing copies of material for certain beneficial owners. [Effective July 1, 1987]

(a) * * *

(1) * * *

(ii) * * *

(A) whether the registrant pursuant to paragraph (c) of this section, intends to distribute the annual report to security holders to beneficial owners of its securities whose names, addresses and securities positions are disclosed pursuant to § 240.14b-1(c) and § 240.14b-2(e)(2) and (3); (B) the record date; and (C) at the option of the registrant, any employee benefit plan established by an affiliate of the registrant that holds securities of the registrant that the registrant elects to treat as exempt employee benefit plan securities;

(2) Upon receipt of a record holder's or respondent bank's response indicating, pursuant to § 240.14b-2(a)(1), the names and addresses of its respondent banks, within one business day after the date such response is received, make an inquiry of and give notification to each such respondent bank in the same manner required by paragraph (a)(1) of this section; *Provided, however,* the inquiry required by paragraphs (a)(1) and (a)(2) of this section shall not cover beneficial owners of exempt employee benefit plan securities;

* * * * *

Note 3: The attention of registrants is called to the fact that each broker and dealer has an obligation pursuant to applicable self-regulatory organization requirements to obtain and forward, in a timely manner, (a) information statements to beneficial owners on whose behalf it holds securities, and (b) annual reports to security holders to beneficial owners on whose behalf it holds securities, unless the registrant has notified the broker or dealer that it has assumed responsibility to mail such material to beneficial owners whose names, addresses and securities positions are disclosed pursuant to § 240.14b-1(c).

Note 4: The attention of registrants is called to the fact that registrants have an obligation, pursuant to paragraph (d) of this section, to cause information statements and annual reports to security holders to be furnished, in accordance with § 240.14c-2, to beneficial owners of exempt employee benefit plan securities.

(b) * * *

* * * * *

(3) Make such request to the following persons that hold the registrant's securities on behalf of beneficial owners: all brokers, dealers, banks, associations and other entities that exercise fiduciary powers; *Provided, however,* such request shall not cover beneficial owners of exempt employee benefit plan securities as defined in § 240.14a-1(d)(1); and, at the option of the registrant, such request may give notice of any employee benefit plan established by an affiliate of the registrant that holds securities of the registrant that the registrant elects to treat as exempt employee benefit plan securities;

* * * * *

(d) If a registrant furnishes information statements to record holders and respondent banks who hold securities on behalf of beneficial owners, the registrant shall cause information statements and annual reports to security holders to be furnished, in accordance with § 240.14c-2, to beneficial owners of exempt employee benefit plan securities.

8. By adding the word "and" at the end of paragraph (a)(9)(i) and adding an introductory clause to paragraph (a)(9)(ii) of § 240.17a-3 to read as follows:

§ 240.17a-3 Records to be made by certain exchange members, brokers and dealers.

(a) * * *

(9) * * *

(ii) Except with respect to exempt employee benefit plan securities as defined in § 240.14a-1(d), but only to the extent such securities are held by employee benefit plans established by the issuer of the securities, * * *

* * * * *

By the Commission.
Jonathan G. Katz,
Secretary
April 27, 1988.

[FR Doc. 88-10197 Filed 5-6-88; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM88-16-000; Order No. 495]

Regulations Amending Commission Review of Contested DOE Remedial Orders

Issued: April 25, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising the procedures for Commission review of contested Department of Energy (DOE) remedial orders. These revised procedures provide that participants will have 15 days to file written comments with the Commission on the presiding officer's decision and proposed order and seven days to file reply comments. The Commission will consider these comments in its final order affirming, modifying or vacating the contested DOE remedial order.

EFFECTIVE DATE: April 25, 1988.

FOR FURTHER INFORMATION CONTACT: Julia Lake White, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: .

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon and Charles A. Trabandt.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is revising the procedures for Commission review of contested Department of Energy (DOE) remedial orders. These revised procedures provide that participants will have 15 days to file written comments with the Commission on the presiding officer's decision and proposed order and seven days to file reply comments. The Commission will consider these comments in its final order affirming, modifying or vacating the contested DOE remedial order.

II. Background and Discussion

Section 503(c) of the Department of Energy Organization Act [1] authorizes the Commission to review contested remedial orders issued by the Office of Hearings and Appeals of the Department of Energy (DOE) to parties in violation of the DOE's Mandatory Petroleum Price Regulations.[2] DOE's regulations were promulgated to effectuate the statutory mandates of the Emergency Petroleum Allocation Act of 1973 (EPAA).[3] The Commission's procedures for review of contested DOE remedial orders are contained in Subpart I of Part 385, in the Commission's regulations.[4]

Under the Commission's current regulations, at the conclusion of the Commission's proceeding to review DOE's remedial order, the presiding officer certifies the proposed findings of fact and conclusions of law with a copy of the record of the proceedings to the Commission.[5] The Commission then issues a final order affirming, modifying or vacating the contested DOE remedial order, or directs other appropriate relief.[6]

In this final rule, the Commission is revising § 385.913 of its regulation to provide that participants will have 15 days to file with the Commission written comments on the presiding officer's decision and proposed order. Under § 385.913, participants will then have seven days to file reply comments in the proceeding. These written comments must be limited to 15 pages, double spaced, unless otherwise ordered by the Chief Administrative Law Judge.

III. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant effect on the human environment.[7] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[8] No environmental consideration is necessary for the promulgation of a rule that is procedural or that does not substantially change the effect of the regulations being amended.[9] This final rule is procedural in nature. It requires the Commission to give notice and allow an opportunity for comment on a proposed initial decision in a contested DOE remedial order proceeding. Thus, no environmental assessment or environmental impact statement is necessary for the requirements of this final rule.

IV. Paperwork Reduction Act Statement

The Paperwork Reduction Act (PRA),[10] and the Office of Management and Budget's (OMB) regulations,[11] require that OMB approve certain information collection requirements imposed by an agency. The information collection requirements provided for in this rulemaking do not require OMB approval since this information is being collected as part of a general solicitation of fact or opinion from the public as provided in OMB regulations.[12] Therefore, this rule will not be submitted to OMB for review or approval.

V. Effective Date

This final rule is a matter of agency organization, procedure and practice. Since this rule does not itself alter the substantive rights or interests of any interested persons, although it does alter the manner in which these persons present their viewpoints to the Commission, prior notice and comment are unnecessary under section 4 of the Administrative Procedure Act.[13] Therefore, the Commission finds good cause to make this rule effective immediately upon issuance.

List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 385, Chapter I of Title 18, Code of Federal Regulations, as set forth below, effective April 25, 1988.

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[1] 42 U.S.C. 7193(c) (1982).

[2] 10 CFR Part 212 (1987).

[3] 15 U.S.C. 751 *et seq.* (1982).

[4] 18 CFR 385.901-917 (1987).

[5] 18 CFR 385.913 (1987).

[6] 18 CFR 385.914 (1987).

[7] "Regulations Implementing National Environmental Policy Act," Order No. 486, 52 FR 47897 (Dec. 17, 1987), III FERC Stats. & Regs. ¶30,783 (Dec. 10, 1987), to be codified at 18 CFR 380.2(a) and 380.4(a).

[8] *Id.* to be codified at § 380.4.

[9] *Id.*, to be codified at § 380.4(a)(2)(ii).

[10] 44 U.S.C. 3501-3520 (1982).

[11] 5 CFR 1320.12 (1987).

[12] 5 CFR 1320.7(k)(4) (1987).

[13] 5 U.S.C. 553(b) (1982).

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 385 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Administrative Procedure Act, 5 U.S.C. 551–557 (1982); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 15 U.S.C. 717–717w (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976).

2. Section 385.913 is revised to read as follows:

§ 385.913 Proposed order (Rule 913).

(a) After the conclusion of the hearing and after the filings under Rule 912 (a) and (b), (proposed findings of fact, conclusions of law, and comments) the presiding officer will issue a decision and proposed order based on findings of fact affirming, modifying, or vacating the contested order or directing other appropriate relief. The proposed order will be based on the entire record before the presiding officer, including the record of prior proceedings certified by the Secretary.

(b) Participants may file with the Secretary of the Commission, within 15 days of issuance of the proposed order of the presiding officer, written comments on the presiding officer's decision and proposed order.

(c) Participants may file with the Secretary of the Commission, within seven days of the end of comment period prescribed in paragraph (b) of this section, reply comments limited to a response to any arguments and issues raised in the written comment.

(d) The presiding officer will certify and file with the Secretary of the Commission a copy of the record in the proceedings and copies of the written and reply comments filed pursuant to paragraphs (b) and (c) of this section. The presiding officer will also submit to the Commission a revised proposed order.

(e) Unless otherwise ordered by the Chief Administrative Law Judge, written comments and reply comments must be limited to 15 pages, doublespaced.

[FR Doc. 88–10253 Filed 5–6–88; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8179]

Organizations Under Common Control; Eighty Percent Control Test For a Brother-Sister Controlled Group

AGENCY: Internal Revenue Service, Treasury.

ACTION: Corrections to final regulations.

SUMMARY: This document contains corrections to Treasury Decision 8179, which was published in the Federal Register for Wednesday, March 2, 1988 (53 FR 6603). T.D. 8179 issued final regulations and withdrawal of temporary regulations relating to organizations under common control for purposes of certain rules relating to pension, profit-sharing, and stock bonus plans.

FOR FURTHER INFORMATION CONTACT: Patricia Pellervo, 202–566–3458 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The regulations that are the subject of these corrections relate to the aggregation of employees of members of a group of corporations, trades, or businesses that are under common control.

Need For Corrections

As published, Treasury Decision 8179 contains errors (in the instructional paragraphs) on page 6605, second column.

Corrections of Publication

Accordingly, the publication of Treasury Decision 8179, which was the subject of FR. Doc. 88–4238, items 1 and 2 of Par. 2 are corrected to read as follows:

Par. 2. Section 1.52–1 is amended as follows:

1. Paragraphs (c)(1)(i) and (c)(1)(ii) are amended by removing "§ 11.414(c)–4(b)(1)" and adding instead "§ 1.414(c)–4(b)(1)".

2. Paragraph (d)(1)(i) is amended by removing § 11.414(c)–4 and adding instead § 1.414 (c)–4 and by removing ", singly or in combination, ".

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 88–10099 Filed 5–6–88; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Bureau of Land Management

30 CFR Parts 210 and 216

43 CFR Part 3160

Onshore Oil and Gas Production Accounting, Transfer of Responsibility

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is issuing this final rulemaking to amend its regulations governing production accounting at 30 CFR Part 216 to add a requirement for lease operators to report onshore production data to MMS. This final rule provides for the transfer of responsibility for production reporting for onshore Federal and Indian oil and gas leases from the Bureau of Land Management (BLM) to MMS.

A phased conversion schedule will be followed to accomplish the transfer of production reporting from BLM to MMS. Due to the phased conversion, the existing BLM regulations at 43 CFR Part 3160 will remain in effect until the transfer is completed. However, this final rulemaking amends 43 CFR Part 3160 to provide instructions to operators during the conversion.

This final rulemaking also amends 30 CFR Part 210 to add a reference to an "Onshore Production Reporter Handbook" which will be distributed to all operators and will provide specific guidance on how to prepare and submit the required production data to MMS.

EFFECTIVE DATE: June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231–3432, (FTS) 326–3432.

SUPPLEMENTARY INFORMATION: The principal author of this rulemaking is Gregory Smith of the Production Accounting Division of the Royalty Management Program, MMS.

I. Background

At the Secretary of the Interior's request, a study was performed within the Department of the Interior (DOI) to determine the feasibility of extending the reporting requirements of the Production Accounting and Auditing System (PAAS) to onshore oil and gas leases. The Secretary also directed that the Royalty Management Advisory

Committee (RMAC) propose recommendations on the issue.

The DOI study, called the "Mineral Lease Information Study" (MLIS), concluded in a September 1986 report that onshore implementation of PAAS would be fiscally attractive to the Government and would offer several advantages to lease and royalty management programs. However, there would be a substantial increase in industry's costs of reporting. The RMAC panel recommended that DOI computerize the existing production report (Form BLM 3160-6) submitted to the BLM and use data from this form to effect systematic production/sales comparisons.

Because of the RMAC panel's recommendations, the Secretary directed, in March 1987, that an addendum to the MLIS report be completed to analyze various options of implementing the panel's recommendations. This addendum concluded that automation of a slightly modified version of the existing form should occur and that MMS should become responsible for the receipt, edit/error correction, and distribution of the data to BLM, the Bureau of Indian Affairs (BIA), States, and Indian Tribes.

Based on these studies, the Secretary decided in June 1987 that:

—Responsibilities for receipt and processing of production data should be transferred from BLM to MMS,
—Operators of Federal and Indian onshore oil and gas leases should continue to report production data on the existing production report which will be slightly modified, and
—The MMS should distribute production data to all users.

II. Summary of Rule Adopted

On January 15, 1988, MMS published a Notice of Proposed Rulemaking in the **Federal Register** (53 FR 1039) to amend its regulations to provide for lease operators to report onshore production data to MMS. The amendments being adopted are substantially the same as the proposed amendments. Therefore, much of the discussion in the preamble to the proposed amendments applies to the final amendments. The proposed rulemaking provided for a 30-day public comment period which ended February 16, 1988. Based on comments received from the public on the proposed amendments, certain changes were made. These changes are discussed below in Section III, Comments Received on Proposed Rule.

Onshore production data will be reported to MMS on the new Form MMS-3160 described in the proposed rule. Section 216.10 of the adopted rule provides for obtaining information reporting forms from MMS including the Form MMS-3160.

Specific and detailed guidance for preparation of the Form MMS-3160 will be forthcoming in an "PAAS Onshore Oil and Gas Reporter Handbook" to be distributed to all operators. This final rulemaking includes the addition of a reference to the "PAAS Onshore Oil and Gas Reporter Handbook" in §§ 210.53 and 216.15.

III. Comments Received on Proposed Rule

One commenter requested that MMS allow operators to also report the currently reported operator well number on the Form MMS-3160 in addition to requiring reporting by API well number.

MMS Response: The MMS will allow the operator well number on the Form MMS-3160.

One commenter requested that MMS provide operators with both the BLM and MMS lease/agreement numbers during the conversion phase, presumably for facilitating communication with each agency.

MMS Response: The BLM and MMS have synchronized the relevant data bases [BLM's Automated Inspection Records System (AIRS) and MMS's Production Accounting and Auditing System (PAAS)] with the same lease/agreement numbers. As a result, operators will be able to refer to one unique number for any particular lease or agreement when communicating with either BLM or MMS for production-related inquiries.

Three commenters requested that the due date for the Form MMS-3160 be changed to the 15th day of the second month following the month being reported to allow more time for gas reporting and to be consistent with the due date for the Form MMS-4054.

MMS Response: The MMS agrees and has changed the due date for Form MMS-3160 in the adopted regulation to the 15th day of the second month following the month being reported.

Two commenters provided miscellaneous comments relative to the "PAAS Onshore Oil and Gas Reporter Handbook."

MMS Response: The comments have been reviewed and have been incorporated into the handbook, as appropriate.

One commenter stated that companies reporting on the standard PAAS forms, including Form MMS-4054, incur a greater exposure to penalties.

MMS Response: The line-item approach to assessments will apply to both the Form MMS-3160 and the Form MMS-4054. The MMS will not issue reporting assessments for any onshore operators until all onshore operators have been converted and are reporting production data for all leases/agreements to MMS.

Three commenters stated that the current regulations provide for a 1-year notification of any change to production reporting requirements. These commenters further stated that only a 2-week period was allowed to comment on the proposed rule.

MMS Response: Final rulemaking by MMS on PAAS reporting and recordkeeping requirements was published in the **Federal Register** on March 7, 1986 (51 FR 8168) and codified in the Code of Federal Regulations at 30 CFR Part 216. Section 216.20 provides for a 1-year advance notice prior to the application of the existing PAAS reporting requirements to operators not already reporting to the PAAS on April 7, 1986. The existing PAAS reporting requirements, at that time, included the standard PAAS forms as originally designed—Forms MMS-4050 through 4061. The Form MMS-3160 was not a PAAS reporting requirement on April 7, 1986. Because operators are currently required to report production data to BLM, the new MMS requirements do not impose substantially additional requirements. The proposed rule provided for a 30-day public comment period.

Five commenters stated that the onshore reporting changes would inflict paperwork hardships and associated increased costs on industry. One of these commenters explained that the increased burden would be caused by changes in reporting method, office identification numbers, and data elements reported. Two of these commenters thought that the present system is good and that currently-reported information is sufficient for MMS.

MMS Response: The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) requires that the Department of the Interior develop a comprehensive production accounting and auditing system. The primary reason for developing a system to automate the existing production reports rather than requiring reporting on standard PAAS forms was to minimize reporting burdens to industry. This decision was based mostly on a recommendation of an RMAC panel which included four industry representatives who surveyed many other industry personnel during their deliberations. Changes to current reporting include only those items (mostly identifying numbers) needed to automate the data and to allow for production/sales comparisons. The format of the report is essentially unchanged. The MMS feels that although some up-front costs will be incurred by industry to incorporate new identifying numbers into files/systems, the proposed changes are quite minor.

Two commenters said that the 30-day operator notification period before each phase of conversion was too short. Another commenter requested that conversion correspondence should be sent to an official designated by the operator and that the 30-day compliance be conditioned on the date of receipt of notification.

MMS Response: The MMS agrees and has changed the official notification period to 60 days. As an additional notification procedure, MMS has and will continue to send updates to the conversion schedule to each operator when and if they occur. Individual companies are welcome to identify and inform MMS of official designees to receive conversion correspondence.

One commenter requested that conversion phases not include areas smaller than a State because this may fragment a company's recordkeeping procedures.

MMS Response: The MMS agrees and, except for an initial pilot phase of leases/agreements under the jurisdiction of BLM's Rawlins (Wyoming) District Office, conversion phases will include areas at least as large as one State.

One commenter stated that any further changes to onshore reporting requirements should require new regulations.

MMS Response: The MMS agrees that any further substantial changes should require publication of both proposed and final regulations.

One commenter requested that once the initial phase of conversion is underway, operators be given the option of reporting their unconverted leases/agreements to BLM on either the existing production report (BLM Form 3160–6) or the Form MMS–3160.

MMS Response: The BLM and MMS agree and have changed the provisions of 43 CFR Part 3160 to reflect this option. The BLM will accept either the Form MMS–3160 or the BLM Form 3160–6 for unconverted leases/agreements once the initial phase of conversion is underway.

Three commenters thought that any present or future requirement to submit reports detailing gas analysis and/or operations at gas or fractionation plants is not justified. One of these commenters further stated that there is no justification for requiring these reports from those companies reporting onshore operations on standard PAAS forms, while not requiring these reports from other companies.

MMS Response: The Department is currently assessing the usefulness and cost effectiveness of requiring gas analysis and gas/fractionation plant reports for onshore production. The MMS provides companies who currently report on standard PAAS forms (including gas analysis and plant reports) the option of continuing such reporting or adopting the Form MMS–3160 as the onshore production report.

The Council of Energy Resource Tribes thought that MMS's intended treatment of confidential production data was appropriate. One commenter stated that no production data should be treated as confidential, while another commenter felt that all production data should be treated as confidential. One commenter stated that all Indian production data is confidential in nature. Two additional commenters stated that MMS should allow operators to label certain reports as confidential and honor these requests for confidential treatment.

MMS Response: It is MMS's position that production data related to Federal leases/agreements and Indian leases involved in a unitization or communitization agreement containing non-Indian leases are not confidential in nature. The basis for this position is that the data are nonfiscal in nature and are generally available through commercial information services or through State governmental agencies. Production data from Indian leases involved in agreements that include non-Indian leases are not considered confidential because production data from the entire agreement and from the non-Indian leases is likely to be publicly available. Because this data is available, the production data on the Indian leases could be determined. However, an exception to this position may be certain production data specifically protected by statute. For example, the Indian Mineral Development Act of 1982 (IMDA), 25 U.S.C. 2101–2108, states that "* * * information possessed by the Department regarding * * * the production, products or proceeds thereof, shall be held by the [Department] as a privileged proprietary information of the affected Indian or Indian Tribe." This language may require the Department to protect production data related to any IMDA leases which may be involved in units including non-Indian leases.

Production data from leases/agreements that have *only* Indian interests will be considered confidential. This position is based on extensive Departmental precedent with regard to Indian mineral lease data. Certain data that industry claims as confidential, such as "tight hole" data or test production data will be protected if MMS so classifies the data. Operators must petition MMS for such classifications, which will be reviewed on a case-by-case basis. Requests for confidential classification must be submitted in writing to the Chief, Production Accounting Division, Royalty Management Program, MMS, prior to submitting the first report for which confidential status is desired. Requests must provide justification why the data should be designated as confidential.

A new subsection has been added to 30 CFR 216.50 stating that all other information will be released.

Two commenters requested that the Department consider well-level reporting of sales volumes and quality in addition to the currently-reported well production volumes and lease/agreement sales volumes/quality data.

MMS Response: Implementation of this proposal would require more detailed onshore production reporting and would, therefore, cause impacts to Departmental Agencies (BLM and MMS) and industry. The Department is currently assessing these impacts. If a decision is made to implement the proposal, a separate proposed rulemaking would be issued and comments would be solicited.

Two commenters expressed concern that production data will not be expeditiously provided to royalty owners. One of these commenters stated that a 3- to 6-month delay in receiving the information will occur because of this delay. This commenter requested that MMS require operators to submit reports both to royalty owners and to MMS.

MMS Response: Onshore production reports will be due on or before the 15th day of the second month following the period of production. After the end of this month, MMS will send the production data to States, tribes, and BIA. The MMS feels that this constitutes expeditious provision of data to royalty owners. In addition, MMS will provide the production data to BLM on a bi-weekly basis. The MMS does not require duplicate submission of reports and will not interfere with arrangements by royalty owners to acquire such reports from operators.

One commenter expressed concern that royalty owners would have more difficulty than now exists in gaining access to source documents for production data.

MMS Response: The MMS will provide monthly reports of production data to offices of State and tribal royalty owners and to the BIA for tribal and individual Indian royalty owners. These reports, which will be sent directly to state, tribal, and BIA offices, will eliminate the current necessity of royalty owners having to contact BLM offices for production data. This service, which the Department has not provided in the past, will especially benefit those royalty owners living far from BLM offices. Overall, access to production data by royalty owners will be improved.

One commenter stated that BIA should be allowed to provide comments on the onshore production system and that training in the use of the system should be provided to tribal personnel.

MMS Response: The MMS agrees. The BIA has been involved and has received and commented on the format of reports planned for distribution to tribes and BIA. Upon request, tribal personnel will be provided training in production reporting requirements, system processing, and content and meaning of output reports provided to tribes and BIA.

IV. Conversion Schedule

A phased conversion schedule will be followed to accomplish the transfer of production accounting from BLM to MMS. Due to the phased conversion, the existing BLM regulations at 43 CFR Part 3160 will remain in effect until the conversion is completed. However, this final rule amends 43 CFR Part 3160 to provide instructions to operators during the conversion. Operators are required to continue reporting production data to BLM on BLM Form 3160-6 until such time as they are notified to begin reporting to MMS. Notification will include start-up schedules, specific reporting guidelines, and facsimile (sample) reports to guide initial reporting.

In Phase 1a of the conversion schedule, only production reports (Form MMS-3160) related to production on leases/agreements under the jurisdiction of the Rawlins, Wyoming, BLM District Office will be due for receipt by MMS in Lakewood, Colorado. In Phase 1b of the schedule, only reports under the jurisdiction of the Colorado, Montana, and Utah BLM State Offices and the remaining reports under the jurisdiction of the Wyoming BLM State Office will be due for receipt by MMS. In Phase 2, production reports related to production on leases/agreements under the jurisdiction of the Eastern States, Nevada, California, and Alaska BLM State Offices will be due for receipt by MMS. In Phase 3, production reports related to production on leases/agreements under the jurisdiction of the BLM Tulsa District Office will be due for receipt by MMS. In Phase 4, production reports related to production on all other leases/agreements under the jurisdiction of the New Mexico BLM State Office will be due for receipt by MMS.

The effective date of this final rule is June 1, 1988. Consequently, all operators of leases under the jurisdiction of the Rawlins, Wyoming, BLM District Office (Phase 1a of the conversion schedule), should begin reporting onshore production data to MMS on the new Form MMS-3160 for the April 1988 report month, due to MMS by June 15, 1988. The MMS will publish a notice in the **Federal Register** on the receipt due date for the other phases of the conversion schedule at least 60 days prior to the date required. Each operator will be given written notice to begin reporting to MMS on the Form MMS-3160 at least 60 days before the beginning of the production month for which they are being converted.

The conversion schedule may be delayed if BLM or MMS experiences significant difficulty in preparatory work related to this transfer of responsibilities. Likewise, the conversion schedule may be delayed if the error rate for reports in any phase remains at a high level for 3 months after conversion.

Operators submitting corrected/amended reports for reporting periods prior to the effective date of this rule should submit them to the appropriate BLM office. Those reports may be submitted on either the Form MMS-3160 or Form BLM 3160-6. However, all corrected/amended reports for prior periods must show the same well numbers as shown on the original submission.

V. Procedural Matters

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rulemaking establishes in MMS regulations a reporting requirement that currently exists in BLM regulations, with a few additions to the information collection requirements.

Administrative Procedure Act

Congress has recognized the need for MMS to improve its production accounting system. The MMS needs to begin implementation of the conversion as soon as possible, and since the new reporting requirements are not a significant change, MMS has determined that in accordance with 5 U.S.C. 553(d), there is good cause to make this rule effective June 1, 1988.

Paperwork Reduction Act of 1980

The information collection requirements contained in § 216.50 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 et seq. and assigned clearance number 1010-0040.

National Environmental Policy Act of 1969

The Department of the Interior has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

List of Subjects

30 CFR Part 210

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 216

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3160

Government contracts, Indian-lands, Mineral royalties, Oil and gas exploration, Penalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

Date: April 21, 1988.

James E. Cason,

Deputy Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR Parts 210 and 216 and 43 CFR Part 3160 are amended as set forth below:

TITLE 30—MINERAL RESOURCES

CHAPTER II—MINERALS MANAGEMENT SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER A—ROYALTY MANAGEMENT

PART 210—FORMS AND REPORTS

1. The authority citation for Part 210 continues to read as follows:

Authority: 25 U.S.C. 396 et seq.; 25 U.S.C. 396a et seq.; 25 U.S.C. 2101 et seq.; 30 U.S.C. 181 et seq.; 30 U.S.C. 351 et seq.; 30 U.S.C. 1001 et seq.; 30 U.S.C. 1701 et seq.; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801 et seq.

2. Section 210.53(a) is revised to read as follows:

§ 210.53 Reporting instructions.

(a) Specific guidance on how to prepare and submit required information collection reports and forms to MMS is contained in the *Auditing and Financial System (AFS) Oil and Gas Payor Handbook, Production Accounting and Auditing System (PAAS) Reporter Handbook, and PAAS Onshore Oil and Gas Reporter Handbook* which are available from: Minerals Management Service, Attention: Lessee(or Reporter) Contact Branch, P.O. Box 17110, Denver, Colorado 80217.

* * * * *

PART 216—PRODUCTION ACCOUNTING

1. The authority citation for Part 216 continues to read as follows:

Authority: 25 U.S.C. 396 et seq.; 25 U.S.C. 396a et seq.; 25 U.S.C. 2101 et seq.; 30 U.S.C. 181 et seq.; 30 U.S.C. 351 et seq.; 30 U.S.C. 1001 et seq., 30 U.S.C. 1701 et seq.; 43 U.S.C. 1301 et seq.; 43 U.S.C. 1331 et seq.; and 43 U.S.C. 1801 et seq.

2. Section 216.10 is revised to read as follows:

§ 216.10 Information collection.

The information collection requirements contained in Part 216 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* The forms and approved OMB clearance numbers are as follows:

Form No., name and filing date	OMB No.
MMS-3160—Monthly Report of Operations—due by the 15th day of the second month following the production month	1010-0040
MMS-4050—Mine Information Report—due at the request of MMS during the initial conversion of the mine/lease to the PAAS	1010-0063
MMS-4051—Facility and Measurement Information Form and Supplement—due at the request of MMS during the initial conversion of the facility and measurement device operators to the PAAS	1010-0040
MMS-4052—Well Information Form—due at the request of MMS during the initial conversion of the lease and agreement operators to the PAAS	1010-0040
MMS-4053—First Purchaser Report—due at the request of MMS	1010-0040
MMS-4054—Oil and Gas Operations Report—due by the 15th day of the second month following the production month	1010-0040
MMS-4055—Gas Analysis Report—due by the 15th day of the second month following the production month	1010-0040
MMS-4056—Gas Plant Operations Report—due by the 15th day of the second month following the production month	1010-0040
MMS-4057—Fractionation Plant Operations Report—due by the 15th day of the second month following the production month	1010-0040
MMS-4058—Production Allocation Schedule Report—due by the 15th day of the second month following the production month	1010-0040
MMS-4059—Solid Minerals Operation Report—due by the 15th day of the second month following the production month	1010-0063
MMS-4060—Solid Minerals Facility Report—due by the 15th day of the second month following the production month	1010-0063
MMS-4061—API Well Number Change Report—due 10 days prior to submission of Form MMS-4054	1010-0040

The information is being collected by the Department of the Interior to meet its congressionally mandated accounting and audit responsibilities relating to Federal and Indian mineral royalty management. The information collected will be used to permit accounting and auditing of production information submitted by the reporter for mineral production from Federal and Indian leases and federally approved agreements. The reports are mandatory. Information reporting forms are available from MMS. Requests shall be addressed to: Minerals Management Service, Royalty Management Program, P.O. Box 17110, Denver, Colorado 80217.

3. Section 216.15 is revised to read as follows:

§ 216.15 Reporting instructions.

(a) Specific guidance on how to prepare and submit required information collection reports and forms to MMS is contained in the *Production Accounting and Auditing System (PAAS) Reporter Handbook, and PAAS Onshore Oil and Gas Reporter Handbook,* which are available from: Minerals Management Service, Attention: Reporter Contact Branch, P.O. Box 17110, Denver, Colorado 80217.

(b) Production reporters should refer to these handbooks for specific guidance with respect to production reporting requirements. If additional information is required, the reporter should contact the MMS Reporter Contact Branch at the above address. The telephone number is listed in the handbooks.

4. Section 216.40(c) is revised to read as follows:

§ 216.40 Assessments for incorrect or late reports and failure to report.

* * * * *

(c) For purposes of oil and gas reporting under the PAAS, a report is defined as each line of production information required on the Monthly Report of Operations (Form MMS-3160), Oil and Gas Operations Report (Form MMS-4054), Gas Analysis Report (Form MMS-4055), Gas Plant Operations Report (Form MMS-4056), Fractionation Plant Operations Report (Form MMS-4057), and Production Allocation Schedule Report (Form MMS-4058).

* * * * *

5. Section 216.50 is added to read as follows:

§ 216.50 Monthly report of operations.

(a) Notwithstanding the provisions of §§ 216.6(e) and 216.20 of this part, an operator will be required to comply with the requirements of this section at the beginning of the production month that is more than 60 days after MMS notifies the operator that it is subject to the requirements of this section. Until this section is applicable, operators shall continue to be subject to the reporting requirements of 43 CFR Part 3160.

(b) A Monthly Report of Operations (Form MMS-3160) must be filed by each operator of each onshore Federal or Indian lease or agreement containing at least one well not permanently plugged and abandoned unless production data is authorized to be reported on Form MMS-4054. This requirement does not apply to reporting of operations of gas storage agreements, which will continue to be reported to the appropriate BLM Office. A completed Form MMS-3160 must be filed for each calendar month, beginning with the month in which drilling operations are initiated, and must be filed on or before the 15th day of the second month following the month being reported until the lease or agreement is terminated, or the last well is approved as permanently plugged or abandoned by BLM, or until monthly omission of the report is authorized by the MMS. The MMS may grant time extensions for filing Form MMS-3160 on a case-by-case basis upon written request to the Chief, Production Accounting Division, Royalty Management Program, MMS.

(c) Specific and detailed guidance on how to prepare and submit the required production data on the Form MMS-3160 are contained in the MMS *PAAS Onshore Oil and Gas Reporter Handbook.* See § 216.15 of this part.

(d)(1) Operators already reporting onshore lease production data to MMS in accordance with § 216.54 of this part on the effective date of this rule may request to change to the provisions of this section. Any request to change to the requirements of this section must be made by advance written notice to MMS and have MMS approval.

(2) An operator who reports production data to MMS for offshore leases in accordance with § 216.54 of this part may request to report for its onshore leases in accordance with the requirements of that section. Any such request must be made by advance written notice to MMS and have MMS approval.

(e)(1) Except where disclosure is required by law, information submitted on Form MMS-3160 that MMS classifies as confidential will be protected as such by both MMS and BLM for the period of 1 year. Operators must petition MMS for each lease or agreement to obtain a confidential classification and to extend the classification period beyond 1 year.

(2) Except as provided by statute, information submitted on Form MMS-3160 in regard to Federal leases and Indian leases which are part of a unit containing non-Indian leases is not considered to be confidential.

(3) Except where disclosure is required by law, all information submitted on Form MMS-3160 in regard to Indian leases, other than those included in paragraph (e)(2) of this section, will be considered to be confidential.

(4) Except as provided in this subsection, all other information will be released.

TITLE 43—PUBLIC LANDS: INTERIOR

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 3160—ONSHORE OIL AND GAS OPERATIONS—GENERAL

1. The authority citation for Part 3160 continues to read as follows:

Authority: The Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351-359), the Act of May 21, 1930 (30 U.S.C. 301-306), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a-396q), the Act of February 28, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a-398e); the Act of June 30, 1919, as amended (25 U.S.C. 399), R.S. § 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), the Act of December 12, 1980 (42 U.S.C. 6508), the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97-78); the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.); and the Indian Mineral Development Act of 1982 (25 U.S.C. 2102).

2. Section 3162.4-3 of Subpart 3162—Requirements for Lessees and Operators, is amended by adding two sentences at the beginning of the introductory text to read as follows:

§ 3162.4-3 Monthly report of operations [Form 3160-6].

The operator shall report production data to BLM in accordance with the requirements of this section until required to begin reporting to MMS pursuant to 30 CFR 216.50. When reporting production data to BLM in accordance with the requirements of this section, the operator shall either use Form BLM 3160-6 or Form MMS-3160. * * *

* * * * *

[FR Doc. 88-10123 Filed 5-6-88; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 80480-8080]

Communications with the Office of the Solicitor

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; technical amendments.

SUMMARY: On March 24, 1987, final rules regarding the address of certain communications to the Patent and Trademark Office were issued. (52 FR 9394, March 24, 1987.) Also, on March 7, 1985 and August 11, 1986, final rules regarding the court review of decisions by the Patent and Trademark Office Board of Patent Appeals and Interferences and the Trademark Trial and Appeal Board, respectively, were issued. (50 FR 9383, March 7, 1985 and 51 FR 28710, August 11, 1987.)

This notice makes technical corrections to §§ 1.1, 1.302, and 2.145(b) by specifying the address to which correspondence should be sent to the Office of the Solicitor. The change reflects existing practice consistent with rules of court governing service of court papers on the Solicitor. The change also will expedite the processing of other non-court communications with the Office of the Solicitor.

EFFECTIVE DATE: June 9, 1988.

FOR FURTHER INFORMATION CONTACT: John H. Raubitschek by telephone at (703) 557-4035 or by mail marked to his attention and addressed to Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office (PTO) finds for good cause that because the technical changes made by this rule will have no substantive effect, it is unnecessary to seek prior public comment of this rule under 5 U.S.C. 553. Because a notice of proposed rulemaking and an opportunity for public comment is not required for this technical amendment, this rule is also exempt from the provisions of the Regulatory Flexibility Act requiring a regulatory flexibility analysis. The PTO has determined that this rule is not a major rule within the meaning of section 1(b) of Executive Order 12291. The PTO has also determined that this rule has no federalism implications affecting the relationship between the national government and the States as outlined in Executive Order 12612. This rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 37 CFR Parts 1 and 2

Administrative practice and procedure, Courts, Inventions and patents, Trademarks.

For the reasons set forth above, 37 CFR Parts 1 and 2 are amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

§ 1.1 [Amended]

2. Section 1.1 is amended by adding new paragraph (g).

* * * * *

(g) All communications relating to pending litigation which are required by the Federal Rules of Civil or Appellate Procedure or by a rule or order of a court to be served on the Solicitor shall be hand-delivered to the Office of the Solicitor or shall be mailed to: Office of the Solicitor, P.O. Box 15667, Arlington, Virginia 22215 or such other address as may be designated in writing in the litigation. All other communications to the Office of the Solicitor should be addressed to: Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231. Any communication which does not involve pending litigation which is received at P.O. Box 15667 will not be filed in the Office but will be returned. See §§ 1.302(c) and 2.145(b)(3) for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit.

§ 1.302 [Amended]

3. Section 1.302 is amended by adding new paragraph (c).

* * * * *

(c) A notice of appeal, if mailed to the Office, shall be addressed as follows: Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

4. The authority citation for 37 CFR Part 2 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6, unless otherwise noted.

§ 2.145 [Amended]

5. Section 2.145(b) is amended by adding new paragraph (b)(3).

* * * * *

(b)(3) The notice, if mailed to the Office, shall be addressed as follows: Box 8, Commissioner of Patents and Trademarks, Washington, DC 20231.

Date: May 3, 1988.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 88–10177 Filed 5–6–88; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 99

[Docket No. 16; Amdt. No. 99-14]

Employee Responsibilities and Conduct

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule amends 49 CFR Part 99, the Department of Transportation's regulations governing employee responsibilities and conduct by adding to Appendix A an exemption from the financial interests proscriptions of section 208(a) of title 18, United States Code, for participation in air carrier frequent flyers or similar programs by Department of Transportation officials and employees.

DATES: This rule is effective May 9, 1988.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Office of Environmental, Civil Rights and General Law, Room 10102, Department of Transportation; 400 Seventh Street, SW., Washington, DC 20590; (202) 366–9161.

SUPPLEMENTARY INFORMATION: This amendment exempts from the financial interests proscriptions of section 208(a) of title 18, United States Code, participation in air carrier frequent flyers or similar programs by Department of Transportation officials and employees. Under the terms of these programs, any consumer who travels a certain amount of miles via a particular air carrier is eligible to receive additional reduced rate air transportation on the air route systems of that air carrier. Air carriers are regulated and otherwise affected by the Department's programs.

The frequent flyers programs are analogous to various other commercial discounts carriers make available to the flying public at large, which discounts the Office of Government Ethics has ruled do not violate *per se* the Federal ethics laws. As with those discounts, frequent flyers participants may obtain reduced rate airfare subject to certain requirements and restrictions. Both the discounts and the frequent flyers programs are not aimed specifically in any way at Department of Transportation or any other Federal employees. The principal difference between the two is that the discounts provide immediate reductions in the cost of air travel while the frequent flyers programs provide a reduction in the future. Furthermore, the fact that many discount fares require purchase substantially in advance of use and are nonrefundable make the frequent flyers programs and these discounts even less distinguishable.

In addition, unlike those types of financial interests to which the 18 U.S.C. 208(a) proscriptions traditionally apply, such as stockholdings and similar types of direct investments in a business concern, the frequent flyers programs require no collateral or other type of direct financial investment in the carrier. Thus the loss of frequent flyers credits would not result in direct out of pocket financial loss to the program participant.

Under these circumstances, the Department has concluded that frequent flyers program participation results only in a financial interest, if any can be deemed to exist, that is too remote and too inconsequential to affect the integrity of the services of Departmental officers and employees. This exemption does not affect any Government rules proscribing employee personal use of frequent flyers credits earned on official business.

Since this amendment relates to Departmental procedures and practice, under 5 U.S.C. 553(b)(3)(A) and (d)(1),(3), notice and public comment on it are unnecessary and good cause exists for making it effective in less than 30 days after publication in the **Federal Register**. This action is taken pursuant to authority delegated by the Secretary (see memorandum dated May 4, 1988).

Issued in Washington, DC, on May 4, 1988.

B. Wayne Vance,

General Counsel, U.S. Department of Transportation.

List of Subjects in 49 CFR Part 99

Conflicts of interest, Ethics.

Accordingly, 49 CFR Part 99, Employee Responsibilities and Conduct, is amended to read as follows:

PART 99—[AMENDED]

1. The authority citation for Part 99 is revised to read as follows:

Authority: 49 U.S.C. 322; E.O. 11222, 3 CFR 1964–1965 Comp., p. 306.

2. 49 CFR Part 99 is amended by adding to Appendix A the following new paragraph I.(a)(3):

Appendix A [Amended]

I * * *

(a) * * *

(3) Participation in an air carrier frequent flyers or substantially similar program that is available to the general public on the same terms and conditions and involves no direct financial interest in the carrier, such as stockholdings or similar types of investment interests.

[FR Doc. 88–10339 Filed 5–5–88; 4:00 pm]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 80482-8082]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA announces the closure of the commercial salmon fishery in the U.S. exclusive economic zone (EEZ) from Sisters Rocks to Chetco Point, Oregon, at midnight, May 4, 1988, to ensure that the chinook salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with representatives of the Pacific Fishery Management Council and the Oregon Department of Fish and Wildlife (ODFW) that the commercial fishery quota of 7,500 chinook salmon for the subarea will be reached by that time. The closure is necessary to conform to the preseason announcement of 1988 management measures. This action is intended to ensure conservation of chinook salmon.

EFFECTIVE DATE: Closure of the U.S. EEZ from Sisters Rocks to Chetco Point, Oregon, to commercial salmon fishing is effective at 2400 hours local time, May 4, 1988. Comments on this closure will be received until May 19, 1988.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1988 were effective on May 1, 1988 (53 FR 16002, May 4, 1988). The 1988 commercial fishery for all salmon except coho from Sisters Rocks to Chetco Point, Oregon, was established as May 1, 1988, through the earlier of May 31, 1988, or the attainment of a quota of 7,500 chinook salmon.

Based on the best available information, the commercial fishery catch in the subarea is projected to reach the 7,500 chinook quota by midnight, May 4, 1988.

Therefore, NOAA issues this notice to close the commercial salmon fishery in the U.S. EEZ from Sisters Rocks to Chetco Point, Oregon, effective midnight, May 4, 1988. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and ODFW regarding a closure of the commercial fishery between Sisters Rocks and Chetco Point, Oregon. The ODFW representative confirmed that Oregon will close the commercial fishery in state waters adjacent to this subarea of the EEZ effective midnight, May 4, 1988.

The Secretary has determined that good cause exists for issuing this notice without affording a prior opportunity for public comment. Public comments will be accepted, however, for 15 days after the effective date of this notice.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: May 4, 1988.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-10250 Filed 5-4-88; 4:14 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 89
Monday, May 9, 1988

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

Guaranteed Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations to permit the payment of estimated loss claims while a borrower is engaged in a reorganization bankruptcy at the time the plan is confirmed by the bankruptcy court, and at the completion of the bankruptcy plan. This amendment is needed to remove an administration barrier to allow greater participation in the guaranteed loan program and to create a more cost effective program for the Government.

DATES: Comments must be submitted on or before June 8, 1988.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection under regular working hours at the above address. The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Pandor Hadjy, Senior Loan Officer, Farmer Program Loan Making Division, USDA, Room 5440-S, Washington, DC 20250, telephone (202) 475-4017.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291; and it has been determined to be non-major because there is no annual effect on the economy of $100 million or more; or a major increase in cost or prices for consumers, individual industry agencies, or geographic regions, or significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded with the exceptions of nonfarm enterprise activity from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loan and Business and Industrial Loan Programs are subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10. 406	Farm Operating Loans
10. 407	Farm Ownership Loans
10. 416	Soil and Water Loans
10. 422	Business and Industrial Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal Action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Discussion of the Proposed Rule

The agency is proposing to amend its guaranteed loan regulations to permit the payment of estimated loss claims, while a borrower is engaged in a reorganization bankruptcy at the time a plan is confirmed by the bankruptcy court, and at the completion of the bankruptcy plan, with regular annual payments to compensate the lender for any court ordered permanent reduction in the interest rate. This amendment is needed to remove an administrative barrier to allow greater participation in the guaranteed loan program and to create a more cost effective program for the Government. Under existing regulations, the only alternative in bankruptcy reorganization cases is to wait until the loan is paid in full which may be up to forty years, during which time the lender will continue to accrue interest on the principal portion of the loan which was written off by the bankruptcy court. The agency would then be obligated to pay on the loss sustained, including a loss of accured interest that would normally be at a rate in excess of the Government's cost of money.

In a bankruptcy the amount or terms of the debt may be changed by a confirmed reorganization plan resulting in an immediate and ascertainable loss to the creditor. It is more equitable that FmHA as the guarantor fulfill its obligation to the lender at the time the plan is confirmed rather than waiting until the plan is completed. On November 26, 1986, the United States Congress enacted the new Chapter 12 of the Bankruptcy Code. Under this legislation, farmers, are given the opportunity to reorganize their finances based on the value of the property held and pay off their delinquent debts over a three to five year period with the balance written off, rather than facing potential liquidation. Chapter 12 does not allow the creditor to veto the farmers' reorganization plan, have the bankruptcy proceedings dismissed, or have the proceedings converted to a Chapter 7 liquidation, except in cases where the borrower commits fraud in the bankruptcy plan.

Although participation in the guaranteed loan program administered by FmHA is increasing, many lenders are becoming reluctant to make agricultural loans and business and industry loans even with the benefit of a Government guarantee. Lenders that have a concentration of loan protfolio in agriculture are obviously more vulnerable when farm conditions deteriorate. Also, in order to generate increased revenue to cover loan losses lenders must increase interest rate and deny credit to certain types of applicants. Farmers and rural businesses are then faced with few alternative sources of credit, especially those in the most precarious financial situations who must obtain operating credit and credit necessary in connection with debt restructuring.

List of Subjects in 7 CFR Part 1980

Agriculture, Loan programs—agriculture

Therefore, Chapter XVII, Title 7, Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for Part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—General

§ 1980.68 [Redesignated from § 1980.67]

2. Existing § 1980.67 is redesignated as § 1980.68 and a new § 1980.67 is added to read as follows:

§ 1980.67 Bankruptcy.

(a) *Reference.* Refer to Subpart B, C, E or F of this part. Form FmHA 449–30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final loss determinations. Payments will be made in accordance with applicable FmHA regulations.

(b) *Lender's option.* If a lender has made a loan or line of credit guaranteed by FmHA under previous regulations, and the borrower has filed for protection under a reorganization bankruptcy, the lender has the option of requesting an estimated loss payment under the provisions of this part.

3. Appendix B is revised to read as follows:

BILLING CODE 3410-07-M

Position 5

Appendix B

USDA-FmHA
Form FmHA 449-35
(Rev. 4-88)

FORM APPROVED
OMB NO 0575-0024

LENDER'S AGREEMENT

Type of Loan: ______________ FmHA Loan Ident. No.

Applicable 7 CFR Part 1980 Subpart ______________________________

____

____ (Lender) of

____ has made a loan(s) to

____ (Borrower)

____ in the principal

amount of $ ______________ as evidenced by ______________ note(s)

(include Bond as appropriate) described as follows: ______________________

____

____

____

____

The United States of America, acting through Farmers Home Administration (FmHA) has entered into a "Loan Note Guarantee" (Form FmHA 449-34) or has issued a "Conditional Commitment for Guarantee" (Form FmHA 449-14) to enter into a Loan Note Guarantee with the Lender applicable to such loan to participate in a

percentage of any loss on the loan not to exceed ______________% of the amount of the principal advance and any interest (including any loan subsidy) thereon. The terms of the Loan Note Guarantee are controlling. In order to facilitate the marketability of the guaranteed portion of the loan and as a condition for obtaining a guarantee of the loan(s), the Lender enters into this agreement.

THE PARTIES AGREE:

I. The maximum loss covered under the Loan Note Guarantee will not exceed______________percent of the principal and accrued interest including any loan subsidy on the above indebtedness.

II. Full Faith and Credit. The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. Any note which provides for the payment of interest on interest shall not be guaranteed. Any Loan Note Guarantee or Assignment Guarantee Agreement attached to or relating to a note which provides for payment of interest on interest is void.

The Loan Note Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses will be unenforceable by the Lender to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent Lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

III. Lender's Sale or Assignment of Guaranteed Loan.

A. The Lender may retain all of the guaranteed loan. The Lender is not permitted to sell or participate any amount of the guaranteed or unguaranteed portion(s) of the loan(s) to the applicant or Borrower or members of their immediate families, their officers, directors, stockholders, other owners, or any parent, subsidiary or affiliate. If the Lender desires to market all or part of the guaranteed portion of the loan at or subsequent to loan closing, such loan must not be in default as set forth in the terms of the notes. The Lender may proceed under the following options:

This report contains certain agreements to provide future reports and information which must be agreed to by the Lender in order to obtain the benefit of an FmHA loan guarantee. This statement is furnished pursuant to P.L. 96-511

1. Assignment. Assign all or part of the guaranteed portion of the loan to one or more Holders by using Form FmHA 449-36, "Assignment Guarantee Agreement." Holder(s), upon written notice to Lender and FmHA, may reassign the unpaid guaranteed portion of the loan sold thereunder. Upon such notification the assignee shall succeed to all rights and obligations of the Holder(s) thereunder. If this portion is selected, the Lender may not at a later date cause to be issued any additional notes.

2. Multi-Note System. When this option is selected by the Lender, upon disposition the Holder will receive one of the Borrower's executed notes and Form FmHA 449-34, "Loan Note Guarantee" attached to the Borrower's note. However, all rights under the security instruments (including personal and/or corporate guarantees) will remain with the Lender and in all cases inure to its and the Government's benefit notwithstanding any contrary provisions of state law.

a. At Loan Closing: Provide for no more than 10 notes, unless the Borrower and FmHA agree otherwise, for the guaranteed portion and one note for the unguaranteed portion. When this option is selected, FmHA will provide the Lender with a Form FmHA 449-34, for each of the notes.

b. After Loan Closing:

(1) Upon written approval by FmHA, the Lender may cause to be issued a series of new notes, not to exceed the total provided in 2.a. above, as replacement for previously issued guaranteed note(s) provided:

(a) The Borrower agrees and executes the new notes.
(b) The interest rate does not exceed the interest rate in effect when the loan was closed.
(c) The maturity of the loan is not changed.
(d) FmHA will not bear any expenses that may be incurred in reference to such reissue of notes.
(e) There is adequate collateral securing the note(s).
(f) No intervening liens have arisen or have been perfected and the secured lien priority remains the same.

(2) FmHA will issue the appropriate Loan Note Guarantees to be attached to each of the notes then extant in exchange for the original Loan Note Guarantee which will be cancelled by FmHA.

3. Participations.

a. The Lender may obtain participation in its loan under its normal operating procedures. Participation means a sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

b. The Lender is required to hold in its own portfolio or retain a minimum of 10% of Farmer Program loans and 5% for Business and Industry Program loans of the total guaranteed loan(s) amount. The amount required to be retained must be of the unguaranteed portion of the loan and cannot be participated to another. The Lender may sell the remaining amount of the unguaranteed portion of the loan, except for Farmer Program loans, only through participation. However, the Lender will always retain the responsibility for loan servicing and liquidation.

B. When a guaranteed portion of a loan is sold by the Lender to a Holder(s), the Holder(s) shall thereupon succeed to all rights of Lender under the Loan Note Guarantee to the extent of the portion of the loan purchased. Lender will remain bound to all the obligations under the Loan Note Guarantee, and this agreement, and the FmHA program regulations found in the applicable Subpart of Title 7 CFR Part 1980, and to future FmHA program regulations not inconsistent with the express provisions hereof.

C. The Holder(s) upon written notice to the Lender may resell the unpaid guaranteed portion of the loan sold under provision III A.

IV. The Lender agrees loan funds will be used for the purposes authorized in the applicable Subpart of Title 7 CFR Part 1980 and in accordance with the terms of Form FmHA 449-14.

V. The Lender certifies that none of its officers or directors, stockholders or other owners has a substantial financial interest in the borrower The Lender certifies that neither the Borrower nor its officers or directors, stockholders, or other owners has a substantial financial interest in the Lender.

VI. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, Borrower's business, or any parent, subsidiaries, or affiliates since it requested a Loan Note Guarantee.

VII. Lender certifies that a loan agreement and/or loan instruments concurred in by FmHA has been or will be signed with the Borrower.

VIII. Lender certifies it has paid the required guarantee fee.

IX. Servicing.

A. The Lender will service the entire loan and will remain mortgagee and/or secured party of record, not withstanding the fact that another may hold a portion of the loan. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguranteed portions of the loan. Lender may charge Holder a servicing fee. The unguaranteed portion of a loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan.

B. Disposition of the guaranteed portion of a loan may be made prior to full disbursement, completion of construction and acquisitions only with the prior written approval of FmHA. Subsequent to full disbursement, completion of construction, and acquisition, the guaranteed portion of the loan may be disposed of as provided herein.

It is the Lender's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses or authorizations are obtained from the appropriate regulatory agencies; that the Borrower has obtained contracts through acceptable procurement procedures; that periodic inspections during construction are made and that FmHA's concurrence on the overall development schedule is obtained.

C. Lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements and notifying in writing FmHA and the Borrower of any violations. None of the aforesaid instruments will be altered without FmHA's prior written concurrence. The Lender must service the loan in a reasonable and prudent manner.

2. Receiving all payments on principal and interest (including any loan subsidy) on the loan as they fall due and promptly remitting and accounting to any Holder(s) of their pro rata share thereof determined according to their respective interests in the loan, less only Lender's servicing fee. The loan may be reamortized or renewed only with agreement of the Lender and Holder(s) of the guaranteed portion of the loan and only with FmHA's written concurrence.

3. Inspecting the collateral as often as necessary to properly service the loan.

4. Assuring that adequate insurance is maintained. This includes hazard insurance obtained and maintained with a loss payable clause in favor of the Lender as the mortgagee or secured party.

5. Assuring that: taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation, insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral, such as machinery, equipment, furniture or fixtures, may be used to acquire property of similar nature in value up to $ ______________ without written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the loan, the collateral and or operating of the farm, business or industry.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to FmHA at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and lien priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the Borrower obtains marketable title to the collateral.

9. Assuring that the Borrower (any party liable) is not released from liability for all or any part of the loan, except in accordance with FmHA regulations.

10. Providing FmHA Finance Office with loan status reports semiannually as of June 30 and December 31 on Form FmHA 1980-41, "Guaranteed Loan Status Report."

11. Obtaining from the Borrower periodic financial statements under the following schedule:

____

Lender is responsible for analyzing the financial statements, taking any servicing actions and providing copies of statements and record of actions to the FmHA office immediately responsible for the loan.

12. Monitoring the use of loan funds to assure they will not be used for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 CFR Part 1940, Subpart G, Exhibit M.

X. **Default.**

A. The Lender will notify FmHA when a Borrower is thirty (30) days (90 days for guaranteed rural housing loan) past due on a payment or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default. The Lender will notify FmHA of the status of a Borrower's default on Form FmHA 1980—44, "Guaranteed Loan Borrower Default Status." A meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with written concurrence of FmHA will include but are not limited to the following or any combination thereof:

1. Deferment of principal payments (subject to rights of any Holder(s)).
2. An additional temporary loan by the Lender to bring the account current.
3. Reamortization of or rescheduling the payments on the loan (subject to rights of any Holder(s)).
4. Transfer and assumption of the loan in accordance with the applicable Subpart of Title 7 CFR Part 1980.
5. Reorganization.
6. Liquidation.
7. Subsequent loan guarantees.
8. Changes in interest rates with FmHA's, Lender's, and the Holder'(s) approval; provided, such interest rate is adjusted proportionally between the guaranteed and unguaranteed portion of the loan and the type of rate remains the same.

B. The Lender will negotiate in good faith in an attempt to resolve any problem to permit the Borrower to cure a default, where reasonable. In the case of Farm Ownership, Soil and Water, or Operating Loans, the Lender agrees that if liquidation of the account becomes imminent, the Lender will consider the Borrower for an Interest Rate Buydown under Exhibit C of Subpart B of 7 CFR, Part 1980, and request a determination of the Borrower's eligibility by FmHA. The Lender may not initiate foreclosure action on the loan until 60 days after a determination has been made with respect to the eligibility of the Borrower to participate in the Interest Rate Buydown Program.

C. The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the Borrower is in default not less than 60 days in payment of principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the Borrower or any loan subsidy within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of the principal and accured interest less the Lender's servicing fee. The loan note guarantee will not cover the note interest to the Holder on the guaranteed loans(s) accuring after 90 days from the date of the demand letter to the Lender requesting the repurchase. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase. The Lender is encouraged to repurchase the loan to faciliate the accounting for funds, resolve the problem, and to permit the borrower to cure the default, where reasonable. The Lender will notify the Holder(s) and FmHA of its decision.

D. If Lender does not repurchase as provided by paragraph C, FmHA will purchase from Holder(s) the unpaid principal balance of the guaranteed portion herein together with accrued interest (including any loan subsidy) to date of repurchase, within 30 days after written demand to FmHA from the Holder(s). The loan note guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of original demand letter of the Holder(s) to the Lender requesting the repurchase. Such demand will include a copy of the written demand made upon the Lender.

The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the originals of the Loan Note Guarantee and note properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder(s) will include in its demand the amount due including unpaid principal, unpaid interest (including any loan subsidy) to date of demand and interest subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of the demand.

The FmHA office serving the Borrower will promptly notify the Lender of the Holder'(s) demand for payment. The Lender will promptly provide the FmHA office servicing the Borrower with the information necessary for FmHA's determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment by FmHA will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, the FmHA office servicing the Borrower will review the demand and submit it to the State Director for verification. After reviewing the demand, the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the office serving the Borrower and State Director and remit the check(s) to the Holder(s).

E. Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by the Borrower on the loan and the amount due the Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee, nor does such purchase waive any of FmHA's rights against Lender, and FmHA will have the right to set-off against Lender all rights inuring to FmHA from the Holder against FmHA's obligation to Lender under the Loan Note Guarantee. To the extent FmHA holds a portion of a loan, loan subsidy will not be paid the Lender.

F. Servicing fees assessed by the Lender to a Holder are collectible only from payment installments received by the Lender from the Borrower. When FmHA repurchases from a Holder, FmHA will pay the Holder only the amounts due the Holder. FmHA will not reimburse the Lender for servicing fees assessed to a Holder and not collected from payments received from the Borrower. No servicing fee shall be charged FmHA and no such fee is collectible from FmHA.

G. Lender may also repurchase the guaranteed portion of the loan consistent with paragraph 10 of the Loan Note Guarantee.

XI. Liquidation. If the Lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows:

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

When the decision to liquidate is made, the Lender may proceed to purchase from Holder(s) the guaranteed portion of the loan. The Holder(s) will be paid according to the provisions in the Loan Note Guarantee or the Assignment Guarantee Agreement.

If the Lender does not purchase the guaranteed portion of the loan, FmHA will be notified immediately in writing. FmHA will then purchase the guaranteed portion of the loan from the Holder(s). If FmHA holds any of the guaranteed portion, FmHA will be paid first its pro rata share of the proceeds from liquidation of the collateral.

A. Lender's proposed method of liquidation. Within 30 days after the decision to liquidate, the Lender will advise FmHA in writing of its proposed detailed method of liquidation called a liquidation plan and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan promissory note(s) and related security instruments.

2. Information lists concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan.

3. A proposed method of making the maximum collection possible on the indebtedness.

4. If the outstanding principal B&I loan balance including accrued interest is less than $200,000, the Lender will obtain an estimate of the market and potential liquidated value of the collateral. On B&I loan balances in excess of $200,000, and all other loans regardless of the outstanding principal balance, the Lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the Lender and FmHA to determine the appropriate liquidation actions. Any independent appraiser's fee will be shared equally by FmHA and the Lender.

B. FmHA's response to Lender's liquidation plan. FmHA will inform the Lender in writing whether it concurs in the Lender's liquidation plan within 30 days after receipt of such notification from the Lender. If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation plan, negotiations will take place between FmHA and the Lender to resolve the disagreement. The Lender will ordinarily conduct the liquidation, however, should FmHA opt to conduct the liquidation, FmHA will proceed as follows:

1. The Lender will transfer to FmHA all rights and interests necesssry to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. Acceleration. The Lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. Liquidation: Accounting and Reports. When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs and additional procedures necessary for successful completion of liquidation. The Lender will transmit to FmHA any payments received from the Borrower and/or pro rata share of liquidation or other proceeds, etc. when FmHA is the holder of a portion of the guaranteed loan using Form FmHA 1980–43, "Lender's Guaranteed Loan Payment to FmHA." When FmHA liquidates, the Lender will be provided with similar reports on request.

E. Determination of Loss and Payment. In all liquidation cases, final settlement will be made with the Lender after the collateral is liquidated. FmHA will have the right to recover losses paid under the guarantee from any party liable.

1. Form FmHA 449–30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final loss determinations. Estimated loss payments may be approved by FmHA after the Lender has submitted a liquidation plan approved by FmHA. Payment will be made in accordance with applicable FmHA regulations.

2. When the Lender is conducting the liquidation and owns any of the guaranteed portion of the loan, it may request a tentative loss estimate by submitting to FmHA an estimate of the loss that will occur in connection with liquidation of the loan. FmHA will agree to pay an estimated loss settlement to the Lender provided the Lender applies such amount due to the outstanding principal balance owed on the guaranteed debt. Such estimate will be prepared and submitted by the Lender on Form FmHA 449–30, using the basic formula as provided on the report except that the appraisal value will be used in lieu of the amount received from the sale of collateral.

After the Report of Loss estimate has been approved by FmHA, and within 30 days thereafter, FmHA will send the original Report of Loss estimate to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount due the Lender.

After liquidation has been completed, a final loss report will be submitted on Form FmHA 449–30 by the Lender to FmHA.

3. After the Lender has completed liquidation, FmHA upon receipt of the final accounting and report of loss, may audit and will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the final Report of Loss, it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and arrange for the necessary corrections to be made as soon as possible. When FmHA finds the final Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

4. When the Lender has conducted liquidation and after the final Report of Loss has been tentatively approved:

a. If the loss is greater than the estimated loss payment, FmHA will send the original of the final Report of Loss to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.

b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from date of payment.

5. If FmHA has conducted liquidation, it will provide an accounting and Report of Loss to the Lender and will pay the Lender in accordance with the Loan Note Guarantee.

6. In those instances where the Lender has made authorized protective advances, it may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances and interest resulting from such protective advances as provided above, and such payment will be made by FmHA when the final Report of Loss is approved.

F. Maximum amount of interest loss payment. Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the limits set forth in the Loan Note Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest (including any loan subsidy) will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest (including subsidy) will be covered to the extent of the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided it proceeds expeditiously with the liquidation plan approved by FmHA. The balance of accrued interest (including any loan subsidy) payable to the Lender, if any, will be calculated on the final Report of Loss form.

G. Application of FmHA loss payment. The estimated loss payment shall be applied as of the date of such payment. The total amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed portion of the loan debt. However, such application does not release the Borrower from liability. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied. In all cases a final Form FmHA 449-30 prepared and submitted by the Lender must be processed by FmHA in order to close out the files at the FmHA Finance Office.

H. Income from collateral. Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. Liquidation costs. Certain reasonable liquidation costs will be allowed during the liquidation process. These liquidation costs will be submitted as a part of the liquidation plan. Such costs will be deducted from gross proceeds from the disposition of collateral unless the costs have been previously determined by the Lender (with FmHA written concurrence) to be protective advances. If changed circumstances after submission of the liquidation plan require a revision of liquidation costs, the Lender will procure FmHA's written concurrence prior to proceeding with the proposed changes. No in-house expenses of the Lender will be allowed. In-house expenses include, but are not limited to, employees' salaries, staff lawyers, travel and overhead.

J. Foreclosure. The parties owning the guaranteed portion and unguaranteed portions of the loan will join to institute foreclosure action or, in lieu of foreclosure, to take a deed of conveyance to such parties. When the conveyance is received and liquidated, net proceeds will be applied to the guaranteed loan debt.

K. Payment. Such loss will be paid by FmHA within 60 days after the review of the accounting of the collateral.

XII. **Protective Advances.** Protective advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of $500. Protective advances include, but are not limited to, advances made for taxes, annual assessments, ground rent, hazard or flood insurance premiums affecting the collateral, and other expenses necessary to preserve or protect the security. Attorney fees are not a protective advance.

XIII **Additional Loans or Advances.**

The Lender will not make additional expenditures or new loans without first obtaining the written approval of FmHA even though such expenditures or loans will not be guaranteed.

XIV. **Future Recovery.**

After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the Lender, will be pro-rated between FmHA and the Lender. FmHA will be paid such amount recovered in proportion to the percentage it guaranteed for the loan and the Lender will retain such amounts in proportion to the percentage of the unguaranteed portion of the loan.

XV. **Transfer and Assumption Cases.**

Refer to the applicable Subpart of Title 7 of CFR Part 1980.

If a loss should occur upon consummation of a complete transfer and assumption for less than the full amount of the debt and the transferor-debtor (including personal guarantees) is released from personal liability, the Lender, if it holds the guaranteed portion, may file an estimated Report of Loss on Form FmHA 449-30, "Loan Note Guarantee Report of Loss," to recover its pro rata share of the actual loss at that time. In completing Form FmHA 449-30, the amount of the debt assumed will be entered on line 24 as Net Collateral (Recovery). Approved protective advances and accrued interest thereon made during the arrangement of a transfer and assumption, if not assumed by the Transferee, will be entered on Form FmHA 449-30, line 13 and

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XVI. Bankruptcy.

A. The Lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings. When the loan is involved in a reorganization bankruptcy proceeding under Chapters 11, 12 or 13 of the Bankruptcy Code, payment of loss claims may be made as provided in this paragraph XVI. For a Chapter 7 bankruptcy or a liquidation plan in a Chapter 11 bankruptcy, only paragraphs XVI B3 and B6 are applicable.

B. Loss Payments.

1. Estimated Loss Payments.

a. If a borrower has filed for protection under a reorganization bankruptcy, the Lender may request a tentative estimated loss payment of accrued interest and principal written off. This request can only be made after the bankruptcy plan is confirmed by the court. Only one estimated loss payment is allowed during the reorganization bankruptcy. All subsequent claims during reorganization will be considered revisions to the initial estimated loss. A revised estimated loss payment may be processed by FmHA, at its option, in accordance with any court approved changes in the reorganization plan. At the time the reorganization plan is completed, the Lender is responsible for providing FmHA with the documentation necessary to review and adjust the estimated loss claim to (a) reflect the actual principal and interest reduction on any part of the guaranteed debt determined to be unsecured and (b) to reimburse the Lender for any court ordered interest rate reduction during the term of the reorganization plan.

b. The Lender will use Form FmHA 449-30, "Loan Note Guarantee Report of Loss," to request an estimated loss payment and to revise estimated loss payments during the course of the reorganization plan. The estimated loss claim as well as any revisions to this claim will be accompanied by applicable legal documentation to support the claim.

c. Upon completion of the reorganization plan, the lender will complete Form FmHA 1980-44, "Guaranteed Loan Borrower Default Status," and forward this form to the Finance Office.

2. Interest Loss Payments.

a. Interest loss payments sustained during the period of the reorganization plan will be processed in accordance with paragraph XVI B1.

b. Interest loss payments sustained after the reorganization plan is completed will be processed annually when the Lender sustains a loss as a result of a permanent interest rate reduction which extends beyond the period of the reorganization plan.

c. Form FmHA 449-30 will be completed to compensate the Lender for the difference in interest rates specified on the Loan Note Guarantee or Interest Rate Buydown Agreement and the rate of interest specified by the bankruptcy court.

3. Final Loss Payments.

a. Final loss payments will be processed when the loan is liquidated.

b. If the loan is paid in full without an additional loss, the Finance Office will close out the estimated loss account at the time notification of payment in full is received.

4. Payment Application. The Lender must apply estimated loss payments first to the unsecured principal of the guaranteed portion of the debt and then to the unsecured interest of the guaranteed portion of the debt. In the event the bankruptcy court attempts to direct the payments to be applied in a different manner, the Lender will immediately notify the FmHA servicing office.

5. Overpayments. Upon completion of the reorganization plan, the Lender will provide FmHA with the documentation necessary to determine whether the estimated loss paid equals the actual loss sustained. If the actual loss sustained, as a result of the reorganization, is greater than the estimated loss payment, the Lender will submit a revised estimated loss in order to obtain payment of the additional amount owed by FmHA to the Lender. If the actual loss payment is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from the date of the payment of the estimated loss.

6. Protective Advances. If approved protective advances were made prior to the borrower having filed bankruptcy, as a result of prior liquidation action, these protective advances and accrued interest will be entered on Form FmHA 449-30.

XVII. Other Requirements.

This agreement is subject to all the requirements of the applicable Subpart of Title 7 CFR Part 1980, and any future amendments of these regulations not inconsistent with this agreement. Interested parties may agree to abide by future FmHA regulations not inconsistent with this agreement.

XVIII. Execution of Agreements.

If this agreement is executed prior to the execution of the Loan Note Guarantee, this agreement does not impose any obligation upon FmHA with respect to execution of such contract. FmHA in no way warrants that such a contract has been or will be executed.

XIX. Notices.

All notices and actions will be initiated through FmHA for ____________________

(State) with mailing address at the date of this instrument ____________________

____

Dated this ________ ________ day of ______________, 19___.

LENDER:

ATTEST: __________ (SEAL) By ____________________

Title ____________________

UNITED STATES OF AMERICA
Farmers Home Administration

By ____________________

Title ____________________

4. Appendix E is revised to read as follows:

Appendix E

USDA FmHA
Form FmHA 1980-38
(Rev. 4-88)

FORM APPROVED
OMB NO. 0575-0079

Type of Loan
☐ OL ☐ EL or ☐ EE
FmHA Loan ID No.

LENDER'S AGREEMENT
(Line of Credit)

Applicable 7 CFR Part 1980, Subpart ____________

________________________ (Lender) of ________________________

has established a line of credit to ________________________ (Borrower) for the fiscal period ending

________________, 19___, for the purpose of ________________________

____

in the maximum sum of $ ____________ as evidenced by a "Line of Credit Agreement" dated ____________, 19___

The United States of America, acting through Farmers Home Administration (FmHA) has entered into a "Contract of Guarantee (Line of Credit)" (Form FmHA 1980-27) or has issued a "Conditional Commitment for Contract of Guarantee (Line of Credit)" (Form FmHA 1980-15) to enter into a Contract of Guarantee with the Lender applicable to such line of credit to participate in a percentage of any loss on the loan advances not to exceed ____________ % of the amount of the principal and any accrued interest. The terms of the Contract of Guarantee are controlling. As a condition for obtaining a guarantee of the line of credit advances the Lender enters into this agreement.

THE PARTIES AGREE:

I. The maximum loss covered under the Contract of Guarantee will not exceed ____________ percent of the principal and accrued interest owed on any Operating Loan, Emergency Livestock Loan or Economic Emergency Loan advances made within the line of credit ceiling and the terms and conditions of the Contract of Guarantee.

II. Full Faith and Credit.

The Contract of Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. Any line of credit agreement which provides for the payment of interest on interest shall not be guaranteed. Any Contract of Guarantee attached to or relating to the line of credit agreement which provides for the payment of interest on interest is void. The Contract of Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Contract of Guarantee Line of Credit. Negligent servicing is defined as the failure to perform those services which a reasonably prudent Lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent Lender would act up to the time of loan maturity or until a final loss is paid.

III. Lender's Sale of Guaranteed Line of Credit by Participation.

A. The Lender may obtain participation in its line of credit under its normal operating procedures. The Lender is required to hold in its own portfolio or retain a minimum of 10 percent of the total guaranteed line of credit amount. The amount required to be retained must be of the unguaranteed portion of the line of credit and cannot be participated to another Lender. The Lender may obtain participation of only the unguaranteed portion of its line of credit in excess of the 10 percent minimum under its normal operations procedures. Participation means a sale of an interest in the line of credit in which the Lender retains the line of credit agreement (and note, if one exists), collateral securing the line of credit, and all responsibility for servicing and liquidation of the line of credit. Participation with a lender by any entity does not make that entity a lender.

B. The Lender may retain or sell any amount of the unguaranteed portion(s) of the line(s) of credit as provided in this section only through participation. However, the Lender cannot participate any amount of the line(s) of credit to the applicant or Borrower or members of their immediate families, their officers, directors, stockholders, or owners, or any parent, subsidiary or affiliate. If the Lender desires to sell all or part of the guaranteed portion of the line of credit through participation at or subsequent to execution of the line of credit agreement, such line of credit must not be in default as set forth in the terms of the line of credit agreement(s) (and note(s), if any exist). The Lender will retain the responsibility for servicing and liquidation of the line of credit. Participation with a lender by any entity does not make the entity a holder.

This form is used by lenders to meet certain conditions precedent to issuance of a Contract of Guarantee in Operating Loan Line of Credit, Emergency Livestock Loan, or Economic Emergency Loan cases. This report contains information that is required to provide future reports and information which must be agreed to by the lender in order to obtain the benefit of an FmHA loan guarantee. This statement is furnished pursuant to P.L. 96-511.

Position 2

IV. The Lender agrees funds advanced under the line of credit will be used for the purposes authorized in either Subpart B, C or F of Title 7 CFR, Part 1980 as applicable in accordance with the terms of Form FmHA 1980-15.

V. The Lender certifies that none of its officers or directors, stockholders or other owners has a substantial financial interest in the Borrower. The Lender certifies that neither the Borrower nor its officers or directors, stockholders or other owners has a substantial financial interest in the Lender.

VI. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, the Borrower's business or any parent subsidiaries or affiliates since it requested a Contract of Guarantee.

VII. Lender certifies that the Line of Credit Agreement and/or loan instruments concurred in by FmHA has been or will be signed with the Borrower.

VIII. If an Operating Loan line of credit is guaranteed under Subpart B of 7 CFR, Part 1980, Lender certifies it has paid the required guarantee fee.

IX. Servicing.

A. The Lender will service the entire line of credit and will remain mortgagee and/or secured party of record. The entire line of credit will be secured by the same security with equal lien priority of the guaranteed and unguaranteed portions of the line of credit. The unguaranteed portion of a line of credit will not be paid first nor given any preference or priority over the guaranteed portion of the line of credit.

B. It is the Lender's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses or authorizations are obtained from the appropriate regulatory agencies; that the Borrower has obtained contracts through acceptable procurement procedures; that periodic inspections during construction are made and that FmHA's concurrence on the overall development schedule is obtained.

C. Lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the line of credit agreement (and note if one exists), security instruments and any supplemental agreements. None of the aforesaid instruments will be altered without FmHA's prior written concurrence. The Lender must service the line of credit in a reasonable prudent manner.

2. Receiving all payments on principal and interest on the line of credit advances as they fall due. The line of credit may be reamortized or removed only with FmHA's written concurrence.

3. Inspecting the collateral as often as necessary to properly service the line of credit.

4. Assuring that adequate insurance is maintained. This includes hazard insurance obtained and maintained with a loss payable clause in favor of the Lender as the mortgagee or secured party.

5. Assuring that: taxes assessment or ground rents against or affecting collateral are paid; the line of credit and collateral are protected in foreclosure bankruptcy, receivership, insolvency, condemnation, or other litigation; insurance loss payments; condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA, proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral such as machinery equipment, furniture or fixtures, may be used to acquire property of similar nature in value up to $________ without written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the line of credit, the collateral and/or operation of the farm or ranch.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such guarantors will be obtained which are not over 60 days old in the case of personal guarantees or over 90 days old in in the case of corporate guarantees. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and line priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the borrower obtains marketable title to the collateral.

9. Assuring that the Borrower (any party liable) is not released from liability for all or any part of the line of credit except in accordance with FmHA regulations.

10. Providing FmHA Finance Office with loan status reports annually as of December 31 on Form FmHA 1980-41, "Guaranteed Loan Status Report".

11. Obtaining from the Borrower periodic financial statements under the following schedule: ________

____

Lender is responsible for analyzing the financial statements, taking any servicing actions needed, and providing copies of statements and record of actions to the County Supervisor.

12. Monitoring loan funds to assure they will not be used for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity. Failure to do so will be considered negligent servicing and any loss attributed to such negligent servicing will not be paid by FmHA, as explained in 7 CFR Part 1940, Subpart G, Exhibit M.

X. Defaults.

A. The Lender will notify FmHA when a Borrower is thrity (30) days past due on a payment and is unlikely to bring its account current within sixty (60) days or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default. The Lender will notify FmHA of the status of a Borrower's default on Form FmHA 1980-44, "Guaranteed Loan Borrower Default Status". A meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with concurrence of FmHA may include but are not limited to any curative actions contained in either Subpart B, C or F as applicable, or liquidation.

B. The Lender will negotiate in good faith in an attempt to resolve any problem and to permit the Borrower to cure a default, where reasonable. The Lender agrees that if liquidation of the account becomes imminent, the Lender will consider the Borrower of an Operating Loan Line of Credit for an Interest Rate Buydown under Exhibit D of Subpart B of 7 CFR, Part 1980, and request a determination of the Borrower's eligibility by FmHA. The Lender may not initiate foreclosure action on the line of credit until 60 days after a determination has been made with respect to the eligibility of the Borrower to participate in the Interest Rate Buydown Program.

XI. Liquidation.

If the Lender concludes that liquidation of a guaranteed line of credit account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows:

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

A. Lender's proposed method of liquidation. Within 30 days after the decision to liquidate is made, the Lender will advise FmHA of its proposed method of liquidation and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed line of credit agreement(s) and related security instruments.
2. Information lists concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed line of credits.
3. A proposed method making the maximum collection possible on the indebtedness.
4. Lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the Lender and FmHA to determine the appropriate liquidation actions. Any independent appraiser's fee will be shared equally by FmHA and the Lender.

B. FmHA's response to Lender's liquidation proposal. FmHA will inform the Lender whether it concurs in the Lender's proposed method of liquidation within 30 days after receipt of such notification from the Lender. If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation proposal, negotiation will take place between FmHA and the Lender to resolve the disagreement. The Lender will ordinarily conduct the liquidation; however, should FmHA opt to conduct the liquidation, FmHA will proceed as follows:

1. The Lender will transfer to FmHA all its rights and interests necessary to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.
2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.
3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. Acceleration. The Lender or FmHA if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. Liquidation, Accounting and Reports. When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs, and additional procedures necessary for successful completion of liquidation. When FmHA liquidates, the Lender will be provided with similar reports on request.

E. Determination of Loss and Payment. In all liquidation cases, a final settlement will be made with the Lender after the collateral is liquidated. FmHA will have the right to recover losses paid under the guarantee from any party liable.

1. Form FmHA 449-30, "Loan Note Guarantee Report of Loss," will be used for calculations of all estimated and final determinations. Estimated loss payments may be approved by FmHA after the Lender has submitted a liquidation plan approved by FmHA. Payment will be made in accordance with the applicable FmHA regulations.
2. When the Lender is conducting the liquidation, it may request a tentative loss estimate by submitting to FmHA an estimate of the loss that will occur in connection with liquidation of the line of credit. FmHA will agree to pay an estimated loss settlement to the Lender provided the Lender applies such amount due to the outstanding principal balance owed on the guaranteed debt. Such estimate will be prepared on Form FmHA 449-30, using the basic formula as provided in the report except that the appraisal value will be used in lieu of the amount received from the sale of collateral.

   After the Report of Loss Estimate has been approved by FmHA, and within 30 days thereafter, FmHA will send the original Report of Loss Estimate to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount due the Lender

   After liquidation has been completed a final loss report will be submitted on Form FmHA 449-30 by the Lender to FmHA.
3. After the Lender has completed liquidation FmHA, upon receipt of the final accounting and report of loss, may audit and will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the Final Report of Loss, it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and arrange for the necessary corrections to be made as soon as possible. When FmHA finds the Final Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.
4. When the Lender has conducted liquidation and after the Final Report of Loss has been tentatively approved:
   a. If the loss is greater than the estimated loss payment, FmHA will send the original of the Final Report Loss to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.
   b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from date of payment.

5. If FmHA has conducted liquidation, it will provide an accounting and report of loss to the Lender and will pay the Lender in accordance with the Contract of Guarantee.

6. In those instances where the Lender has made authorized protective advances, it may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances and interest resulting from such protective advances as provided above, and such payment will be made by FmHA when the final Report of Loss is approved.

F. Maximum amount of interest loss payment. Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the limits set forth in the Contract of Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided it proceeds expeditiously with the liquidation plan approved by FmHA. The balance of accrued interest payable to the Lender, if any, will be calculated on the final Report of Loss form.

G Application of FmHA loss payment. The estimated loss payment shall be applied as of the date of such payment. The amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed loan debt. However, such application does not release the Borrower from liability. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied. In all cases a final Form FmHA 449-30 prepared and submitted by the Lender must be processed by FmHA in order to close out the files at the FmHA Finance Office.

H Income from collateral. Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. Liquidation costs. Certain reasonable liquidation costs will be allowed during the liquidation process. These liquidation costs will be submitted as a part of the liqiuidation plan. Such costs will be deducted from gross proceeds from the disposition of collateral unless the costs have been previously determined by the Lender (with FmHA written concurrence) to be protective advances. If changed circumstances after submission of the liquidation plan require a revision of liquidation costs, the Lender will procure FmHA's written concurrence prior to proceeding with the proposed changes. No in-house expenses of the Lender will be allowed. In-house expenses include, but are not limited to, employees' salaries, staff lawyers, travel and overhead.

J. Payment. Such loss will be paid by FmHA within 60 days after the review of the account of the collateral.

XII. Protective advances.

Protective advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of $500. Protective advances include, but are not limited to, advances for taxes, annual assessments, ground rent, hazard or flood insurance premiums effecting the collateral, and other expenses necessary to preserve or protect the security. Attorney fees are not a protective advance.

XIII. Additional Loans or Advances.

The Lender will not make additional expenses or new lines of credit or loans without first obtaining the written approval of FmHA even though such expenditures or lines of credit or loans will not be guaranteed.

XIV. Future Recovery.

After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the Lender, will be pro-rated between FmHA and the Lender. FmHA will be paid such amount recovered in proportion to the percentage it guaranteed for the loan and the Lender will retain such amount in proportion to the percentage of the unguaranteed portion of the loan.

XV. Transfer and Assumption Cases.

Refer to Subpart B, C or F of Title 7 of CFR, Part 1980. If a loss will occur upon consummation of a complete transfer and assumption for less than the full amount of the debt and the transferor-debtor (including personal guarantees) is released from personal liability, the Lender may file an estimated Report of Loss on Form FmHA 449-30, "Loan Note Guarantee Report of Loss," to recover its pro rata share of the actual loss at that time. In completing Form FmHA 449-30, the amount of the debt assumed will be entered on line 24 as Net Collateral (Recovery). Approved protective advances and accured interest thereon made during the arrangement of a transfer and assumption, if not assumed by the Transferee, will be entered on Form FmHA 449-30, lines 13 and 14.

XVI. Bankruptcy.

A. The Lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings. If the loan is involved in a reorganization bankruptcy proceeding under Chapter 11, 12 or 13 of the Bankruptcy Code, payment of loss claims may be made as provided in this paragraph XVI. For a Chapter 7 bankruptcy or a liquidation plan in a Chapter 11 bankruptcy, only paragraphs XVI B3 and B6 are applicable.

B. Loss Payments.

1. Estimated Loss Payments

a. If a borrower has filed for protection under a reorganization bankruptcy, the Lender may request a tentative estimated loss payment of accrued interest and principal written off. This request can only be made after the bankruptcy plan is confirmed by the court. Only one estimated loss payment is allowed during the reorganization bankruptcy. All subsequent claims during reorganization will be considered revisions to the initial estimated loss. A revised estimated loss payment may be processed by FmHA, at its option, in accordance with any court approved changes in the reorganization plan. At the time the reorganization plan is completed, the Lender is responsible for providing FmHA with the documentation necessary to review and adjust the estimated loss claim to (a) reflect the actual principal and interest reduction on any part of the guaranteed debt determined to be unsecured and (b) to reimburse the Lender for any court ordered interest rate reduction during the term of the reorganization plan.

b. The Lender will use Form FmHA 449-30, "Loan Note Guarantee Report of Loss," to request an estimated loss payment and to revise estimated loss payments during the course of the reorganization plan. The estimated loss claim as well as any revisions to this claim will be accompanied by applicable legal documentation to support the claim.

c. Upon completion of the reorganization plan, the Lender will complete Form FmHA 1980-44, "Guaranteed Loan Borrower Default Status," and forward this form to the Finance Office.

(XVI.B - continued)

2. Interest Loss Payments
   a. Interest loss payments sustained during the period of the reorganization plan will be processed in accordance with paragraph XVI B1.
   b. Interest loss payments sustained after the reorganization plan is completed will be processed annually when the Lender sustains a loss as a result of a permanent interest rate reduction which extends beyond the period of the reorganization plan.
   c. Form FmHA 449-30 will be completed to compensate the Lender for the difference in interest rates specified on the Loan Note Guarantee or Interest Rate Buydown Agreement and the rate of interest specified by the bankruptcy court.
3. Final Loss Payments
   a. Final loss payments will be processed when the loan is liquidated.
   b. If the loan is paid in full without an additional loss, the Finance Office will close out the estimated loss account at the time notification of payment in full is received.
4. Payment Application. The Lender must apply estimated loss payments first to the unsecured principal of the guaranteed portion of the debt and then to the unsecured interest of the guaranteed portion of the debt. In the event the bankruptcy court attempts to direct the payments to be applied in a different manner, the Lender will immediately notify the FmHA servicing office.
5. Overpayments. Upon completion of the reorganization plan, the Lender will provide FmHA with the documentation necessary to determine whether the estimated loss paid equals the actual loss sustained. If the actual loss sustained, as a result of the reorganization, is greater than the estimated loss payment, the Lender will submit a revised estimated loss in order to obtain payment of the additional amount owed by FmHA to the Lender. If the actual loss payment is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from the date of the payment of the estimated loss.
6. Protective Advances. If approved protective advances were made prior to the borrower having filed bankruptcy, as a result of prior liquidation action, these protective advances and accrued interest will be entered on Form FmHA 449-30.

XVII. Other Requirements.
This agreement is subject to all the requirements of either Subpart A, B, C or F of Title 7 CFR, Part 1980 as applicable, and any future amendments of these regulations, or other FmHA regulations, not inconsistent with this agreement.

XVIII. Execution of Agreements.
If this agreement is executed prior to the execution of the Contract of Guarantee, this agreement does not impose any obligation upon FmHA with respect to execution of such contract. FmHA in no way warrants that such a contract has been or will be executed.

XIX. Notices.
All notices and actions will be initiated through the FmHA County Supervisor for ________________ (County)

________________ (State with mailing address at the date of this instrument

________________.

Dated this ____________ day of ____________, 19____.

LENDER:

ATTEST: ________________ SEAL

By ________________

Title ________________

UNITED STATES OF AMERICA

Department of Agriculture

Farmers Home Administration

By ________________

Title ________________

BILLING CODE 3410-07-C

Subpart B—Farmer Program Loans

5. Section 1980.144 is added to read as follows:

§ 1980.144 Bankruptcy.

(a) *General.* In bankruptcies, there are two separate proceedings: Liquidation and reorganization under the bankruptcy court's protection. It is the lender's responsibility to protect the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings (refer to paragraph IX C.5 of Form FmHA 449–35 or Form 1980–38). These responsibilities include, but are not limited to:

(1) The lender will file a proof of claim where necessary and all the necessary papers and pleadings concerning the case.

(2) The lender will attend and where necessary participate in meetings of the creditors and all court proceedings.

(3) The lender, whose collateral is subject to being used by the bankruptcy estate, will immediately seek adequate protection of the collateral. Adequate protection of the collateral, depending on interpretation, may take several forms. In a bankruptcy, the trustee is authorized to sell, lease or use the collateral if the borrower's business is in operation. The only collateral the trustee cannot utilize is cash collateral unless the secured creditor grants permission or the bankruptcy court authorizes the use of such after giving a proper hearing and notice.

(i) Cash collateral means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents, such as accounts receivable.

(ii) Concerning machinery, equipment and real estate, adequate protection can be interpreted differently under reorganization. The bankruptcy trustee could dispose of certain collateral and grant to the secured party a replacement lien on some other collateral which may or may not have the same value. For example, the lender may hold a first lien on a good saleable piece of real estate and could find replacement of this particular parcel of property with a second or possibly a third lien on another parcel of land that the lender may find undesirable for adequate protection. There are no guarantees to the lender when the borrower is in reorganization that the collateral will be protected to the lender's satisfaction. The lender should be fully aware of what is taking place with the collateral and resist any adverse changes that may be made in the collateral securing the FmHA guaranteed loan.

(4) When permitted by the Bankruptcy Code, the lender will request a modification of any plan of reorganization whenever it appears that additional recoveries are likely.

(5) FmHA will be kept adequately and regularly informed in writing on all aspects of the proceedings.

(b) *Reorganization bankruptcy cases.* (1) In Chapter 11, 12, or 13 reorganization, if an independent appraisal of collateral is necessary in FmHA's opinion, FmHA and the lender will share the appraisal fee equally.

(2) Lender expenses, in a Chapter 11, 12, or 13 reorganization case, are not deducted from the proceeds of the collateral because a reorganization is not a liquidation. All expenses incurred by the lender (including attorney's fees), while the borrower is in reorganization, are considered normal expenses of servicing the account, and therefore are the responsibility of the lender and are not deductible from the proceeds of the collateral or covered under the FmHA guarantee.

(c) *Liquidation bankruptcy cases.* (1) Attorney fees incurred by the lender, without exception, cannot be approved. Reasonable and customary liquidation expenses may be deducted from the proceeds of the collateral in liquidation bankruptcy cases provided the lender is doing the actual liquidation of the collateral and presents adequate written justification for each expense and secures FmHA's written concurrence prior to incurring the expense.

(2) If a trustee is appointed by the bankruptcy court to sell the collateral under a conversion of a reorganization plan to a liquidation plan or Chapter 7, the trustee rather than the lender, in this instance, is responsible for liquidating the collateral. Normally, any expenses incurred by the lender during this period are not considered liquidation expenses and cannot be deducted from collateral proceeds. The lender is not engaged in the actual liquidation but is performing in a manner considered to be normal servicing of the loan under the circumstances.

(3) If the property is abandoned by the trustee and the lender is actually engaged in actual liquidation, reasonable liquidation expenses would be recoverable from liquidation proceeds with prior written concurrence for each expense from FmHA before the expense is incurred.

(d) *Loss payments.* See paragraph XVI of Form FmHA 449–35 or Form FmHA 1980–38.

Administrative

(A) The lender is responsible for advising FmHA of the completion of the reorganization plan; however, the FmHA servicing office will monitor the lender's files to ensure timely notification of servicing actions.

(B) If an estimated loss claim is paid during the operation of the reorganization plan, and the borrower repays the loan in full without an additional loss sustained by the lender, a Final Report of loss is not necessary. The Finance Office will close out the estimated loss account as a Final Loss at the time notification of payment in full is received.

(C) If the bankruptcy court attempts to direct that loss payments will be applied to the account other than the unsecured principal first and then to unsecured accrued interest, the lender is responsible for notifying the FmHA servicing office immediately. The FmHA servicing office will then obtain advice from OGC on what actions FmHA should take.

(D) Protective Advances—Authorized Protective Advances may be included with the estimated loss payment associated wtih the reorganization bankruptcy provided they were incurred in connection with liquidation of the account prior to the borrower filing bankruptcy. Protective advances during a bankruptcy reorganization are not generally authorized.

(E) Adequate Protection—The bankruptcy court can order protection of the collateral while the borrower is in a reorganization bankruptcy. The lender whose collateral is subject to being used by the trustee in bankruptcy should immediately seek adequate protection of the collateral, including petitioning for a super priority.

(F) Accrued interest owed to the lender should be supported by documentation as to how the accrued interest amount was calculated by the lender. A copy of the promissory note and ledger should also be attached. As part of the review of the final loss claim, FmHA should be assured that the lender has not accrued interest on the principal and interest amount of the loan that was paid by the estimated loss payment. The approval official is responsible for the accuracy of the interest calculations on the final report of loss before submission to the Finance Office.

(G) Repurchase of Notes—In cases where a default on the guaranteed note does not exist, the State Director may approve the repurchase of the unpaid guaranteed portion of the loan(s) from any holder(s) to reduce interest accrual during a Chapter 7 proceeding, or after a Chapter 11 proceeding becomes a liquidation proceeding. (Refer to paragraph X.C of Form FmHA 449–35 or Form FmHA 1980–38.)

(H) County Supervisors are authorized to accept Report of Estimated Loss or Final Loss Payments on Form 449–30 in those cases where the loss payment will not exceed $55,000. The State Director is authorized to accept the determination in all other cases. A copy of the form will be given to the District Director. The State Director will submit Form FmHA 449–30 to the Finance Office for payment of any losses.

6. Exhibit A, Attachment 1 to Subpart B is amended by redesignating existing paragraphs XIV, XV, XVI, XVII and XVIII as XV, XVI, XVII, XVIII and XIX and by adding a new paragraph XIV to read as follows:

Exhibit A of Subpart B, Attachment 1—Farmers Home Administration Approved Lender Program (ALP)

* * * * *

XIV. *Bankruptcy.*

A. The lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings. If the loan is involved in a reorganization bankruptcy proceeding under Chapter 11, 12 or 13 of the Bankruptcy Code, payment of loss claim may be made as provided in this paragraph XIV. For a Chapter 7 bankruptcy or a liquidation plan in a Chapter 7 bankruptcy, only paragraphs XIV B3 and B6 are applicable.

B. *Loss Payments.*

(1) Estimated Loss Payments.

(a) If a borrower has filed for protection under a reorganization bankruptcy, the lender may request a tentative estimated loss payment of accrued interest and principal written off. This request can only be made after the bankruptcy plan is confirmed by the court. Only one estimated loss payment is allowed during the reorganization bankruptcy. All subsequent claims during reorganization will be considered revisions to the initial estimated loss. A revised estimated loss payment may be processed by FmHA, at its option, in accordance with any court approved changes in the reorganization plan. At the time the reorganization plan is completed, the lender is responsible for providing FmHA with the documentation necessary to review and adjust the estimated loss claim to (a) reflect the actual principal and interest reduction on any part of the guaranteed debt determined to be unsecured and (b) to reimburse the lender for any court ordered interest rate reduction during the term of the reorganization plan.

(b) The lender will use Form FmHA 449-30, "Loan Note Guarantee Report of Loss," to request an estimated loss payment and to revise estimated loss payments during the course of the reorganization plan. The estimated loss claims as well as any revisions to this claim will be accompanied by applicable legal documentation to support the claim.

(c) Upon completion of the reorganization plan, the lender will complete Form FmHA 1980-44, "Guaranteed Loan Borrower Default Status" and forward this form to the Finance Office.

(2) Interest Loss Payments.

(a) Interest loss payments sustained during the period of the reorganization plan will be processed in accordance with paragraph XIV(B)(1).

(b) Interest loss payments sustained after the reorganization plan is completed will be processed annually when the Lender sustains a loss as a result of a permanent interest rate reduction which extends beyond the period of the reorganization plan.

(c) Form FmHA 449-30 will be completed to conpensate the Lender for the difference in interest rates specified on the Loan Note Guarantee or Interest Rate Buydown Agreement and the rate of interest specified by the bankruptcy court.

(3) Final loss Payments.

(a) Final loss payments will be processed when the loan is liquidated.

(b) If the loan is paid in full without an additional loss, the Finance Office will close out the estimated loss account at the time notification of payment in full is received.

(4) Payment Application—The lender must apply estimated loss payments first to the unsecured principal of the guaranteed portion of the debt and then to the unsecured interest of the guaranteed portion of the debt. In the event the bankruptcy court attempts to direct the payments to be applied in a different manner, the lender will immediately notify the FmHA servicing office.

(5) Overpayments—Upon completion of the reorganization plan, the lender will provide FmHA with the documentation necessary to determine whether the estimated loss paid equals the actual loss sustained. If the actual loss sustained, as a result of the reorganization, is greater than the estimated loss payment, the Lender will submit a revised estimated loss for issuance in order to obtain payment of the additional amount owed by FmHA to the Lender. If the actual loss payment is less than the estimated loss, the lender will reimburse FmHA for the overpayment plus interest at the note rate from the date of the payment of the estimated loss.

(6) Protective Advances—If approved protective advances were made prior to the borrower having filed bankruptcy, as a result of prior liquidation action, these protective advances and accrued interest will be entered on Form FmHA 449-30.

* * * * *

7. Exhibit A, Attachment 2 to Subpart B is amended by redesignating existing paragraphs XIV, XV, XVI, XVII and XVIII as XV, XVI, XVII, XVIII and XIX and by adding a new paragraph XIV to read as follows:

Exhibit A, Attachment 2—Farmers Home Administration, Approved Lender Program (ALP)

* * * * *

XIV. *Bankruptcy.*

A. The lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings. If the loan is involved in a reorganization bankruptcy proceeding under Chapter 11, 12, or 13 of the Bankruptcy Code, payment of loss claims may be made as provided in this paragraph XIV. For a Chapter 7 bankruptcy a liquidation plan in a Chapter 11 bankruptcy, only paragraphs XIV B3 and B6 are applicable.

B. *Loss Payments.*

(1) Estimated Loss Payments.

(a) If a borrower has filed for protection under a reorganization bankruptcy, the lender may request a tentative estimated loss payment of accrued interest and principal written off. This request can only be made after the bankruptcy plan is confirmed by the court. Only one estimated loss payment is allowed during the reorganization bankruptcy. All subsequent claims during reorganization will be considered revisions to the initial estimated loss. A revised estimated loss payment may be processed by FmHA, at its option, in accordance with any court approved changes in the reorganization plan. At the time the reorganization plan is completed, the lender is responsible for providing FmHA with the documentation necessary to review and adjust the estimated loss claim to (a) reflect the actual principal and interest reduction on any part of the guaranteed debt determined to be unsecured and (b) to reimburse the Lender for any court ordered interest rate reduction during the term of the reorganization plan.

(b) The lender will use Form FmHA 449-30, "Loan Note Guarantee Report of Loss," to request an estimated loss payment and to revise estimated loss payments during the course of the reorganization plan. The estimated loss claim as well as any revisions to this claim will be accompanied by applicable legal documentation to support the claim.

(c) Upon completion of the reorganization plan, the lender will complete Form FmHA 1980-44, "Guaranteed Loan Borrower Default Status" and forward this form to the Finance Office.

(2) Interest Loss Payments.

(a) Interest loss payment sustained during the period of the reorganization plan will be proceesed in accordance with paragraph XIV (B)(1).

(b) Interest loss payment sustained after the reorganization plan is completed will be processed annually when the lender sustains a loss as a result of a permanent interest rate reduction which extends beyond the period of the reorganization plan.

(c) Form FmHA 449-30 will be completed to compensate the Lender for the difference in interest rates specified on the Loan Note Guarantee or Interest Rate Buydown Agreement and the rate of interest specified by the bankruptcy court.

(3) Final Loss Payments.

(a) Final loss payments will be processed when the loan is liquidated.

(b) If the loan is paid in full without an additional loss, the Finance Office will close out the estimated loss account at the time notification of payment in full is received.

(4) Payment Application—The lender must apply estimated loss payments first to the unsecured principal of the guaranteed portion of the debt and then to the unsecured interest of the guaranteed portion of the debt. In the event the bankruptcy court attempts to direct the payments to be applied in a different manner, the lender will immediately notify the FmHA servicing office.

(5) Overpayments—Upon completion of the reorganization plan, the lender will provide FmHA with the documentation necessary to determine whether the estimated loss paid equals the actual loss sustained. If the actual loss sustained, as a result of the reorganization, is greater than the estimated loss payment, the Lender will submit a revised estimated loss in order to obtain payment of the additional amount owed by FmHA to the Lender. If the actual loss

payment is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from the date of the payment of the estimated loss.

(6) Protective Advances—If approved protective advances have been made prior to the borrower having filed bankruptcy, as a result of prior liquidation action, these protective advances and accrued interest will be entered on Form FmHA 449-30.

Subpart C—Emergency Livestock Loans

8. Section 1980.284 is added to read as follows:

§ 1980.294 Bankruptcy.

(a) *General.* In bankruptcies, there are two separate proceedings: Liquidation and reorganization under the bankruptcy court's protection. It is the lender's responsibility to protect the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings (refer to paragraph IX C.5 of Form FmHA 449-35 or Form FmHA 1980-38). These responsibilities include, but are not limited to:

(1) The lender will file a proof of claim where necessary and all the necessary papers and pleadings concerning the case.

(2) The lender will attend and where necessary participate in meetings of the creditors and all court proceedings.

(3) The lender, whose collateral is subject to being used by the bankruptcy estate, will immediately seek adequate protection of the collateral. Adequate protection of the collateral, depending on interpretation, may take several forms. In a bankruptcy, the trustee is authorized to sell, lease or use the collateral if the borrower's business is in operation. The only collateral the trustee cannot utilize is cash collateral unless the secured creditor grants permission or the bankruptcy court authorizes the use of such after giving a proper hearing and notice.

(i) Cash collateral means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents, such as accounts receivable.

(ii) Concerning machinery, equipment and real estate, adequate protection can be interpreted differently under reorganization. The bankruptcy trustee could dispose of certain collateral and grant to the secured party a replacement lien on some other collateral which may or may not have the same value. For example, the lender may hold a first lien on a good saleable piece of real estate and could find replacement of this particular parcel of property with a second or possibly a third lien on another parcel of land that the lender may find undesirable for adequate protection. There are no guarantees to the lender when the borrower is in reorganization that the collateral will be protected to the lender's satisfaction. The lender should be fully aware of what is taking place with the collateral and resist any adverse changes that may be made in the collateral securing the FmHA guaranteed loan.

(4) When permitted by the Bankruptcy Code, the lender will request a modification of any plan of reorganization whenever it appears that additional recoveries are likely.

(5) FmHA will be kept adequately and regularly informed in writing of all aspects of the proceedings.

(b) *Reorganization bankruptcy cases.* (1) In a Chapter 11, 12, or 13 reorganization, if an independent appraisal of collateral is necessary in FmHA's opinion, FmHA and the lender will share the appraisal fee equally.

(2) Lender expenses, in a Chapter 11, 12, or 13 reorganization case, are not deducted from the proceeds of the collateral because a reorganization is not a liquidation. All expenses incurred by the lender (including attorney's fees) while the borrower is in reorganization are considered normal expenses of servicing the account and therefore are the responsibility of the lender and are not deductible from the proceeds of the collateral or covered under the FmHA guarantee.

(c) *Liquidation bankruptcy cases.* (1) Attorney fees incurred by the lender, without exception, cannot be approved. Reasonable and customary liquidation expenses may be deducted from the proceeds of the collateral in liquidation bankruptcy cases provided the lender is doing the actual liquidation of the collateral and presents adequate written justification for each expense and secures FmHA's written concurrences prior to incurring the expense.

(2) If a trustee is appointed by the bankruptcy court to sell the collateral under a conversion of a reorganization plan to a liquidation plan or Chapter 7, the trustee rather than the lender in this instance is responsible for liquidating the collateral. Normally, any expenses incurred by the lender during this period are not considered liquidation expenses and cannot be deducted from collateral proceeds. The lender is not engaged in the actual liquidation but is performing in a manner considered to be normal servicing of the loan under the circumstances.

(3) If the property is abandoned by the trustee and the lender is actually engaged in actual liquidation, reasonable liquidation expenses would be recoverable from liquidation proceeds with prior written concurrence for each expense from FmHA before the expense is incurred.

(d) *Loss Payments.* See paragraph XVI of Form FmHA 449-35 or Form FmHA 1980-38.

Administrative

(A) The lender is responsible for advising FmHA of the completion of reorganization plan; however, the FmHA servicing office will monitor the lender's files to ensure timely notification of servicing actions.

(B) If an estimated loss claim is paid during the operation of the reorganization plan, and the borrower repays the loan in full without an additional loss sustained by the lender, a Final Report of Loss is not necessary. The Finance Office will close out the estimated loss account as a Final Loss at the time notification of payment in full is received.

(C) If the bankruptcy court attempts to direct that loss payments will be applied to the account other than the unsecured principal first and then to unsecured accrued interest, the lender is responsible for notifying the FmHA servicing office immediately. The FmHA servicing office will then obtain advice from OGC on what actions FmHA should take.

(D) Protective Advances—Authorized Protective Advances may be included with the estimated loss payment associated with the reorganization bankruptcy provided they were incurred in connection with liquidation of the account prior to the borrower filing bankruptcy. Protective advances during a bankruptcy reorganization are not generally authorized. The bankruptcy court can order protection of the collateral while the borrower is in a reorganization bankruptcy. The lender whose collateral is subject to being used by the trustee in bankruptcy should immediately seek adequate protection of the collateral, including petitioning for a super priority.

(E) Accrued interest owed to the lender should be supported by documentation as to how the accrued interest amount was calculated by the lender. A copy of the promissory note and ledger should also be attached. As part of the review of the final loss claim, FmHA should be assured that the lender has not accrued interest on the principal and interest amount of the loan that was paid by the estimated loss payment. The approval official is responsible for the accuracy of the interest calculations on the final report of loss before submission to the Finance Office.

(F) Repurchase of Notes—In cases where a default on the guaranteed note does not exist, the State Director may approve the repurchase of the unpaid guaranteed portion of loan(s) from any holder(s) to reduce interest accrual during a Chapter 7 proceeding, or after a Chapter 11, proceeding becomes a liquidation proceeding. (Refer to paragraph X.C of Form 449-35 or Form FmHA 1980-38.)

(G) County Supervisors are authorized to accept Report of Estimated Loss or Final Los Payments on Form FmHA 449-30 in those cases where the loss payment will not exceed $55,000. The State Director is authorized to accept the determination in all other cases. A copy of the form will be given to the District Director. The State Director will submit Form FmHA 449-30 to the Finance Office for payment of any losses.

Subpart E—Business and Industrial Loan Program

9. Section 1980.475 is amended by redesignating paragraph (a)(5) to (a)(6), adding a new paragrah (a)(5), revising paragraph (b), adding a new paragraph (d), and revising the Administrative section to read as follows:

§ 1980.475 Bankruptcy.

(a) * * *

(5) When permitted by the Bankruptcy Code, the lender will request modification of any plan of reorganization whenever it appears that additional recoveries are likely.

(b) In a Chapter 11 reorganization if an independent appraisal of collateral is necessary in FmHA's opinion, FmHA and the lender will share such appraisal fee equally.

* * * * *

(d) *Estimated Loss Payments.* See paragraph XVI of Form FmHA 449-35.

Administrative

Refer to Appendix G of this subpart (available in any FmHA Office) for advice on how to interact with the lender on liquidation and property management.

(A) It is the responsibility of the State Program Chief to see that FmHA is being fully informed by the lender in all bankruptcy cases.

(B) All bankruptcy cases should be reported immediately to the National Office by utilizing and completing a problem/delinquent status report. The Regional Attorney must be informed promptly of the proceedings.

(C) Chapter 11 pertains to a reorganization of a business contemplating an ongoing business rather than a termination and dissolution of the business where legal protection is afforded to the business as defined under Chapter 11 of the Bankruptcy Code. Consequently expenses incurred by the lender in a Chapter 11 reorganization can never be liquidation expenses unless the proceeding becomes a Liquidating 11. If the proceeding should become a Liquidating 11, reasonable and customary liquidation expenses from that point forward may be shared as provided by the Lender's Agreement. Chapter 7 pertains to a liquidation of the borrower's assets. If, and when, liquidation of the borrower's assets under Chapter 7 is conducted by the bankruptcy trustee then the lender cannot claim expenses.

(D) The State Director may approve the repurchase of the unpaid guaranteed portion of the loan from the holder(s) to reduce interest accruals during Chapter 7 proceedings or after a Chapter 11 proceeding becomes a liquidation proceeding. On loans in bankruptcy, any loss payment must be halted in accordance with the Lender's Agreement and carry the approval of the State Director.

(E) The State Director must approve in advance and in writing the lender's estimated liquidation expenses on loans in liquidation bankruptcy. These expenses must be reasonable and customary and not in-house expenses of the lender.

(F) The lender is responsible for advising FmHA of the completion of the Chapter 11 reorganization plan; however, the FmHA servicing office will monitor the lender's files to ensure timely notification of servicing actions.

(G) If an estimated loss claim is paid during the operation of the reorganization plan, and the borrower repays the loan in full without an additional loss sustained by the lender, a Final Report of Loss is not necessary. The Finance Office will close out the estimated loss account as a Final Loss at the time notification of payment in full is received.

(H) If the bankruptcy court attempts to direct that loss payments will be applied to the account other than the unsecured principal first and then to unsecured accrued interest, the lender is responsible for notifying the FmHA servicing office immediately. The FmHA servicing office will then obtain advice from OGC on what actions FmHA should take.

(I) Protective Advances—Authorized Protective Advances may be included with the estimated loss payment associated with the Chapter 11 reorganization provided they were incurred in connection with liquidation of the account prior to the borrower filing bankruptcy. Protective advances during a bankruptcy reorganization are not generally authorized.

(J) Adequate Protection—The bankruptcy court can order protection of the collateral while the borrower is in a reorganization bankruptcy. The lender whose collateral is subject to being used by the trustee in bankruptcy should immediately seek adequate protection of the collateral, including petitioning for a super priority.

Subpart F—Economic Emergency Loans

Section 1980.583 is added to read as follows:

§ 1980.583 Bankruptcy.

(a) *General.* In bankruptcies, there are two separate proceedings: Liquidation and reorganization under the bankruptcy court's protection. It is the lender's responsibility to protect the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings (refer to paragraph IX C.5 of Form FmHA 449-35 or Form FmHA 1980-35 or Form FmHA 1980-38.) These responsibilities include, but are not limited to:

(1) The lender will file a proof of claim where necessary and all the necessary papers and pleadings concerning the case.

(2) The lender will attend and where necessary participate in meetings of the creditors and all court proceedings.

(3) The lender, whose collateral is subject to being used by the bankruptcy estate, will immediately seek adequate protection of the collateral. Adequate protection of the collateral, depending on interpretation, may take several forms. In a bankruptcy, the trustee is authorized to sell, lease or use the collateral if the borrower's business is in operation. The only collateral the trustee cannot utilize is cash collateral unless the secured creditor grants permission or the bankruptcy court authorizes the use of such after giving a proper hearing and notice.

(i) Cash collateral means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents, such as accounts receivable.

(ii) Concerning machinery, equipment and real estate, adequate protection can be interpreted differently under reorganization. The bankruptcy trustee could dispose of certain collateral and grant to the secured party a replacement lien on some other collateral which may or may not have the same value. For example, the lender may hold a first lien on a good saleable piece of real estate and could find replacement of this particular parcel of property with a second or possibly a third lien on another parcel of land that the lender may find undesirable for adequate protection. There are no guarantees to the lender when the borrower is in reorganization that the collateral will be protected to the lender's satisfaction. The lender should be fully aware of what is taking place with the collateral and resist any adverse changes that may be made in the collateral securing the FmHA guaranteed loan.

(4) When permitted by the Bankruptcy Code, the lender will request a modification of any plan of reorganization whenever it appears that additional recoveries are likely.

(5) FmHA will be kept adequately and regularly informed in writing of all aspects of the proceedings.

(b) *Reorganization bankruptcy cases.* (1) In a Chapter 11, 12, or 13 reorganization, if an independent appraisal of collateral is necessary in FmHA's opinion, FmHA and the lender will share the appraisal fee equally.

(2) Lender expenses in a Chapter 11, 12, or 13 reorganization case are not deducted from the proceeds of the collateral because a reorganization is not a liquidation. All expenses incurred by the lender (including attorney's fees), while the borrower is in reorganization,

are considered normal expenses of servicing the account, and therefore are the responsibility of the lender and are not deductible from the proceeds of the collateral or covered under the FmHA guarantee.

(c) *Liquidation bankruptcy cases.* (1) Attorney fees incurred by the lender, without exception, cannot be approved. Reasonable and customary liquidation expenses may be deducted from the proceeds of the collateral in liquidation bankruptcy cases, provided the lender is doing the actual liquidation of the collateral and presents adequate written justification for each expense and secured FmHA's written concurrence prior to incurring the expense.

(2) If a trustee is appointed by the bankruptcy court to sell the collateral under a conversion of a reorganization plan to a liquidation plan or Chapter 7, the trustee rather than the lender in this instance is responsible for liquidating the collateral. Normally, any expenses incurred by the lender during this period are not considered liquidation expenses and cannot be deducted from collateral proceeds. The lender is not engaged in the actual liquidation but is performing in a manner considered to be normal servicing of the loan under the circumstances.

(3) If the property is abandoned by the trustee and the lender is actually engaged in actual liquidation, reasonable liquidation expenses would be recoverable from liquidation proceeds with prior written concurrence for each expense from FmHA before the expense is incurred.

(d) *Loss Payments.* See paragraph XVI of Form FmHA 449-35 or Form FmHA 1980-38.

Administrative

(A) The lender is responsible for advising FmHA of the completion of reorganization plan; however, the FmHA servicing office will monitor the lender's files to ensure timely notification of servicing action.

(B) If an estimated loss claim is paid during the operation of the reorganization plan, and the borrower repays the loan in full without an additional loss sustained by the lender, a Final Report of Loss is not necessary. The Finance Office will close out the estimated loss account as a Final Loss at the time notification of payment in full is received.

(C) If the bankruptcy court attempts to direct that loss payment will be applied to the account other than the unsecured principal first and then to unsecured accrued interest, the lender is responsible for notifying the FmHA office immediately. The FmHA servicing office will then obtain advice from OGC on what actions FmHA should take.

(D) Protective Advances—Authorized Protective Advances may be included with the estimated loss payment associated with the reorganization bankruptcy provided they were incurred in connection with liquidation of the account prior to the borrower filing bankruptcy. Protective advances during a bankruptcy reorganization are not generally authorized.

(E) Adequate Protection—The bankruptcy court can order protection of the collateral while the borrower is in a reorganization bankruptcy. The lender whose collateral is subject to being used by the trustee in bankruptcy should immediately seek adequate protection of the collateral, inducing petitioning for a super priority.

(F) Accrued interest owed to the lender should be supported by documentation as to how the accrued interest amount was calculated by the lender. A copy of the promissory note and ledger should also be attached. As part of the review of the final loss claim, FmHA should be assured that the lender has not accrued interest on the principal and interest amount of the loan that was paid by the estimated loss payment. The approval official is responsible for the accuracy of the interest calculations on the final report of the loss before submission to the Finance Office.

(G) Repurchase of Notes—In cases where a default on the guaranteed note does not exist, the State Director may approve the repurchase of the unpaid guaranteed portion of the loan(s) from any holder(s) to reduce interest accrual during Chapter 7 proceeding, or after a Chapter 11 proceeding becomes a liquidation proceeding. (Refer to paragraph X.C of Form FmHA 449-35 or Form FmHA 449-38.)

(H) County Supervisors are authorized to accept Report of Estimated Loss or Final Loss Payments on Form FmHA 449-30 in those cases where the loss payment will not exceed $55,000. The State Director is authorized to accept the determination in all other cases. A copy of the form will be given to the District Director. The State Director will submit Form FmHA 449-30 to the Finance Office for payment of any losses.

Vance L. Clark,

Administrator, Farmers Home Administration.

Dated: March 30, 1988.

[FR Doc. 88-10119 Filed 5-6-88; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness Requirements for Nuclear Power Plant Fuel Loading and Initial Low-Power Operations

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission proposes to amend its regulations to establish more clearly what emergency planning and prepardness requirements are needed for fuel loading and lower power operation of nuclear power plants. Current rules provide for a finding prior to fuel loading and low power on the licensee's plans and state of preparedness for dealing with accidents that could affect persons onsite, and for coordinating with offsite personnel and agencies so that the necessary resources (for example fire equipment) can be applied onsite for mitigating and containing accidents and so that offsite agencies can be kept informed of plant events. Current rules also provide that no finding regarding the planning or preparedness of offsite agencies for dealing with accidents that could affect persons offsite is required at this stage. The Commission is not proposing to change these aspects of the current rules. However, practice under the current rule has been to consider also, as part of review of licensees' plans, certain offsite elements of those plans that seem pertinent only to protecting persons offsite. It is the purpose of this public rulemaking to consider whether this prior practice should be discontinued or modified in view of the principal basis for the current rule, which is that there is a low degree of risk posed to offsite persons by fuel loading and low power operation (up to 5% of rated power). Specifically, the Commission is considering amending § 50.47(d) to include as prerequisites for low power operation, seven standards with offsite aspects that are believed to be appropriate for fuel loading and low power operation. The capability for prompt notification of the surrounding populace (as distinct from the capacity to keep offsite emergency planning agencies informed promptly of plant accidents) is not included in the rule as a requirement for fuel load and low power operations. However, nothing in this proposed rule is intended to change the emergency planning standards which must be satisfied before operations at full power.

DATES: The comment period expires June 8, 1988. Comments filed after this date will be considered if practical to do so, but only those comments filed on or before this date can be assured of consideration.

ADDRESSES: Comments may be sent to the Secretary of the Commission, Attention: Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be hand-delivered to either the Public Document Room, 1717 H Street, NW., Washington, DC 20555, between the hours of 7:45 a.m. and 4:30 p.m. or the Office of the Secretary, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between the hours of 7:30 a.m. and 4:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT:
James R. Wolf, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492–1641, or Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492–3918.

SUPPLEMENTARY INFORMATION:

A. Background

On August 19, 1980, the Nuclear Regulatory Commission published revised and upgraded emergency planning regulations culminating a process that had been initiated by the events at Three Mile Island. See 45 FR 55402. Less than two years later, the Commission revisited those regulations in order to clarify them in two respects, one of them central to the Commission's current proposed rule.[1]

Specifically, the Commission recognized that its 1980 rulemaking had not addressed the subject of low power operations and had not differentiated with respect to whether and to what extent emergency planning requirements should be applicable to fuel loading and low power (up to 5% of rated power) testing. The Commission then issued a proposed rule for comment (46 FR 61132) and thereafter on July 13, 1982 promulgated as a final rule a new § 50.47(d) to provide that only a finding as to the adequacy of applicant's *onsite* emergency planning and preparedness is required for low power. 47 FR 30232. However, in language accompanying the publication of the rule the Commission provided that review of an applicant's *onsite* emergency plan would involve aspects of some *offsite* elements.

More specifically, the Commisison said in the rule preamble (but not in the rule itself) that prior to low power it would review the following offsite aspects of *applicant's* plans:

(a) Section 50.47(b)(3). Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff and the licensee's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.

(b) Section 50.47(b)(5). Procedures have been established for notification, by the licensee, of State and local response organizations and for notification of emergency personnel by all organizations; the content of initial and followup messages to response organizations and the public has been established; and means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established.

(c) Section 50.47(b)(6). Provisions exist for prompt communications among principal response organizations to emergency personnel and to the public.

(d) Section 50.47(b)(8). Adequate emergency facilities and equipment to support the emergency responses are provided and maintained.

(e) Section 50.47(b)(9). Adequate methods, systems, and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.

(f) Section 50.47(b)(12). Arrangements are made for medical services for contaminated injured individuals.

(g) Section 50.47(b)(15). Radiological emergency response training is provided to those who may be called on to assist in an emergency.

The foundation for the July 1982 rule change was the Commission's determination that the degree of emergency planning and preparedness necessary to provide adequate protection of the public health and safety is significantly less than that required for full power operation in light of the significantly lower risks associated with even low likelihood accidents at that stage. 47 FR at 30233 (See also n.1 citing conclusions that low power risk is several orders of magnitude less than full power risk according to staff evaluations in several operating license cases).

B. Commission Consideration of the Appeal Board's Decision in Seabrook, Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), ALAB–883 (February 3, 1988)

Recently the Commission has had its attention refocused on the emergency preparedness requirements for low power operation. This is so because existing siren systems that were to serve for prompt notification throughout the Massachusetts portion of the Seabrook offsite emergency planning zone in the event of an accident with potential offsite consequences had been or were about to be dismantled. The absence of a prompt notification system was brought to the attention of the Appeal Board which, entertaining the matter in the first instance rather than as appellate reviewer, reopened the record in the Seabrook operating license proceeding for litigation of contentions related to the absence of a prompt notification system. Moreover, the Appeal Board held that low power testing must await the resolution of those issues before an Atomic Safety and Licensing Board. ALAB–883, slip op. at 18–24.

Petitions for Commission review of the Appeal Board decision were then timely filed with the Commission. This was the first time that contested issues regarding compliance with any of the seven offsite elements of applicants' onsite plans (items (a)-(g) above) had come before the Commission. The Commission itself had not until then had occasion to apply and interpret this aspect of the 1982 rule change in an adjudicatory hearing context.

C. The Need for Rulemaking

Related to its consideration of whether to take review of the need for a prompt notification system in *Seabrook* prior to low power, the Commission reexamined the July 1982 rule change in order to determine whether there is any safety basis for continuing public notification as a requirement for low power, and if there was not, whether further rule changes were needed. As a part of this rulemaking consideration, the Commission reevaluated and sees no reason to doubt the safety rationale stated by the Commission in promulgating its 1982 rule. Although at low power plant operators typically have less experience and there is a greater potential for undiscovered defects, the risk to public health and safety at low power is significantly lower than at full power as a result of several factors. Those reasons were stated earlier by the Commission as follows: First, the fission product inventory during low power testing is much less than during higher power operation due to the low level of reactor power and short period of operation. Second, at low power there is a significant reduction in the required capacity of systems designed to mitigate the consequences of accidents compared to the required capacities under full-power operation. The Commission notes that the regulatory requirements for safety systems during reactor power operation, including containment integrity, emergency core cooling, and redundant power supplies are the same for 5% power operation as they are for 100% power. Third, the time available for taking actions to identify accident causes and mitigate accident consequences is much longer than at full power. This means the operators should

[1] The other issue was whether emergency preparedness exercises may be litigated in Commission proceedings and is not relevant to the rule proposed in this notice. In *Union of Concerned Scientists v. NRC*, 735 F.2d 1437 (D.C. Cir. 1984), *cert. denied sub nom. Arkansas Power & Light Co. v. Union of Concerned Scientists*, 469 U.S. 1132 (1985) it was held that emergency preparedness exercises may be litigated.

have sufficient time to prevent a radioactive release from occurring. In the worst case, the additional time available (at least 10 hours), even for a postulated low likelihood sequence which could eventually result in release of the fission products accumulated at low power into the containment, would allow adequate precautionary actions to be taken to protect the public near the site [2] (47 FR 30233).

The safety basis for the 1982 rule was reviewed. The analyses done at that time are still applicable. The Commission reexamined the need at low power to review those aspects of applicants' onsite plans that seem relevant only to offsite protective measures that may be needed if there were an accident with offsite dose effects. Several considerations recommend the choice of a rulemaking forum for this effort rather than address these factors in the first instance in the context of the Seabrook adjudication. First, and most important, the question is essentially a generic safety question with applicability to all pending and future applications for fuel loading and low power, and the Commission prefers to subject its proposal to a broader spectrum of public comment than simply the litigants in the Seabrook case. Second, to the extent that *any* review bearing on offsiet preparedness is required before low power, including a limited review of applicants' plans as contemplated by this proposed rule, the current rule language codified in 10 CFR 50.47(d) is misleading in that it suggests that no such review is needed.

D. The Proposed Rule

The proposed rule requires NRC findings on the applicant's onsite plan and only those offsite elements of that plan which could reasonably be expected to be needed in the event of a radiological emergency at low power. The principal focus of these requirements is on such coordination by applicants with offsite agencies as may be necessary to bring offsite personnel and equipment to the site to mitigate and contain the accident. For example, offsite fire equipment and medical services may be needed to deal with a fire and to treat injured plant workers. A secondary focus of such requirements is on coordination with offsite agencies to ensure that offsite authorities are kept informed of plant status, including details of the emergency and of the onsite response so that they can be of maximum assistance to the response and can respond fully and accurately to questions from the media and the public. The offsite elements include establishing arrangements for requesting and using offsite assistance resources onsite as well as arrangements to accommodate State and local staff (or appropriate members of the utility emergency organization) at the near-site emergency facility, and identifying other organizations capable of augmenting the planned onsite response.

They also include establishing procedures for licensee notification of State and local response organizations, provisions for prompt communications among principal response organizations to offsite emergency personnel who would be responding to onsite emergencies; providing adequate emergency facilities and equipment to support the emergency response planned onsite; providing adequate methods, systems, and equipment for assessment and monitoring of actual or potential offsite consequences; making arrangements for medical services for contaminated injured individuals on site, and providing radiological emergency response training to those offsite who may be called on to assist in an emergency onsite.

It has been difficult on at least initial consideration for the Commission to discover a basis for requiring a review before lower power operation of prompt (within minutes) notification of the public when a worst case analysis of a low likelihood accident at low power would appear to recognize that such notice would be far in excess of what would reasonably be needed. Under the proposed rule, review would *not* be required before low power operations to established compliance with the full power standard which requires that means be established to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone. For low power, to the extent persons offsite become concerned about an accident and its potential effects, plans will be in place for licensee to keep offsite planning and response agencies fully informed of the details of the emergency, and licensees, in conjunction with these offsite agencies, can keep the media and the public informed.

Other offsite aspects of applicants' onsite plans, as listed in (a)-(g) above from the 1982 rule preamble, have been modified to reflect the proper focus of offset coordination for low power operations, and inserted into the rule itself.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Enviornmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environmental and therefore an environmental impact statement is not required. The enviornmental 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 20555.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval number 3150–0011.

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, DC. Single copies of the analysis may be obtained from Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492–3918.

Regulatory Flexibility Certification

This proposed rule will not have a significant impact on a substantial number of small entities. The proposed rule will reduce or at least postpone the procedural burden on NRC licensees by reducing the process required before low power operations may be commenced. Nuclear power plant licensees do not fall within the definition of small businesses in section 3 of the Small Business Act, 15 U.S.C. 632, the Small Business Size Standards of the Small Business Administration in 13 CFR Part 121, or the Commission's Size Standards published at 50 FR 50241 (Dec. 9, 1985). Therefore, in accordance

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[2] The level of risk associated with low-power operation has been estimated by the staff in several recent operating license cases: Diablo Canyon, Docket Nos. 275–OL, 323–OL, San Onofre, Docket Nos. 361–OL, 362–OL, Shoreham, Sequoyah, TMI–1 and LaSalle, Docket Nos. 373–OL, 374–OL. In each case the Safety Evaluation Report concluded that low-power risk is several orders of magnitude less than full-power risk. These findings support the general conclusions in the text that a number of factors associated with low-power operation imply greatly reduced risk compared with full power.

with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities and that, therefore, a regulatory flexibility analysis need not be prepared.

Backfit analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, penalty, Radiation protection, Reactor siting criteria, and Reporting requirements.

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. 552 and 553, the Commission is proposing to adopt the following amendments to Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and

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(c), and 50.43 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.9, 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.47, paragraph (d) is revised to read as follows:

§ 50.47 Emergency plans.

* * * * *

(d) Notwithstanding the requirements of paragraphs (a) and (b) of this section, and except as specified by this paragraph, no NRC or FEMA review, findings, or determinations concerning the state of offsite emergency preparedness or the adequacy of and capability to implement State and local offsite emergency plans are required prior to issuance of an operating license authorizing only fuel loading or low power operations (up to 5% of the rated power). Insofar as emergency planning and preparedness requirements are concerned, a license authorizing fuel loading or low power operation or both may be issued after a finding is made by the NRC that the state of onsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base this finding on its assessment of the applicant's onsite emergency plans against the pertinent standards in paragraph (b) of this section and Appendix E. Review of applicant's onsite plans will consider only the following standards with offsite aspects:

(1) Arrangements for requesting and effectively using offsite assistance onsite have been made, arrangements to accommodate State and local staff at the licensee's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned onsite response have been identified.

(2) Procedures have been established for licensee communications with State and local response organizations; including, initial notification of the declaration of emergency and periodic provision of plant and response status reports.

(3) Provisions exist for prompt communications among principal response organizations to offsite emergency personnel, who would be responding onsite.

(4) Adequate emergency facilities and equipment to support the emergency response onsite are provided and maintained.

(5) Adequate methods, systems, and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are available.

(6) Arrangements are made for medical services for contaminated and injured onsite individuals.

(7) Radiological emergency response training has been made available to those offsite who may be called to assist in an emergency onsite.

Dated at Rockville, MD, this 4th day of May, 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-10245 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-10]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA 365 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) which requires repetitive inspections of the main rotor mast on Aerospatiale Model SA 365 series helicopters. This proposed amendment would limit the AD's applicability to helicopters equipped with masts which need repetitive inspections because some masts are not susceptible to the conditions requiring these inspections.

DATES: Comments must be received on or before June 20, 1988.

ADDRESSES: Comments on the proposal may be mailed in duplicate to Federal Aviation Administration, Southwest Region, Office of the Regional Counsel, Attention: Rules Docket, Fort Worth, Texas 76193-0007, or delivered in duplicate to Office of the Regional Counsel, FAA, 4400 Blue Mound Road, Room 158, Building 3B, Fort Worth, Texas. Comments must be marked: "Docket No. 85-ASW-10." Comments may be inspected at the above location between 8 a.m. and 4:30 p.m. weekdays, except Federal holidays.

The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, ATTN: Customer Support, or examined in the Regional Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: John Varoli, Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667, telephone 513–3830, or R.T. Weaver, Rotorcraft Standards Staff, ASW–110, Federal Aviation Administration, Fort Worth, Texas 76193–0111, telephone (817) 624–5122.

SUPPLEMENTARY INFORMATION: 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 will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

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 Office of Regional Counsel, Southwest Region, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 85–ASW–10." The postcard will be date/time stamped and returned to the commenter.

Amendment 39–5093 (50 FR 29649; July 22, 1985), AD 85–15–01, as amended by Amendment 39–5679 (52 FR 27787; July 24, 1987), currently requires inspection of the main rotor mast for cracks and repair or replacement, as necessary, on certain Aerospatiale Model SA 365 series helicopters. After issuing Amendment 39–5679, the FAA has determined that the manufacturer has designed newly improved parts which provide an equivalent level of safety without the need for repetitive inspection. The proposed amendment to Amendment 39–5093, as amended, would limit its applicability to certain main rotor masts installed on certain Aerospatiale Model SA 365 series helicopters.

This proposed amendment provides a clarification, is relieving in nature, and imposes no additional burden on any person.

The regulations set forth in this notice would be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301. *et seq.*), which statute is construed to preempt state law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulations do not have federalism implications warranting the preparation of a Federalism Assessment.

The FAA has determined that this proposed revision of an existing regulation only involves 13 helicopters in operation in the United States and imposes no increase in cost. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending Amendment 39–5093 (50 FR 29649; July 22, 1985), AD 85–15–01, as amended by Amendment 39–5679 (52 FR 27787; July 24, 1987), by deleting paragraph (h) of the AD, and by revising the applicability statement and the compliance statement as follows:

Societe Nationale Industrielle Aerospatiale: Applies to Aerospatiale Model SA 365 series helicopters, certificated in any category, when equipped with main rotor masts with Part Numbers 365A31–1060–23 or –25, or 365A31–1179–03, –20, or –21.

Compliance with this amendment to the AD is required as indicated after the effective date of this AD amendment, unless already accomplished.

* * * * *

Issued in Fort Worth, TX, on April 22, 1988.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 88–10144 Filed 5–6–88; 8:45 am]

BILLING CODE 4910–13–M

Notices

Federal Register
Vol. 53, No. 89
Monday, May 9, 1988

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

DEPARTMENT OF AGRICULTURE

Forest Service

Committee of State Foresters; Open Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Committee of State Foresters will meet in Jackson, Mississippi, on June 2, 1988. The meeting will be held in the Oxford Room of the Holiday Inn Hotel, 200 East Amite Street, from 8 a.m. to 12 p.m.

The Committee is comprised of the seven members of the Executive Committee of the National Association of State Foresters. The purpose of the meeting is for the Committee to consult with reresentatives of the Secretary of Agriculture regarding the administration and application of various portions of the Cooperative Forestry Assistance Act of 1978 (Pub. L. 95–313). The Chief of the Forest Service, F. Dale Robertson, will chair this meeting, which is open to the public.

Persons who wish to bring cooperative forestry matters to the attention of the Committee may file written statements with the Executive Secretary before or after the meeting.

FOR FURTHER INFORMATION CONTACT: Allan J. West, Executive Secretary, Committee of State Foresters, (3000) Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 447–6657.

Dated: May 2, 1988.

George M. Leonard,
Associate Chief, Forest Service.

[FR Doc. 88–10179 Filed 5–6–88; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Magic Valley Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant imapct.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. section 4321 et seq.), the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to construction of a 138 kV transmission line and four associated substations in Cameron and Hidalgo Counties, Texas, by Magic Valley Electric Cooperative, Inc. (MVEC).

FOR FURTHER INFORMATION CONTACT: Martin G. Seipel, Director, Southwest Area—Electric, Room 0205, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8848.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for financing assistance from MVEC, required that MVEC develop environmental support information reflecting the potential environmental impacts of the project. The information supplied by MVEC is contained in a Borrower's Environmental Report (BER) which was used by REA to develop its Environmental Assessment (EA). REA has concluded that the EA represents an accurate assessment of the environmental impacts of the proposed project and that the impacts are acceptable.

The proposed project consists of constructing approximately 95 kilometers (km) (59 mi) of new single circuit 138 kV transmission line and four new 138/12.5 kV distribution substations and the rebuilding of 3.3 km (2.1 mi) of existing 69 kV line to 138 kV. The line would originate at either the Loma Alta Substation of the Brownsville Public Utility Board or the Union Carbide Switching Station of Central Power & Light Company and would connect the proposed Highway 511-Kellers Corner, Central Avenue, Arroyo City and Burns Substations before terminating at MVEC's existing Heidelberg Substation. The majority of the single pole wood structures would be routed parallel and adjacent to existing roads within a 15.3 meter (50 ft) right-of-way. Each of the four distribution substations would require approximately 0.8 hectare (2 ac) of land.

REA has concluded that the proposed project will have no effect on prime forest land or rangeland, threatened or endangered species or critical habitat and properties listed or eligible for listing in the *National Register of Historic Places*. A maximum of 0.8 ha (2 ac) of important farmland could be impacted at the Arroyo City Substation site. Certain other impacts resulting from the proposed project are unavoidable such as the placement of a majority of the transmission structures in the 100-year floodplain and routing the transmission line over small wetlands and deepwater habitat. No other matters of environmental concern have come to REA's attention.

Alternatives examined for the proposed project included no action, energy conservation, alternative line routing and alternative substation sites. REA determined that there is a need for the proposed facilities and that constructing these facilities is recommended is an environmentally acceptable alternative for MVEC to increase system capacity, improve service reliability and reduce system power losses.

Based upon the environmental support information provided, REA prepared an EA concerning the proposed project and its impacts. As a result of its independent evaluation, REA has concluded that approval of financing assistance enabling MVEC to construct the proposed project would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, REA has reached a FONSI with respect to the proposed project. The preparation of an environmental impact statement is not necessary.

Copies of REA's EA and FONSI can be obtained from the offices of REA in the South Agriculture Building, Room 0205, 14th and Independence Avenue SW., Washington, DC 20250; or at the office of Magic Valley Electric Cooperative, Inc. (Billy Ryan, Manager).

P.O. Drawer 267, Mercedes, Texas 78570, during regular business hours.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in final rule related notice to 7 CFR Part 3015, Subpart V, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Date: May 3, 1988.

John H. Arnesen,

Assistant Administrator—Electric.

[FR Doc. 88-10180 Filed 5-6-88; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Export Administration

[Docket Nos. 7106-01, 7106-02, 7106-01, 7107-02]

Action Affecting Export Privileges; Hans Wirth et al.

In the matter of Hans Wirth, individually and doing business as Cosmotrans AG, Bruno Barbarits, individually and doing business as Cosmotrans AG, Respondents; Docket Nos. 7016-01, 7106-02, 7107-01, and 7107-02.

Summary

Pursuant to the April 4, 1988 Decision and Order of the Administrative Law Judge, which Decision and Order is affirmed by me, Hans Wirth and Bruno Barbarits, both individually and doing business as Cosmotrans, A.G. (a/k/a Cosmotrans Lts.) and Cosmotrans USA Inc., all with addresses at

Cosmotrans LTD., Fracht West Building, Office 274, CH 8058, Zurich—Switzerland,

and

Cosmotrans USA, Inc., P.O. Box 30978, JFK International Airport, Jamaica, New York 11430,

are denied all U.S. export privileges for a period of twenty (20) years from the date hereof.

Order

On April 4, 1988, the Administrative Law Judge entered his recommended Decision and Order in the above referenced matter. That Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record, and based on the facts of this case, I affirm the Decision and Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Date: May 3, 1988.

Paul Freedenberg,

Under Secretary for the Bureau of Export Administration.

Appearance for Respondent: Dr. Stephen Zimmermann, Esq., Zimmermann & Breitenmoser, Rechtsanwalte, Mitglieder Des Schweizerischen, Anwaltsverbandes 8008 Zurich, Zollikerstrasse 4 Switzerland.

Appearance for Agency: Daniel C. Hurley, Jr., Esq., Attorney-Advisor, Office of the Deputy Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3329, Washington, DC 20230.

Preliminary Statement

On July 27, 1987, the Office of Export Enforcement (OEE), United States Department of Commerce (Agency), issued charging letters to both Respondent Hans Wirth and Bruno Barbarits, both individually and doing business as Cosmotrans, A.G. (hereinafter collectively referred to as "Respondents").[1] The charging letters allege that Respondents violated §§ 387.2, 387.3, 387.4, and 387.5 of the Export Administration Regulations (15 CFR Parts 368–399) (the Regulations), issued pursuant to the Export Administration Act of 1979 (50 U.S.C. app. 2401–2420), as reauthorized and amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) (the Act).

Respondents filed their answers to the initial charging letter on August 20, 1987. Counsel for Respondents states in his "Preliminary Position on Issues and Procedure", dated September 30, 1987, that he was prepared to have a hearing in Zurich, Switzerland. This request was denied.[2] Pursuant to § 388.14 of the Regulations, this matter is adjudicated on the record without a hearing. Both Agency counsel and Respondents made written submissions to the record, which closed on December 21, 1987.

Charges

In the amended charging letter, Agency alleges that, between on or about January 2, 1979 and on or about March 8, 1983, Respondents conspired and acted in concert with Robert J. Lambert, Dierk Hagemann and Albert Kessler in order to bring about the following series of acts, which constitute violations of the Act and the Regulations.

There was a conspiracy between the Respondents, the purpose of which was to divert U.S.-origin electronic test equipment, originally approved for export to specified consignees in Israel and other destinations, to unauthorized consignees in the German Democratic Republic (G.D.R.), Bulgaria and the Union of Soviet Socialist Republics (U.S.S.R.), without the required export licenses or reexport authorizations. The Respondents knew, or had reason to know, that the Department had not authorized export of this equipment to East bloc destinations.

Respondents Hans Wirth and Bruno Barbarits, individually and doing business as Cosmotrans AG (also known as Cosmotrans Ltd), aided and abetted the reexport or diversion from Switzerland of numerous shipments of U.S.-origin electronic test equipment to unauthorized end users and destinations. Specifically, Robert Lambert, using Dierk Hagemann's freight forwarding company, Uni-Data World Transport, Inc., exported the equipment from the United States to customs bonded warehouses operated by Cosmotrans in Switzerland.[3] Respondents prepared false shipping documents, including, but not limited to air waybills and invoices, showing new consignees, destinations and descriptions of contents, neither known to nor authorized for reexport by the Department.

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[1] An initial charging letter to Respondents Wirth, individually and doing business as Cosmotrans, was issued by the Agency on July 21, 1986. Respondent Wirth filed an answer to that charging letter on August 16, 1986. On September 19, 1986, Agency Counsel's petition to amend the charging letter was granted. The amended charging letter does not alter the basic charges. A charging letter to Respondent Barbarits, individually and doing business as Cosmotrans, was issued by the Agency on July 27, 1987.

Agency counsel and Respondents' counsel filed submissions for the record consolidating the actions against Wirth, Barbarits and Cosmotrans.

[2] On October 19, 1987, the undersigned Administrative Law Judge denied Respondent's request for a hearing in Zurich. Section 388.13(a) of the Export Administration Regulations provides: "all hearings will be held in Washington, DC unless the Administrative Law Judge determines, based upon a good cause showing, that another location would better serve the interests of justice." Respondent's counsel has made no showing of good cause.

A full presentation was made on the record by written submission by the Agency and the Respondents.

[3] Robert J. Lambert, Albert Kessler and Dierk Hagemann were found to have conspired and acted in concert to export U.S.-origin computer test equipment without the required validated licenses in violation of the Act and Regulations. *See In the Matter of Robert J. Lambert, et al.*, Docket No. 3601-01 to 3640-06, July 14, 1986 (51 FR 26030, July 18, 1986). In that Decision the acts that Lambert and Hagemann were found to have committed are the same as those referred to above, and were subjected to civil penalties.

The legal basis for those administrative charges against Respondent was their September 7, 1982 criminal conviction for the aforementioned scheme.

Respondents reexported these U.S.-origin goods to unauthorized consignees in the G.D.R., Bulgaria and the U.S.S.R. In carrying out the activities described in this and the two preceding paragraphs, Respondents violated §§ 387.2, 387.3, 387.4, and 387.5 of the Regulations. Each of those violations involved U.S.-origin goods controlled under Section 5 of the Act, for national security reasons.

Discussion

In a sworn statement dated November 10, 1987, Robert J. Lambert testified that Respondents would typically place orders for U.S.-origin goods, provide guidelines for preparing shipping documents, including the identity of the ultimate consignee, and specify routes for U.S. exporters shipping these goods.[4] (Govt. Exh. 2)

Lambert referenced three transactions representing the pattern of activity engaged in by Respondents and the others. The evidence indicates that he received all three of these orders for U.S.-origin electronic test equipment from Wirth or Cosmotrans, that this equipment was exported under validated license A527828 via the Consignee, Tadiran Israel Electronics Ind. (Tadiran), in Israel.

The Shipper's Export Declarations for all three shipments referred to individual validated license A527828, which the Agency issued to Lambert's company, Warner Trading Associates, on December 15, 1980, authorizing exports to Tadiran of computers and related equipment valued at $1,000,000 until December 31, 1981.[5] (Govt. Exh. 7) Lambert testified that all of his shipments to Respondents were sent to the Cosmotrans freight forwarding facility and that he and Respondents "understood" where the equipment being shipped to Cosmotrans would end up. Lambert explained that Wirth dealt with the G.D.R., that Barbarits dealt with Bulgaria, and that Kessler had customers in the U.S.S.R. (Govt. Exh. 1, 2)[6]

Special Agent Roberts stated that interviews of Tadiran officials, conducted by a U.S. Customs Attache, disclosed that Tadiran had never heard of Lambert or any of his companies, had never placed an order with Wirth, Barbarits or Cosmotrans, and had never received any shipments from Cosmotrans.[7] (Govt. Exh. 3)

Evidence indicates that either Respondent Wirth or Barbarits ordered U.S.-origin electronic test equipment from Lambert, directing that Lambert show "Tadiran Israel Electronics, Ind.", as the purported ultimate consignee on export control documents, that Lambert use Hagemann's freight forwarding company, to ship this equipment from the United States.[8] The U.S.-origin equipment was to be routed to Israel, via Cosmotrans in Zurich. Cosmotrans was shown on export control documents as the intermediate consignee. (Govt. Exh. 5B).

The Shipper's Export Declarations and air waybills for these shipments show one of Lambert's companies as the exporter for U.S.-origin goods going to Tadiran Israel Electronics Ind., and shows Tadiran as the ultimate consignee.[9] The air waybills, which accompanied the shipments, described the goods as "elect." or "electr.", apparently so that the goods would not be perceived as electronic goods by Swiss authorities.[10] (Govt. Exh. 1, 4C, 5C) Lambert testified that Cosmotrans prepared new shipping documents for the U.S.-origin equipment when it arrived in Zurich, and forwarded the shipments to end-users in the East bloc. (Govt. Exh. 1, 2)

The invoice for one of the shipments reflects Lambert's practice of listing the purchaser's initials and date of order as the purchase order, here, "HW 200582", presumably referring to Hans Wirth.[11] (Govt. Exh. 3, 6A) Telexes between Respondents to Lambert indicates that Respondents did, in fact have meaningful contact with him during the course of these transactions.[12] (Govt. Exh. 6B, 6C)

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[4] Agency relies heavily on the testimony of Robert Lambert to support its case. Mr. Lambert's statements are substantiated by those of Customs Service Special Agent Richard E. Roberts and OEE Special Agent David J. Peters, as well as other documentary evidence. Thus, Respondents contend that the Agency's case rests entirely on suppositions, and conclusions and that the Agency is merely trying to "transfer the 'problems' of Messrs. Lambert and Kessler" to the Respondents Wirth and Barbarits (Resp. Submission at 1). These assertions are not supported by the evidence. Respondents, however offer no evidence in support of their position and refute Agency's charges with only suppositions and conclusions of their own.

[5] It is pointed out that the acts of one co-conspirator are attributable to each member of the conspiracy. *See United States v. Baumgarten*, 517 F.2d 1020 (8th Cir. 1975), *cert. denied* 423 U.S. 878 (1975); *United States v. Kaplan*, 554 F.2d 988 (9th Cir. 1977), *cert. denied* 434 U.S. 956 (1977), *rehearing denied* 434 U.S 1026 (1977).

[6] Respondents state that they never had any contact with Kessler in their answers, yet in their submission for the record they claim that Kessler accepted consignments as the representative of Tadiran, therefore admitting that they had some contact with him.

[7] Respondents do not contest that Tadiran has never heard of, placed orders with, or received any shipments from Wirth, Barbarits, Cosmotrans or Lambert. Respondents state that when the consignments for Tadiran were forwarded via Cosmotrans, Cosmotrans, was not able to make the shipment to Israel, therefore Tadiran consignments in Zurich had to go through forwarding companies for further shipping. Thus, Respondents argue, it is not unusual that Tadiran does not know of Cosmotrans. I disagree. I would think it was very unusual for Tadiran not to be aware of, at the very least, the name of the forwarding company handling goods in which it had an interest.

[8] Respondents deny that Lambert had been told that he should declare Tadiran as ultimate purchaser. Respondents argue that Lambert's statements made during interrogation in this matter were produced by feeding all of the information to the person being questioned, who himself was under criminal investigation, in order to "create" relationships. (Resp. Submission at 2) This suggestion is without merit. There is no evidence that when questioned the declarant was coerced into fabricating these statements.

Respondents further allege that Mr. Lambert's statements lack dependability due to the fact that (1) they were made years after the events in question; and (2) Lambert wants to involve Cosmotrans into the matter. Neither of these contentions is accepted. Lambert's memory as to the events and conversations recalled in his statements appears to be certain. It is consistent with statements he made earlier, while investigations were going on. Further, there is no motive attributed to Lambert by the Respondents to show why he would want to implicate Cosmotrans. Lambert did not exculpate himself by making statements against Cosmotrans.

[9] Additionally, Lambert placed on the right margin of the Shipper's Export Declaration the statement: This must go via Zurich. Strip of [sic] any markings on this shipment. Put ZRH [Zurich] label of agent on freight (Govt. Exh. 4D).

[10] Respondents maintain that Cosmotrans was only a forwarding agent, and that under the Regulations in effect until December 31, 1985, neither the authorities nor forwarding agents in Switzerland had the right or the opportunity to check consignments shipped via the bonded warehouse. Therefore, Respondents contend that it would have made no difference whether the consignments had been labeled "electronic" instead of "electr.". Further, Respondents note the "Uni-data House Air Waybill" of May 4, 1981, contained no information on whether a license had been issued for "restricted" or "non-restricted" goods. Respondents note that this bill states "Commercial invoices airmailed ahead". (Resp. Submission at 5)

Respondents claim that in the forwarding business forwarding agents are often used as "mailboxes" by their customers. Respondents argue that as a forwarding agent, Cosmotrans had no opportunity to verify for which country a license had been issued.

The assertion that they could not physically check the goods is not an excuse for furthering fraud. In light of all the evidence indicating Respondents participation in these transactions, it is unbelievable that Respondents were incapable of verifying the ultimate end user.

[11] Respondents contend that the initials "H.W." on the various documents do not implicate Respondent Hans Wirth, reasoning that anyone can unlawfully use those initials. This does not appear likely in view of the evidence, which indicates that the initials on the documents referenced Respondent Wirth.

[12] Respondents argue that these telexes are of the type made by forwarding businesses for forwarding agents in the ordinary course of business and does not indicate involvement in the plan. To the contrary, the telexes confirm that Cosmotrans effectively and with understanding, communicated with Lambert concerning shipments which Cosmotrans handled for its customers.

Findings

Wirth/Cosmotrans ordered U.S.-origin equipment from Lambert, including the U.S.-origin electronic test equipment in the three representative shipments, and further, that Lambert, using Hagemann's freight forwarding company, Uni-Data, shipped this equipment to an ultimate consignee allegedly in Israel via Cosmotrans in Zurich, listed on export control documents as the intermediate consignee.

Following arrival of the U.S.-origin equipment at Cosmotrans' warehouse facilities in Zurich, Respondents, in concert with others, aided or abetted the preparation of false shipping documents, showing new consignees and destinations, not authorized for reexport by the Agency. Respondents, in concert with others, thereafter aided or abetted the reexport of these shipments of U.S.-origin electronic test equipment to unauthorized consignees in the G.D.R., Bulgaria and the U.S.S.R.

Respondents knew that Tadiran was identified on the export control documents as the ultimate consignee for the three representative shipments of U.S.-origin electronic test equipment.

Respondents ordered the U.S.-origin electronic test equipment from Lambert or his companies and "Cosmotrans" prepared new shipping documents once the equipment arrived in Zurich, indicating that Respondents were actively involved in the scheme. There is no record of Respondents notifying the Agency of the changed end-users or destinations.

The actions of the Respondents, when considered with those of Lambert, Hagemann and Kessler, show a concerted effort to divert U.S.-origin electronic test equipment controlled for reasons of national security without the required validated export licenses.[13]

Respondents concealed the fact that the equipment was not going to Tadiran in Israel, and instead going to end-users and destinations within the East bloc, clearly material facts in these transactions.

Based on the foregoing, I find that Respondents were party to a conspiracy, with others, to divert U.S.-origin electronic test equipment from end-users and destinations originally approved by the Agency to end-users and destinations within the East bloc, without the requried validated licenses and reexport authorizations, in violation of § 387.3 of the Regulations. I further find that Respondents aided or abetted the diversion of U.S.-origin electronic test equipment, knowing or having reason to know that the required reexport authorizations had not been obtained, in violation of §§ 387.2 and 387.4 of the Regulations and that Respondents concealed from the Agency that the electronic test equipment exported in the three representative shipments did not go to Tadiran in Israel, but instead went to some other destination, probably within the East bloc, in violation of § 387.5 of the Regulations.

Based on the above findings of fact, I conclude that an Order denying U.S. export privileges for a period of 20 years to Respondents Hans Wirth, Bruno Barbarits and Cosmotrans AG, from the date a final order becomes effective in this proceeding, is appropriate. I do not concur in Agency counsel's suggestion of a 30 year denial period. A 20 year denial period is sufficient punishment for these acts and can and/or will successfully bar Respondents from participating in the export of U.S. goods for their lifetimes. I further find that a civil monetary penalty, in addition to the barring from export privileges is unnecessary. The final order in these proceedings will constitute the final administrative disposition and action, on these charges, against Respondents.

Order

I. For a period of 20 years from the date of the final Agency action, Respondents

Hans Wirth, and Bruno Barbarits, each individually and doing business as COSMOTRANS, AG,
a/k/a
COSMOTRANS LTD., Fracht West Building, Office 274, CH 8058, Zurich, Switzerland
Cosmotrans USA Inc., P.O. Box 30978, JFK International Airport, Jamaica, New York 11430

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial or export privileges shall extend to matters which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. All outstanding individual validated export licenses in which Respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondents' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

[13] This is evidenced by the listing of this equipment, under entry 1566A, on the Commodity Control List. (Govt. Exh. 7)

(b) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Date: April 4, 1988.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 88-10223 Filed 5-6-88; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-475-059]

Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review and Revocation in Part

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation in part.

SUMMARY: On January 8, 1988, the Department of Commerce published the preliminary results of its administrative review of and intent to revoke in part the antidumping finding on pressure sensitive plastic tape from Italy. The review covers three manufacturers and/ or exporters of pressure sensitive plastic tape and the period October 1, 1985 through September 30, 1986.

We gave interested parties an opportunity to comment on the preliminary results and intent to revoke in part. Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the margins from those presented in our preliminary results of review.

EFFECTIVE DATE: May 9, 1988.

FOR FURTHER INFORMATION CONTACT: Eugenio Parisi or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 550) the preliminary results of its administrative review of and intent to revoke in part the antidumping finding on pressure sensitive plastic tape from Italy (42 FR 56110, October 21, 1977). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by this review are shipments of pressure sensitive plastic tape measuring over 1⅜ inches in width and not exceeding 4 mils in thickness, currently classifiable under items 790.5530, 790.5545, and 790.5555 of the Tariff Schedules of the United States Annotated and Harmonized System item numbers 3919.90.20, 3919.90.50, 4811.21.00, 4821.90.20, 4823.11.00, and 5906.10.00.

The review covers three manufacturers and/or exporters of Italian pressure sensitive plastic tape to the U.S. and the period October 1, 1985 through September 30, 1986.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results and intent to revoke in part. We received comments from the petitioner, Minnesota Mining and Manufacturing ("3M"), and one respondent, N.A.R., S.p.A. ("NAR"). (We received additional comments from NAR concerning mathematical or clerical errors. We have corrected such errors but have not addressed them specifically in this notice.)

Petitioner's Comments

Comment 1: 3M argues that the Department should have adjusted for differences in physical characteristics of the merchandise associated with NAR's U.S. and home market sales. 3M suggests that we use cost data from another Italian tape manufacturers as best information available.

Department's Position: We agree. Since NAR failed to provide such data in this review, as best information available we used another firm's publicly available cost data on merchandise differences for the last review period, and we adjusted foreign market value ("FMV") to account for these merchandise differences.

Comment 2: The petitioner argues that the Department should treat U.S. brokerage and handling expenses as movement expenses rather than indirect selling expenses, and deduct them from NAR's U.S. sales.

Department's Position: We agree that brokerage and handling are movement expenses. However, NAR did not furnish such data in this review and we did not have a reasonable figure available to use as best information available. Moreover, it has been our experience that these adjustments are generally insignificant in realation to the price or value of the merchandise. Therefore, we made no adjustment for these expenses.

Comment 3: 3M suggests that the Department should use the same number of days for bank clearance in both markets in calculating credit expenses.

Department's Position: In our preliminary results we incorrectly added an additional number of days for bank clearance to the payment terms in both markets. In our final calculations we have deleted the additional number of days for bank clearance in both markets because they are already accounted for in the payment terms.

Respondent's Comments

Comment 4: NAR claims that the Department should not have used home market sales to end-users in its calculation of FMV, since it sold exclusively to wholesalers in the United States.

Department's Position: We used home market sales to wholesalers, retailers, and end-users because we examined pricing patterns and found unexplained inconsistencies; that is, at times prices differed though purchased quantities were the same, and vice-versa. We are not satisfied that these classes of purchasers were different, as claimed.

Comment 5: NAR claims that the Department should have adjusted for home market movement expenses that it incurred on certain sales to end-users.

Department's Position: In our calculations we included the actual sale-by-sale movement expenses submitted by NAR.

Comment 6: NAR contends that the Department should not have used the Federal Reserve Board quarterly exchange rates in its calculations, but should have used the exchange rates which NAR submitted in its February 4, 1987 submission.

Department's Position: Using the Federal Reserve Board rates of exchange is in accordance with § 353.56(a) of the Commerce Regulations.

Comment 7: NAR contends that the Department should have used a weighted-average U.S. price, since Congress intended that section 777A of the Tariff Act provide for a fairer comparison between U.S. price and FMV. NAR claims that weight-averaging would produce fairer results here because NAR would be credited for U.S. sales made at or above its FMV and Commerce would be less likely to find sales at margin.

Department's Position: We disagree. Congress added this section of the Tariff Act allowing sampling and averaging of U.S. sales data to reduce Departmental costs and the administrative burden where a significant volume of sales were involved or a significant number of adjustments to prices were required. Congress did not intend to discourage the Department from using individual sales data when available and administratively feasible. *See* H.R. Rep. No. 725, 98th Cong., 2d Sess. 9 (1984).

Comment 8: NAR contends that the Department should use average U.S. and home market movement expenses, rather than sale-by-sale movement expenses.

Department's Position: We prefer to adjust for movement expenses on a sale-by-sale basis, when, as here, such data are available, since this more accurately reflects the actural expenses incurred.

Comment 9: NAR argues that the Department should not have offset home market commission with U.S. indirect selling expenses because § 353.15(c) of the Commerce Regulations is applicable only in exporter's sales price calculations.

Department's Position: We disagree. Only the last sentence of § 353.15(c) is restricted to exporter's sales price situations. The rest of this section is applicable in both purchase price and exporter's sales price situations. Therefore, this section authorizes the Department's adjustment;

Comment 10: NAR argues that the Department incorrectly assumed that U.S. indirect selling expenses equalled or exceeded the full amount of the commissions paid in the home market. In addition, NAR contends that the Department overstated the amount of U.S. indirect selling expenses because salaries for salesmen who service the U.S. market should be treated as direct selling expenses. If such salaries are treated as indirect selling expenses, only indirect selling expenses incurred *in the U.S.* should be included in the offset against home market commissions (*See Silver Reed America v. U.S.*, CIT, Slip. Op. 88-5 (January 12, 1988)). Similarly, the Department incorrectly considered as an indirect U.S. selling expense the imputed interest for the time the merchandise was on the water prior to importation, an expense not incurred *in the U.S.*

Department's Position: We disagree. We did not assume that U.S. indirect selling expenses equalled or exceeded home market commissions. In cases where U.S. indirect selling expenses were greater than home market commissions, we limited our adjustment for U.S. indirect selling expenses by the amount of the home market commissions. We consider salesmen's salaries to be indirect, rather than direct, selling expenses, since they are paid whether specific sales are made or not. We did not impute an interest expense for the time the merchandise was on the water; since these sales occurred before exportation, all credit expenses were actual and we consider them to be directly related U.S. selling expenses. On March 18, 1988 the Court of International Trade amended its order in *Silver Reed* to hold that the Department correctly deducted indirect expenses incurred during the period the merchandise was on the water (Slip Op. 88-37). Therefore, NAR's reliance on that case is misplaced and we are continuing our policy of adjusting FMV for indirect U.S. selling expenses, whether they were incurred *in the U.S.* or not. Also, we did not include direct selling expenses in the offset to home market commissions. Finally, we note that we used only data furnished by NAR.

Comment 11: NAR contends that for U.S. sales the Department should not have included in its calculations the number of days that it takes NAR's bank to credit NAR's account after the bank receives payment from NAR's customers; rather, the Department should have used the actual credit days provided in its submission.

Department's Position: We agree in part. In our final calculations we did not include the number of days that it takes NAR's bank to credit NAR's account after the bank receives payment from NAR's customers because the additional number of days was already included in the payment terms; however, we did calculate credit costs on a sale-by-sale basis from the date of shipment to the date that the payment was credited to NAR's account.

Comment 12: NAR contends that in calculating the U.S. credit expenses the Department should use the gross price minus the discount.

Department's Position: We agree; we note that we changed our calculations of both U.S. and home market credit expenses.

Comment 13: NAR argues that the Department should calculate foreign inland freight insurance by dividing the expense by the total square meters sold and not by the total square meters sold under review.

Department's Position: We disagree. The expense reported for foreign inland freight insurance was only for those U.S. sales under review.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results for NAR and we determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
NAR	Oct. 01, 1985-Sept. 30, 1986.	6.39
Manuli	......do	[1] 0

[1] No shipments during the period; margin from last review in which there were shipments.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. For the reasons set forth in the preliminary results of review, tentative revocation in part, and intent to revoke in part, we are satisfied that there is no likelihood of resumption of sales at less than fair value by Autoadesivitalia, S.p.A. Accordingly, we revoke in part the antidumping finding on pressure sensitive plastic tape from Italy. This partial revocation applies to all unliquidated entries of this merchandise manufactured and/or exported by Autoadesivitalia, S.p.A., entered, or withdrawn from warehouse, for consumption on or after October 5, 1982, the date of the tentative revocation in part.

As provided for in section 751(a) of the Tariff Act, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required for these firms.

For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at the rate published in the final results of the last administrative review for each of those firms (48 FR 35688, August 5, 1983 and 51 FR 43955, December 5, 1986). For any shipments from a new exporter not covered in this or prior administrative reviews, whose first shipments of Italian pressure sensitive plastic tape occurred after September 30, 1986, and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 6.39 percent shall be required. These deposit requirements are effective for all shipments of Italian pressure sensitive plastic tape entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and 19 CFR 353.53a and 353.54.

Date: April 25, 1988.

Joseph A. Spetrini,

Acting Assistant Secretary, Import Administration.

[FR Doc. 88–10242 Filed 5–6–88; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Flat-Rolled Steel; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products, with respect to certain flat-rolled steel products.

DATE: Comments must be submitted on or before May 19, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.–EC Arrangement on Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the US steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors) an additional tonnage shall be allowed for such product or products * * *."

We have received a short-supply request for the following flat-rolled steel products:

(1) *Certain hot-rolled steel:* SAE grades C1006, C1008, and C1010 hot-rolled coils; 0.055 to 0.247 inches in thickness; 25.25 to 65.70 inches in width; in coil weights up to 32,000 pounds; of drawing, structural and commercial quality; continuous cast; pickled and oiled; with half standard gauge tolerances.

(2) *Certain cold-rolled steel:* SAE grades C1008, C1010, C1017, and C1020 cold-rolled coils; 0.015 to 0.122 inches in thickness; 36.00 to 60.00 inches in width; in coil weights of 20,000 to 40,000 pounds; of drawing and commercial quality; continuous cast; with half standard gauge tolerances.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than May 19, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 3, 1988.

[FR Doc. 88–10244 Filed 5–6–88; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Hot-Rolled Sheet; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-Austria, U.S.-Australia, U.S.-Brazil, U.S.-EC, U.S.-Hungary, U.S.-Korea, U.S.-Poland, U.S.-Spain, and U.S.-Trinidad & Tobago Arrangements Concerning Trade in Certain Steel Products, Article 7 of the U.S.-Romania and U.S.-Venezuela Arrangements Concerning Trade in Certain Steel Products, Article 8 of the U.S.-Mexico and U.S.-Finland Understandings Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, with respect to certain hot-rolled sheet for use in the manufacture of ASTM A214 condenser tubing.

DATE: Comments must be submitted on or before May 19, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377–0159 or telefax (202) 377–1388.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-Austria, U.S.-Australia, U.S.-Brazil, U.S.-EC, U.S.-Hungary, U.S.-Korea, U.S.-Poland, U.S.-Spain, and U.S.-Trinidad & Tobago Arrangements Concerning Trade in Certain Steel Products, Article 7 of the U.S.-Romania and U.S.-Venezuela Arrangements Concerning Trade in Certain Steel Products, Article 8 of the U.S.-Mexico and U.S.-Finland Understandings Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provide that if the United States determines that, because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the United States for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for AISI grade C1010 hot rolled steel sheet, aluminum killed, fine grain, pickled and oiled, in coils weighing from 22,000 to 30,000 pounds, in widths ranging from 40.313 to 43.000 inches and in thicknesses ranging from 0.061 to 0.122 inch, for use in the manufacture of ASTM A214 tubing.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than May 19, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import

Administration, U.S. Department of Commerce, at the above address.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

May 2, 1988.

[FR Doc. 88-10243 Filed 5-6-88; 8:45 am]

BILLING CODE 3510-DS-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 88-1]

Philip A. Dye and Marilyn J. Dye, d/b/a P&M Enterprises; Prehearing Conference Change

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of change of prehearing conference date.

SUMMARY: This notice announces a change of the date of the prehearing conference announcement that appeared at page 13436 in the **Federal Register** of Monday, April 25, 1988, (53 FR 13436).

DATE: The prehearing conference in the matter Philip A. Dye and Marilyn J. Dye, d/b/a P&M Enterprises, will be held on May 12, 1988, at 9:30 a.m. instead of May 10, 1988, as previously announced.

ADDRESS: The prehearing conference will be in Room 1211, Interstate Commerce Commission, 12th Street NW. and Constitution Avenue, Washington, DC. For additional information contact: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6800.

Date: May 4, 1988.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 88-10233 Filed 5-6-88; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Closed Meeting

May 2, 1988.

The USAF Scientific Advisory Board Space Division Advisory Group will meet on 24-25 May 1988, from 8:00 a.m. to 5:00 p.m., at Los Angeles Air Force Base, CA, Building 100, Room 1330.

The purpose of this meeting is to receive classified briefings and hold classified discussions on selected Air Force Space programs including the integration of USAF elements of the Strategic Defense Initiative. This meeting will involve discussions of classified defense matters listed in § 552b(c) of Title 5, United States Code, specifically paragraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force **Federal Register** *Liaison Officer.*

[FR Doc. 88-10193 Filed 5-6-88; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.192, 84.198, 84.203]

Adult Education for Homeless Program; Grants

AGENCY: Department of Education.

ACTION: Correction to application notices for the Adult Education for the Homeless Program, the Workplace Literacy Partnerships Program, and the Star Schools Program.

Notices for the transmittal of applications for certain new programs were published as follows:

The Adult Education for the Homeless Program (53 FR 4102, February 11, 1988), the Workplace Literacy Partnerships Program (53 FR 9234, March 21, 1988), and the Star Schools Program (53 FR 11176, April 5, 1988). The deadline for Intergovernmental Review was inadvertently omitted from these notices. Deadlines for Intergovernmental Review are established as follows:

CFDA No. 84.192—Adult Education for the Homeless Program.

Deadline for Transmittal of Applications: July 1, 1988.

Deadline for Intergovernmental Review Comments: The deadline for Intergovernmental Review of the Adult Education for the Homeless Program in a State will be 30 days after that State submits its application for assistance to the U.S. Department of Education, but in no case will that deadline be earlier than 30 days after publication of this notice in the **Federal Register**.

For Further Information Contact: Sarah Newcomb, Program Services, Division of Adult Education, Office of Adult and Vocational Education, U.S. Department of Education, Room 522, Reporters Bldg., 400 Maryland Avenue, SW., Washington, DC 20202. Telephone (202) 732-2390.

CFDA No. 84.198—Workplace Literacy Partnerships Program.

Deadline for Transmittal of Applications: June 15, 1988.

Deadline for Intergovernmental Review Comments: August 5, 1988.

For Further Information Contact: Nancy E. Smith, National Projects Branch, Division of Innovation and Development, 514 Reporters Bldg., Office of Adult and Vocational Education; U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-5516. Telephone (202) 732-2359.

CFDA No. 84.203—Star Schools Program.

Deadline for Transmittal of Applications: June 15, 1988.

Deadline for Intergovernmental Review Comments: August 15, 1988.

For Further Information Contact: Gordon McAndrew, Educational Networks Division, Office of Educational Research and Improvement, 502 New Jersey Avenue, NW., Washington, DC 20208. Telephone (202) 357-6126.

Intergovernmental Review of Federal Programs

These programs are subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In States that have established a State Review Process, applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. If a program permits an applicant to perform activities in more than one State and the applicant proposes to do so, the applicant should contact, immediately upon receipt of this notice, the Single Point of Contact for each State in which it proposes to perform activities and follow the procedures established in those States under the Executive Order. A list of the State Single Points of Contact is included at the end of this notice.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the deadline for Intergovernmental Review indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# [fill in number], U.S. Department of Education, MS 6355, 400 Maryland Avenue, SW., Washington, DC 20202. In those States that require review for these programs, applications are to be submitted simultaneously to the State Single Point of Contact and the U.S. Department of Education.

If an applicant has submitted an application under any of the programs referred to in this notice prior to the publication of this notice in the **Federal Register**, the applicant did not also submit the application to the State Single Point of Contact, the applicant must immediately submit the application to the State Single Point of Contact.

Proof of mailing to the State Single Point of Contact will be determined on the same basis as the mailing of applications to the Department of Education.

State Single Points of Contact

Alabama

Mrs. Donna J. Snowden, State Single Point of Contact, Alabama State Clearinghouse, Department of Economic & Community Affairs, P.O. Box 2939, 3465 Norman Bridge Road, Montgomery, Alabama 36105–0939, Telephone (205) 284–8905

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 1700 West Washington Avenue, Fourth Floor, Phoenix, Arizona 85007, Telephone (602) 255–5004

Arkansas

Mr. Joseph Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866–2156

Connecticut

Under Secretary, Attn: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Telephone (203) 566–3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue, NW. Washington, DC 20004, Telephone (202) 727–9111

Florida

George H. Meier, Director of Intergovernmental Coordination, Single Point of Contact, Executive Office of the Governor, Office of Planning & Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol, Honolulu, Hawaii 96813, Telephone (808) 548–3016 or 548–3085

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782–8639

Indiana

Peggy Boehm, Deputy Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kansas

Martin Kennedy, Intergovernmental Liaison, Department of Administration, Division of the Budget, Room 152–E, State Capitol Building, Topeka, Kansas 66612, Telephone (913) 296–2436

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Louisiana

Colby S. LaPlace, Assistant Secretary, Department of Urban & Community Affairs, Office of State Clearinghouse, P.O. Box 94455, Capitol Station, Baton Rouge, Louisiana 70804, Telephone (504) 342–9790

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Guy W. Hager, Director, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 904, Boston, Massachusetts 02202, Telephone (617) 727–3253

Michigan

Michelyn Pasteur, Deputy Director, Local Development Services, Department of Commerce, P.O. Box 30225, Lansing, Michigan 48909, Telephone (517) 375–1838

Please direct correspondence to: Manager, Federal Project Review System, 6500 Mercantile Way, Suite 2, Lansing, Michigan 48911, Telephone (517) 334–6190

Mississippi

Mr. Marlan Baucum, Office of Federal State Programs, Department of Planning and Policy, 2000 Walter Sillers Building, 500 High Street, Jackson, Mississippi 39202, Telephone (601) 359–3150

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430 Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Montana

Deborah Davis, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Lieutenant Governor, Captiol Station, Room 210—State Capitol, Helena, Montana 59620, Telephone (406) 444–5522

Nevada

Jean Ford, Nevada Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 885–4420

Please direct correspondence and questions to: John Walker, Clearinghouse Coordinator

New Hampshire

John E. Dabuliewicz, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

Dean Olson, Director, Management & Program Analysis Division, Department of Finance & Administration, Room 424, State Capitol Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3885

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733–0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Please direct correspondence and questions to: Linda E. Wise

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843–9770

Oregon

Attn: Delores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street, NE., Salem, Oregon 97310, Telephone (503) 373–1998

Pennsylvania

Laine A. Heltebridle, Special Assistant, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Telephone (717) 783–3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone: (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0435

South Carolina

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Thomas C. Adams, Office of Budget and Planning, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Dale Hatch, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Telephone (801) 533–5245

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

Virginia

Nancy Miller, Intergovernmental Affairs Review Officer, Department of Housing & Community Development, 205 North 4th Street, Richmond, Virginia 23219, Telephone (804) 786–4474

Washington

Catherine Townley, Coordinator, Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Olympia, Washington 98504–4151, Telephone (206) 753–4978

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community & Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

James R. Klauser, Secretary, Wisconsin Department of Administration, 101 South Webster Street, GEF 2, P.O. Box 7864, Madison, Wisconsin 53707–7864, Telephone (608) 266–1741

Please direct correspondence and questions to: Thomas Krauskopf, Federal-State Relations Coordinator, Wisconsin Department of Administration

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam, 96910, Telephone: (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–99885, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774–0750

(E.O. 12372)

Dated: May 3, 1988.

Bonnie Guiton,

Assistant Secretary for Vocational and Adult Education.

Chester E. Finn, Jr.,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 88–10258 Filed 5–6–88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

Coal Policy Committee, National Coal Council; Meeting Cancellation Notice

An open meeting of the Coal Policy Committee of the National Coal Council which was scheduled to be held on Thursday, May 19, 1988, at 9:30 a.m., the Hyatt Regency Hotel, 2799 Jefferson Davis Hwy., Arlington, VA 22202, has been canceled. This meeting was announced in the **Federal Register**, Vol. 53, No. 77 on Thursday, April 21, 1988.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 88–10235 Filed 5–6–88; 8:45 am]

BILLING CODE 6450-01-M

Liquids Transportation Task Group, Coordinating Subcommittee on Petroleum Storage and Transportation, National Petroleum Council; Open Meeting

Notice is hereby given of the following meeting:

Name: Liquids Transportation Task Group, Coordinating Subcommittee on Petroleum Storage and Transportation of the National Petroleum Council.

Date and time: Wednesday, May 25, 1988, 1:00 p.m.

Place: O'Hara Marriott Hotel, Salon Seven, 8535 West Higgins, Chicago, Illinois.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–1), Washington, DC 20585, Telephone: 202/586–4695.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Purpose of the Meeting: Discuss pipeline survey and progress on individual assignments.

Tentative Agenda

—Opening remarks by Chairman and Government Cochairman.
—Discuss the pipeline survey.
—Review progress on individual assignments.
—Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

Public Participation: The meeting is open to the public. The Chairman of the Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 am and 4:00 pm Monday through Friday, except Federal holidays.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 88–10236 Filed 5–6–88; 8:45 am]

BILLING CODE 6450-01-M

Inventories and Storage Task Group, Coordinating Subcommittee on Petroleum Storage and Transportation, National Petroleum Council; Open Meeting

Notice is hereby given of the following meeting:

Name: Inventories and Storage Task Group of the Coordinating Subcommittee on Petroleum Storage and Transportation of the National Petroleum Council.

Date and time: Tuesday, May 17, 1988, 1:00 p.m. (PLEASE NOTE: This meeting replaces the one scheduled for April 19, 1988, which had to be canceled.)

Place: Hyatt Regency DFW Hotel, Concord Room (East Tower), International Parkway, Dallas/Fort Worth Airport, Dallas, Texas.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–1), Washington, DC 20585, Telephone: 202/586–4695.

Purpose of the parent council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Purpose of the meeting: Discuss surveys and progress on assignments.

Tentative Agenda

—Opening remarks by Chairman and Government Cochairman.
—Discuss surveys of inventories and storage capacity.
—Review progress on individual assignments.
—Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

Public participation: The meeting is open to the public. The Chairman of the Inventories and Storage Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

J. Allen Wampler,

Assistant Secretary, Fossil Energy.

[FR Doc. 88–10237 Filed 5–6–88; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Docket No. RFC–Alt.F.–88–1]

Capability/Delivery of Alternative-Fuel Vehicles for the Federal Government Fleet; Request for Information

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Request for information.

The Department of Energy (DOE), Office of Transportation Systems is interested in receiving comments on the practicability of designing, building and delivering vehicles that can operate on an alternative fuel in a highly efficient and effective manner.

The DOE will not be procuring vehicles for the Federal government, but serves as technical and general advisors to the General Services Administration in their function as the purchaser and other agencies as users of vehicles. The DOE is particularly interested in the following subjects or issues as the basis for evaluation of approach(es) in light of constraints reflected in criteria given below:

(1) The range of minimum quantity necessary for the respondent to build at essentially a production price.

(a) Note if there is any special effect for a quantity of 5,000 vehicles total.

(b) Note if there is any special effect for a quantity of 5,000 per year for four years.

(2) The lead time required to provide the above quantity.

(3) The fuel(s) on which the vehicle would operate.

(a) Identify whether these would be mono- or dual-fuel on-board storage/use.

(4) The type(s) of vehicle that could be provided, and the number of different types that could be accommodated in the above situations. Include a specific note as to ability to provide compact or mid-size sedans.

(5) Any significant differences in operation (e.g., cold start, power output, acceleration, refueling time, and range) that would be encountered in use of the alternative fuel.

(6) Emissions and/or energy economy benefits that would be provided.

(7) Benefits that would accrue to the vehicle manufacturer; to the industry.

(8) Factors that would deter manufacturer interest (e.g. absence of CAFE credits and alternative emissions standards).

Criteria that are presently envisioned are as follows:

(a) The maximum cost of vehicles must comply with statuatory price limitations (Pub. L. 99–591 Section 601) plus added systems and equipment allowances (Pub. L. 91–423).

(b) Life cycle costs, including trade-in value of vehicles after three years and approximately 40,000 miles, must be reasonably competitive with those for conventional gasoline-fueled vehicles.

(c) Standard warranty arrangements (Federal Standard 122AB Automobiles, Section 3.5 Warranty) would apply.

(d) Maintenance and parts must be available from local dealers skilled in repairs of conventional vehicles plus any special features resulting from alternative fuel capability.

(e) Vehicles must reet all applicable Federal and state regulations such as EPA emissions requirements, DOT Corporate Average Fuel Economy (CAFE) and safety standards, and California emissions standards (if pertinent), or receive waivers to them.

(f) Performance, reliability, utilization and durability must be generally comparable to that of gasoline vehicles of the same type and class. The vehicles will typically be used for general transportation and by a variety of drivers. Ease of operation and refueling should be comparable to vehicles used in a public, daily rental operation.

(g) A sizeable portion of vehicles purchased will be used, at least initially, in areas where the alternative fuel is not widely or regularly available, so the vehicles must be capable of being operated on gasoline too, and items (e) and (f) must be met under these conditions. Supply of vehicles may be divided between those dedicated to the alternative fuel and those operable on the alternative fuel or gasoline or any blend. However, the quantity split would be dependent on selection of dedicated vehicles by the using agency following contractual committments.

(h) Operational convenience, including that of refueling, and cost of alternative fuel vehicles need to be relatively close to that of present vehicles of comparable size and utility in order that agencies can be encouraged to choose them.

DATES: Ten (10) copies of any response to this **Federal Register** notice must be received by the Department by June 23, 1988. Please label both the comment and the envelope with the Docket Number.

ADDRESS: Written comments are to be submitted to the following address: U.S. Department of Energy, Office of Conservation and Renewable Energy, CE–43.1, Room 6B–025, Docket No. RFC–Alt.F.–88–1, 1000 Independence Avenue, SW., Washington, DC 20585, Attn: Ms. Andrea Kasarsky, (202) 586–3012.

FOR FURTHER INFORMATION CONTACT: David Garrett, U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Transportation Systems, CE–151, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8032.

Following receipt and review of these comments, the DOE may hold a public meeting for respondees and other interested parties to discuss various items and potential ramifications thereof as they would affect any forthcoming government action. If such a meeting were held it would likely be in the Detroit area in early July. A **Federal Register** notice would be published Prior to any meeting indicating date and location.

Issued at Washington, DC on May 3, 1988.

Donna R. Fitzpatrick,

Assistant Secretary for Conservation and Renewable Energy.

[FR Doc. 88–10240 Filed 5–6–88; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 87–58–NG]

Great Lakes Gas Transmission Co. and Michigan Gas Co.; Order Reassigning an Authorization To Import Natural Gas From Canada and Granting Intervention

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of order granting authorization to import natural gas from Canada and amending prior authorization.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order transferring authority to import natural gas from Canada to Michigan Gas Company (Michigan Gas) from Great Lakes Gas Transmission Company (Great Lakes). The order issued in ERA Docket No. 87–58–NG authorizes Michigan Gas to import up to 7,300 Mcf per day, subject to an annual limitation of 1,387,000 Mcf, over a period ending November 1, 1991, and reduces Great Lakes' authority to import natural gas for resale to Michigan Gas by an equivalent amount.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076; Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 29, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-10238 Filed 5-6-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP88-359-000, et al.]

Trunkline Gas Co. et al.; Natural Gas Certificate Filings

May 5, 1988.

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP88-359-000]

Take notice that on April 25, 1988 Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP88-359-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon facilities previously used to provide transportation of gas on behalf of Amoco Production Company (Amoco) and to purchase gas from Amoco, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Trunkline requests Commission authorization to abandon measuring facilities on Amoco's Ship Shoal Block 292 "A" Platform together with the six-inch line from Ship Shoal Blocks 292 to 274, offshore Louisiana. Trunkline states that it was authorized to construct such facilities in Docket No. CP77-314 and that it was authorized to abandon the transportation service for Amoco by Commission order issued September 15, 1987, in Docket No. CP87-340. Trunkline further states that Amoco was authorized to sell gas from Ship Shoal Block 292 to Trunkline by order issued September 9, 1977, in Docket No. CI77-729.

Comment date: May 26, 1988, in accordance with Standard Paragraph F at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP88-353-000]

Take notice that on April 22, 1988, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88-353-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon gas production and gas reserves located in the Seven Oaks Area, Polk County, Texas by conveyance to Mitchell Energy Corporation (Mitchell Energy), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to abandon some 5.7 Bcf of gas reserves owned by Applicant by conveyance to Mitchell Energy. Applicant states such proposal would relieve operating a high maintenance cost gathering system and marketing minor volumes of gas reserves that would not affect Applicant's ability to serve its customers. Applicant does not propose to abandon any jurisdictional gas supply facilities herein.

Comment date: May 26, 1988, in accordance with Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP88-357-000]

Take notice that on April 22, 1988, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-357-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to establish a new delivery point to The Southern Connecticut Gas Company (Southern Connecticut) an existing Rate Schedule CD-6 firm sales customer, under Applicant's blanket certificate issued in Docket No. CP82-413-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that it is currently authorized to deliver natural gas to Southern Connecticut at Milford, Connecticut, for the account of Algonquin Gas Transmission Company (Algonquin) pursuant to the terms of an exchange agreement between Algonquin and Applicant. Applicant indicates that Southern Connecticut has requested Applicant to establish Milford as a delivery point for firm sales service from Applicant to Southern Connecticut. Applicant states that no new facilities are required to establish this delivery point.

Applicant proposes no increase in the total daily and/or annual quantities it is authorized to deliver to Southern Connecticut. Applicant asserts that the establishment of the proposed delivery point is not prohibited by Applicant's currently effective tariff and that it has sufficient capacity to accomplish the deliveries at the proposed delivery point without detriment or disadvantage to any of Applicant's other customers.

Comment date: June 20, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest if filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10256 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-339-000 et al.]

Trunkline Gas Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

May 2, 1988.

[Docket No. CP88-339-000]

Take notice that on April 19, 1988, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP88-339-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Amoco Production Company (Amoco), a producer, under Applicant's blanket certificate issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Applicant requests authorization to reansport up to 40,000 dt per day on behalf of Amoco pursuant to a transportation agreement dated February 11, 1988, between Applicant and Amoco (Agreement). The Agreement, it is said, provides for Applicant to receive gas from various existing points of receipt on its system in Illinois, Louisiana, Offshore Louisiana, Tennessee and Texas. Applicant states that it would then transport and redeliver the gas, less fuel used and unaccounted for line loss to Northern Indiana Public Service in various locations in Indiana.

Applicant further states that the maximum daily and annual quantities would be 40,000 dt and 7,300,000 dt, respectively. Applicant avers that service under § 284.223(a) commenced on March 1, 1988, as reported in Docket No. ST88-2886.

Comment date: June 16, 1988, in accordance with Standard Paragraph G at the end of this notice.

2. CNG Trading Company

[Docket No. CI87-811-001]

May 2, 1988.

Take notice that on April 21, 1988, CNG Trading Company (CNG) of 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term which expired March 31, 1988, to extend such authorization for at least one year, through March 31, 1989, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 16, 1988, in accordance with Standard Paragraph J at the end of the notice.

3. Natural Gas Pipeline Company of America

[Docket No. CP88-344-000]

May 3, 1988.

Take notice that on April 20, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP88-344-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) to transport, on an interruptible basis, up to a maximum of 5,000 MMBtu (plus any additional gas accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for Olin Corporation (Olin), an end-user, under the authorization issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is stated that transportation would be from 42 receipt points located in Oklahoma, Texas, Arkansas, Kansas, Iowa, New Mexico and Louisiana to interconnections with Northern Illinois Gas Company (NI-Gas) in Illinois for redelivery by NI-Gas to Olin at its Joliet, Illinois, plant. Natural states that it commenced the transportation of natural gas for Olin on March 1, 1988, for a 120-day period ending June 29, 1988, pursuant to § 284.223(a)(1) of the Commission's Regulations and that it proposes to continue this service in accordance with §§ 284.221 and 284.223(2)(b).

Comment date: June 17, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP88-355-000]

May 3, 1988.

Take notice that on April 22, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-355-000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Chevron U.S.A. Inc. (Chevron), a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United proposes to transport up to 25,750 MMBtu on a peak day and up to 9,398,750 MMBtu on an annual basis for Chevron. It is stated that United would receive the gas for Chevron's account at various existing points on United's line in Louisiana and would deliver equivalent amounts of gas at an existing interconnection between United and Gulf South Pipeline Company at a Chevron-Monsanto plant in St. Charles Parish, Louisiana. It is asserted that the transportation service would be effected using existing facilities. It is explained that the service commenced March 29, 1988, under the automatic authorization provisions of § 284.223, with a report filed in Docket No. ST88-2996-000.

Comment date: June 17, 1988, in accordance with Standard Paragraph G at the end of this notice.

Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-337-000]

May 3, 1988.

Take notice that on April 14, 1988, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88-337-000 an application pursuant to section 7(b) the Natural Gas Act, for permission and approval to abandon a transportation service for Diamond Shamrock Offshore Partners Limited Partnership (Diamond Shamrock), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that under a transportation agreement dated March 3, 1987, it transports natural gas on an interruptible basis for Diamond Shamrock under Rate Schedule X-279 to Transco's FERC Gas Tariff, Original Volume No. 2. This service, it is indicated, was certificated by Commission order issued January 30, 1987, in Docket No. CP87-58-000. Transco explains that it receives natural gas from Columbia Gulf Transmission Company (Columbia Gulf) for the account of Diamond Shamrock at existing points of interconnection at: (1) The Acadia Plant, Acadia, Parish, Louisiana and (2) Terrebonne Parish, Louisiana. Transco indicates that it then transports up to 1,000 Mcf per day for delivery to Diamond Shamrock at Vermilion Block 37, Offshore Louisiana (Vermilion 37). For this service, it is stated, Transco charges Diamond Shamrock the applicable transportation rates based on the maximum rates set forth in Original Sheet No. 19 of its FERC Gas Tariff, Second Revised Volume No. 1.

Transco states that it is advised by Diamond Shamrock that production at Vermilion 37 "A" Platform has ceased and that Diamond Shamrock's lease has expired and has been surrendered to the Minerals Management Service (MMS) effective September 16, 1987. Transco further states that MMS granted its requested relinquishment of right-of-way for the 5.31 miles of pipeline which had been operated by it to perform the subject service, effective November 13, 1987. Accordingly Transco requests that the Commission authorize the abandonment of the transportation service, effective retroative to November 13, 1987. Transco notes that the proposed abandonment of service to Diamond Shamrock would not result in the abandonment of any facilities presently in use.

Comment date: May 24, 1988, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP88-345-000]

May 3, 1988.

Take notice that on April 20, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP88-345-000 a request, pursuant to § 157.205 of the Commission's Regulations for authorization to provide a transportation service on behalf of International Paper Company (IP), and end-user, under Natural's blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to two agreements, Natural proposes to transport up to a total of 64,000 MMBtu per day of natural gas for use by IP at its Pine Bluff plant in Jefferson County, Arkansas and at its Camden plant in Ouachita County, Arkansas. Under the first agreement, Natural anticipates the average daily amount of natural gas to be about 5,000 MMBtu and the annual amount to be about 1,825,000 MMBtu of natural gas. Under the second agreement, Natural estimates the average daily amount of natural gas to be 3,000 MMBtu and the annual amount to be 1,095,000 MMBtu.

Natural indicates that in accordance with both agreements, service respective to the provisions stipulated under § 284.223(a) commenced March 1, 1988, and is reported in Docket No. ST88-2833 and ST88-2841.

Comment date: June 17, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Columbia Gas Transmission Corporation

[Docket No. CP88-129-002]

May 4, 1988

Take notice that on April 26, 1988, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP88-129-002 an amendment to its pending application filed on January 14, 1988, in Docket No. CP88-129-001 pursuant to section 7(c) of the Natural Gas Act to construct and operate natural gas facilities and to provide firm service to a new resale customer, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

In Docket No. CP88-129-001, Applicant requested authorization to initiate a firm sales service to New Jersey Natural Gas Company (NJN) of up to 10,000 dekatherms (dth) per day under Applicant's Rate Schedule CDS. Applicant stated that Elizabethtown Gas Company (Elizabethtown) had requested firm natural gas transportation service under Applicant's Rate Schedule FTS of up to 20,000 dth per day and an interruptible transportation service under Rate Schedule ITS of up to 2,200 Mdth annually. Applicant further stated that in order to provide the requested services, it proposed to extend its main transmission system from a point located near Hellertown, Northampton County, Pennsylvania, to the vicinity of Flanders, Morris County, New Jersey and that the proposed extension would consist of the construction of approximately 38.1 miles of 16-inch pipeline and three interconnecting measuring facilities at a total estimated cost of $23,723,000.

Applicant's amending application, Docket No. CP88-129-002 proposes a revision to the proposed pipeline route and reflects an increase in the estimated cost of construction. Applicant asserts that the newly proposed route utilizes more of existing utility corridors; such as, power lines, other pipelines and an abandoned railroad bed. Applicant further asserts that the route currently proposed was shown in Exhibit F-IV (Page 22, Alternate (A) of Applicant's Docket No. CP88-129-001. Applicant now estimates that the total cost of the facilities would be $27,300,000, an increase of $3,577,000. Applicant asserts that this would be due to: (1) An overall increase in estimated costs of acquiring the right-of-way, (2) an increase of 1.7 miles in the length of the proposed pipeline and, (3) an increase in the cost to purchase material.

Comment date: May 25, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

8. Trunkline Gas Company

Docket No. CP88-340-000]

May 4, 1988.

Take notice that on April 19, 1988, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP88-340-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for World Color Press (World Color), under Applicant's blanket certificate issued in Docket No. CP86-586-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Specifically, Applicant requests authority to transport up to 1,000 dt equivalent of natural gas per day on behalf of World Color pursuant to a transportation agreement dated February 23, 1988, between Applicant and World Color (Agreement). Applicant states that the Agreement provides for Applicant to receive gas from various existing points of receipt on its system in Illinois, Louisiana, Offshore Louisiana, Tennessee and Texas. Applicant states it would then transport and redeliver subject gas, less fuel used and unaccounted for line loss, to Central Illinois Public Service Company located in Effingham, Illinois.

The Applicant further states that the maximum daily and annual quantities would be 1,000 dt equivalent and 240,000 dt equivalent, respectively. Service under § 284.223(a) commenced March 1, 1988, as reported in Docket No. ST88-2888.

Comment date: June 20, 1988, in accordance with Standard Paragraph G at the end of this notice.

9. Tennessee Gas Pipeline Company

[Docket No. CP88-358-000]

May 4, 1988.

Take notice that on April 22, 1988, Tennessee Gas Pipeline Company, (Applicant), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-358-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service for CNG Trading Company, a marketer, (CNG Trading), under Applicant's blanket certificate issued in Docket No. CP87-115-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set out in the request on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated March 7, 1988, as amended on March 22, 1988, it proposes to receive up to 450,000 dt equivalent of natural gas per day for CNG Trading at numerous points located in the states of Texas, Louisiana, New York, and Offshore Louisiana and redeliver the gas at specified delivery points located in the states of Texas, Louisiana, Mississippi, New Jersey, Connecticut, West Virginia, Ohio, Pennsylvania, Kentucky, New York, Massachusetts, and Tennessee.

Applicant further states that the peak day, average day, and annual quantities would be 450,000 dt equivalent of natural gas, 9,710 dt equivalent of natural gas and 3,544,150 dt equivalent of natural gas, respectively. It is indicated that a 120-day transportation service under § 284.223(a) commenced on March 23, 1988, as reported in Docket No. ST88-3180 on April 13, 1988.

Applicant states that no facilities need be constructed to implement the service. Applicant states that the primary term of the transportation service would expire two years from the date of execution of the transportation agreement but would continue on a month-to-month basis unless terminated by either party on thirty days prior notice. Applicant proposes to charge the rates and abide by the terms and conditions of its Rate Schedule No. IT.

Comment date: June 20, 1988, in accordance with Standard Paragraph G at the end of this notice.

10. ANR Pipeline Company

[Docket No. CP88-362-000]

May 4, 1988.

Take notice that on April 25, 1988, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP88-362-000 an application pursuant to section 7(b) of the Natural Gas Act, for an order approving the permanent abandonment of certain certificated levels of firm sales entitlements of five firm sales customers under Rate Schedule CD-1, of ANR's Original Volume No. 1 of its FERC Tariff, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that pursuant to Section 284.10 of the Commission's Regulations certain of ANR's eligible firm sales customers have elected to convert a portion of their firm sales entitlements to firm transportation. ANR states that as provided in § 284.10(d) of the Commission's Regulations, ANR is filing under § 157.18 of the Commission's Regulations to abandon sales service to the extent of such conversions. It is also indicated that § 284.10(d)(2) provides that the customer by exercise of its option under § 284.10 consents to the proposed abandonment and that § 284.10(d)(3) deems such abandonments to be premitted by the present or future convenience and necessity. A summary of the requested changes is attached as an appendix.

Comment date: May 25, 1988, in accordance with Standard Paragraph F at the end of this notice.

ANR PIPELINE COMPANY

[Summary of reductions in firm sales entitlements (dth)]

Line No.	Company	Current level MDQ	Renominated MDQ	Increase (decrease)	Effective date of requested abandonment
1	Iowa Electric Light & Power Company	8,791	7,683	(1,108)	4-1-88
2	Iowa Southern Utilities Company	60,300	52,702	(7,598)	3-1-88
3	Michigan Gas Utilities Company	135,301	125,220	(10,081)	3-1-88
4	Michigan Power & Light Company	170,010	148,590	(21,420)	3-1-88
5	Wisconsin Public Service Corporation	320,000	303,000	(17,000)	3-1-88
6	Total	694,402	637,195	(57,207)	

Line No.	Company	Current level [1] ACQ	Renominated ACQ	Increase (decrease)	Effective date of requested abandonment
1	Iowa Electric Light & Power Company	860,000	751,000	(108,360)	4-1-88
2	Iowa Southern Utilities Company	4,400,000	3,845,600	(554,400)	3-1-88
3	Michigan Gas Utilities Company	14,400,000	13,320,000	(1,080,000)	3-1-88
4	Michigan Power & Light Company	20,600,000	18,004,400	(2,595,600)	3-1-88
5	Wisconsin Public Service Corporation	35,000,000	35,000,000	0	3-1-88
6	Total	75,260,000	70,921,640	(4,338,360)	

[1] Current levels of ACQ are currently pending approval before the Commission in Docket No. CP88-317-000.

11. Equitrans, Inc.

[Docket No. CP88-320-000]

May 4, 1988.

Take notice that on April 1, 1988, Equitrans, Inc. (Equitrans) 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP88-320-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) for authority to provide interruptible transportation service for Phoenix Diversified Ventures, Inc. (Phoenix) under Equitrans blanket certificate issued on February 13, 1987, in Docket No. CP86-553,[1] all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Equitrans proposes to transport, under its Rate Schedule ITS, up to 3,211 dekatherms of natural gas per day, (DTHD) or an annual amount of approximately 1,088,630 dt from various receipt points in Braxton, Gilmer, Doddridge and Nicholas Counties, West Virginia, and redeliver the gas for the account of Phoenix at an existing interconnection of the factilities of Equitrans and Columbia Gas of Pennsylvania at Groveton, Allegheny County, Pennsylvania.

Comment date: June 20, 1988, in accordance with Standard Paragraph G at the end of this notice.

12. United Gas Pipe Line Company

[Docket No. CP88-354-000]

May 4, 1988.

Take notice that on April 22, 1988, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP88-353-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) for authorization to provide interruptible transportation service on behalf of Chevron U.S.A. Inc. (Chevron), a producer of natural gas, under United's blanket certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the NGA, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the underlying interruptible gas transportation agreement was executed February 12, 1988, and provides for the transportation of a maximum daily quantity of 2,575 MMBtu from a point of receipt located in Plaquemines Parish, Louisiana to three points of delivery located in Jefferson, St. Bernard and Plaquemines Parish Louisiana. United further states that service commenced March 1, 1988, as reported in Docket No. ST88-2997-000, on March 29, 1988, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: June 20, 1988, in accordance with Standard Paragraph G at the end of this notice.

13. ANR Pipeline Company

[Docket No. CP88-352-000]

May 4, 1988.

Take notice that on April 21, 1988, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP88-352-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing the interruptible transportation of natural gas for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes the interruptible transportation of up to 6,000 dekatherms of gas per day (dthd) for Panhandle pursuant to a transportation agreement dated June 30, 1987. Pursuant to the terms of the agreement, ANR will receive the gas for Panhandle's account at an existing interconnection in Block 355 in the High Island area offshore Texas (HI 355), and redeliver equivalent quantities of gas to Panhandle at an existing interconnection in HI 343. No new facilities are proposed in the subject application.

ANR proposes to charge Panhandle a transportation rate of 4.6 cents per dt. This rate is comparable to the transportation service ANR provides Trunkline Gas Company pursuant to ANR's Rate Schedule X-151 of its Gas Tariff Original Volume No. 2. The term of the transportation agreement is for an initial period ending June 30, 1992, and year to year thereafter until terminated by either party upon 60 days prior written notice.

Comment date: May 25, 1988, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will

[1] Formerly Equitable Gas Company, a Division of Equitable Resources, Inc.

be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10163 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-127-000, and TQ88-1-63-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that on April 29, 1988, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised and additional tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff pursuant to Section 154.303 of the Commission's Regulations and Commission Order No. 483:

Seventh Revised Sheet No. 47
Seventh Revised Sheet No. 48
First Revised Sheet No. 86
Second Revised Sheet No. 87
Second Revised Sheet No. 88
Second Revised Sheet No. 89
Third Revised Sheet No. 90
First Revised Sheet No. 91
Second Revised Sheet No. 92
Original Sheet No. 92a
Original Sheet No. 92b
Original Sheet No. 92c
Original Sheet No. 92d
Original Sheet No. 92e

The proposed effective date of these tariff sheets is June 1, 1988, as contemplated by Order No. 483.

Carnegie states that the filing substantially revises its PGA clause in Article 22 of its FERC Gas Tariff and that, pursuant to that revised clause, Carnegie proposes to change its rates to reflect an increase of $.0907 per Dth in the demand charge applicable to LVWS and CDS service to $10.0831 per Dth, a decrease of $.1977 per Dth in the commodity charge applicable to LVWS and CDS service to $2.4189 per Dth, and a decrease of $.1947 in the commodity charge applicable to LVIS service to $2.7504. Carnegie states that the filing is also submitted in compliance with the Commission's Letter Orders of February 26, 1988 and March 26, 1988 in Docket No. TA88-1-63.

Carnegie states that its filing was served on each of its customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10261 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-131-000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that on April 29, 1988, Carnegie Natural Gas Company ("Carnegie") tendered for filing certain revised and additional tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff.[1] The proposed effective date of these tariff sheets is June 1, 1988.

Carnegie states that the filing proposes a change in its currently effective sales rates without any increase to existing customers, based on the test period (the twelve months ended December 31, 1987, adjusted for known changes through September 30, 1988 and further adjusted as outlined in the tariff filing).

Carnegie also states that, in addition to a general rate decrease, its filing reflects revisions in the design of its sales rates which have a demand-commodity rate structure, with D-1 and D-2 demand rates and winter and summer commodity rates, and utilize a modified fixed-variable rate design. Carnegie states that new tariff sheets provide an adjustment provision for changes in income tax rates and an Annual Charge Adjustment Clause.

Carnegie states that it recently filed an application for a blanket certificate authorizing "open access" transportation of gas on its pipeline system. Carnegie states that, as part of that certificate filing, it filed tariff sheets for firm and interruptible transportation service under Order Nos. 436 and 500 to be effective April 25, 1988,[2] and that those tariff sheets are also included in this filing which provides detailed support for the transportation rates.

Carnegie states that its filing was served on each of its customers and affected state commissions pursuant to § 154.16(b) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10274 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

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[1] Eighth Revised Sheet Nos. 47 and 48, First Revised Sheed Nos. 50, 51, 54B, 54C and 63, Second Revised Sheet Nos. 93 and 94 and Original Sheet No. 94a.

[2] Original Sheet Nos. 47a and 96 through 134.

[Docket Nos. RP88-125-000 and TQ88-1-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that CNG Transmission Corporation ("CNG"), on April 29, 1988, filed the following revised tariff sheets all to Original Volume No. 1 of its tariff:

Original Sheet Nos. 40, 41 and 170.
Alternate Original Sheet Nos. 40 through 43
Substitute Original Sheet Nos. 31, 32, 34 and 150 through 169.
Alternate Substitute Original Sheets Nos. 160 through 162.

The proposed effective date is June 1, 1988.

CNG has included in its filing:

(1) Revisions to the PGA clause (Section 12) of the General Terms and Conditions of its tariff to comport with the Commission's PGA regulations adopted in Order Nos. 483 and 483-A, except that, CNG seeks a waiver of the regulations to permit it to use an annual

estimate of gas supply and requirements in calculating changes in purchased gas costs.

(2) An increase in rates to RQ and CD customers to reflect the current cost of gas. RQ and CD rates would decrease by 0.3 cents per dekatherm in commodity, increase by $0.03 per dekatherm in D–1 demand, and increase by 0.54 cents per dekatherm in D–2 demand.

(3) PGA tariff provisions—primary and alternate—to provide a mechanism for CNG to recover take-or-pay costs billed by its pipeline suppliers.

Copies of the filing were served upon CNG's sales, storage and transportation customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–10266 Filed 5–6–88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-120-000]

Chandeleur Pipe Line Co.; Change in Rate

May 4, 1988

Take notice that on April 29, 1988, Chandeleur Pipe Line Company (Chandeleur) tendered for filing a notice of change in rates for transportation services rendered for its two customers, Chevron U.S.A. Inc. (Chandeleur affiliate) and Mississippi Power Company. Chandeleur also tendered proposed tariff sheets designed to implement technical changes to its FERC Gas Tariff.

The proposed effective date for the proposed tendered tariff sheets and change in rates is June 1, 1988. Chandeleur specifically requests that if the rates are suspended, that they be suspended for one day only, and then be permitted to become effective subject to refund.

In support of its request for a one-day suspension, Chandeleur submitted a study of its actual costs and revenues for the twelve months ended December 31, 1987. The study demonstrates that Chandeleur did not earn its allowed rate of return and is suffering from a significant erosion of earnings. Accordingly, Chandeleur requested waiver of the five-month suspension period which is designed to limit its serious revenue deficiency.

Chandeleur also requests waiver of § 154.63(b)(3) of the Commission's Regulations to permit the filing of Statement P 30 days after the date of any Commission action on the waiver request.

While Chandeleur believes it has complied with all the requirements of § 154.63 of the Commission's Regulations, it nevertheless, respectfully requests that waiver be granted of all applicable rules and regulations of the Commission as may be necessary to implement this notice of change in rates effective June 1, 1988.

Chandeleur states that a copy of this filing has been mailed to each of Chandeleur's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with § 385.214 and 385.211. All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Acting Secretary.

[FR Doc. 88–10267 Filed 5–6–88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-119-000 and TQ88-1-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on April 29, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective June 1, 1988:

One hundred and twenty-fifth Revised Sheet No. 16
Fourteenth Revised Sheet No. 16A2
First Revised Sheet No. 46D
First Revised Sheet No. 46E
Fifty-first Revised Sheet No. 64
Thirty-third Revised Sheet No. 64A
Twenty-seventh Revised Sheet No. 64B
Eighth Revised Sheet No. 64C
Seventh Revised Sheet No. 64D
Fifth Revised Sheet No. 64D1
Third Revised Sheet No. 64D2
Second Revised Sheet No. 64D3
Thirteenth Revised Sheet Nos. 64E through 64I
Fourth Revised Sheet No. 67

Columbia states that the sales rates set forth on One hundred and twenty-fifth Revised Sheet No. 16 reflect an overall decrease of 13.77 cents per Dth in the Commodity rate, and overall increases of $0.413 per Dth in the Demand-1 rate and 1.72 cents per Dth in the Demand-2 rate. In addition, the transportation rates set forth on Fourteenth Revised Sheet No. 16A2 reflect a decrease in the Fuel Charge component of 0.37 cents per Dth.

Columbia states that the purposes of the revised tariff sheets are:

(1) To implement Columbia's initial current adjustment to its PGA rates in accordance with § 154.310 of the Commission's revised PGA Regulations promulgated in Order Nos. 483 and 483–A;

(2) To revise Columbia's PGA clause, contained in section 20 of the General Terms and Conditions (GTC) of its FERC Gas Tariff, Original Volume No. 1, to conform to the Commission's revised PGA regulations promulgated in Order Nos. 483 and 483–A;

(3) To eliminate all references to incremental pricing in the tariff in accordance with the provisions of Order No. 478; and

(4) To revise the Table of Contents to the General Terms and Conditions.

Columbia states that its PGA Clause, which is contained in GTC section 20 of its tariff, has been revised to comply with the Commission's revised PGA Regulations promulgated in Order Nos. 483 and 483–A, with certain exceptions for which Columbia seeks wavier of the Regulations. These requests for waiver include:

(1) A limited waiver of the requirements of § 154.305(c)(1) in order to project demand costs in each PGA on a 12-month rather than a three-month basis;

(2) A waiver of the requirements of § 154.305(g) in order to utilize its two monthly book closing dates rather than the literal "within 60 days of the end of the month in which the purchases were made and received" requirement of § 154.305(g)(1)(iii) of the revised PGA Regulations:

(3) Modification of the assessment test in section 154.306 to account for the calculation of purchased gas costs between accounting closing dates and to eliminate the demand costs associated with the cost of storage gas for purposes of applying the assessment test; and

(4) Waiver of the requirement of displaying producer codes in the FERC Form No. 542-PGA for its Appalachian small producer suppliers.

Columbia states that copies of the filing were served upon Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and procedure. All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for Public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10262 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-109-000]

Corning Natural Gas Corp. v. North Penn Gas Co.; Complaint

April 29, 1988.

Take notice that on April 25, 1988, Corning Natural Gas Corporation (Corning) filed a complaint and request for expeditious procedures in Docket No. RP88-109-000, pursuant to Rules 206 and 212 of the Commission's rules of practice and procedure. Corning alleges that existing tariff provisions of North Penn Gas Company (North Penn) no longer operate in a just and reasonable fashion and result in an ultimate rate to Corning that is unjust and unreasonable.

Specifically, Corning complains that although North Penn has received refunds from its pipeline suppliers through December 31, 1987 and there is a substantial credit in Account No. 191 as of November 1, 1987, North Penn proposes to retain such refunds and credits for an indefinite period and to use such amounts as an offset to indeterminable liabilities which North Penn claims that Corning may owe it in the future. Corning requests that the Commission order North Penn to promptly refund Corning, on a lump sum basis and with interest, (1) Corning's share of the jurisdictional refunds from North Penn's suppliers and any outstanding credit balance in Account No. 191 as of November 1, 1987, and (2) any future refunds and credits relating to the period prior to November 1, 1987. Corning also moves that the Commission act expeditiously to order that the refunds be made.

Corning states that North Penn was its principal supplier of natural gas until November 1, 1987, when its service agreement with North Penn terminated pursuant to its own terms. It further states that since November 1, 1987, Corning has purchased no gas from North Penn and has been purchasing gas from other suppliers and receiving its supplies through the facilities of Consolidated Gas Transmission Corporation (Consolidated). Consolidated has a pending application to provide firm sales service to Corning in Docket No. CP87-195-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 (1988)). All such motions or protests should be filed on or before May 25, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before May 25, 1988.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10158 Filed 5-6-88; 8:45 am]

BILLING CODE 0717-01-M

[Docket Nos. RP88-141-000 and TQ88-1-2-000]

East Tennessee Natural Gas Co.; Tariff Filing

May 4, 1988

Take notice that on April 29, 1988, East Tennessee (East Tennessee) tendered for filing the following tariff sheets to Original Volume No. 1 of its FERC Gas Tariff, to be effective June 1, 1988:

Summary Rate Sheet: Thirty-Eighth Revised Sheet No. 4

PGA Clause:

First Revised Sheet No. 118
Fifth Revised Sheet No. 119
Fourth Revised Sheet No. 120
Sixth Revised Sheet No. 121
Tenth Revised Sheet No. 122
Second Revised Sheet No. 122A
Second Revised Sheet No. 123
Second Revised Sheet No. 123A
Fifth Revised Sheet No. 124
Third Revised Sheet No. 125

East Tennessee states that, pursuant to Order 483, it is revising the Purchased Gas Adjustment clause of its tariff to conform to Sections 154.301-154.310 of the Commission's Regulations. East Tennessee is also restating its currently effective rates pursuant to § 154.310 of the Commission's regulations; however, the rates have not been changed.

East Tennessee states that the following changes to the PGA clause are reflected in the revised tariff sheets.

Annual and Quarterly Filings

Section 22.1 has been revised to provide for quarterly and annual gas rate adjustments. It also incorporates the new reporting requirements for the annual rate adjustment. New timing periods have been defined for the PGA Period and the Deferral Period.

Current Adjustments

The base period references in the projection of gas costs have been deleted. Prospective rates of suppliers based on estimated changes in the PGA Periods have been incorporated into the projection of gas costs.

Demand Adjustments

Section 22.2 has been revised to specify D_1 and D_2 demand rate adjustments. Section 22.3 has been revised to provide for D_1 and D_2 bifurcation in the Unrecovered Gas Cost Account and the Demand Surcharge for Amortizing Unrecovered Gas Costs. Demand costs are classified as-billed.

Refunds

A new § 22.5 establishes a refund subaccount in Account 191 to be credited with refunds, credits, past period credit billing adjustments and debited for past period debit billing adjustments. This section provides for disbursement of the balance in the refund account when the threshold under § 154.305 of the Commission's Regulations is attained. The separate disbursement procedures for demand and commodity components follow the allocation procedure prescribed in Section 154.305 of the Commission's

Regulations. Previous language addressing the flow-through of refunds has been deleted, but the section addressing refunds arising from rate proceedings has been retained.

Assessment Test

The 103% assessment test has been removed from Section 22.4, covering Interim Adjustments, and replaced by a new Section 23 establishing an overall assessment test for test intervals throughout the year.

Jurisdictional Allocation

The allocation factors used in computing the jurisdictional portion of gas costs for purposes of the Current Adjustment and the Unrecovered Gas Costs have been changed to more closely estimate system performance during the relevant period. The allocation factors for refunds have not been changed. East Tennessee believes that the jurisdictional allocation of as-billed current gas costs in the PGA should not be determined by the allocation used to establish base tariff rates (Section 4 Allocation Factors). Because the PGA is designed to track current gas costs, the factors used in the calculations should be dynamic and should estimate expected future sales patterns. Thus, the use of Section 4 Allocation Factors, for the PGA which may be up to three years out of date, is an anomaly.

The D_1 factor has been changed from actual three day peak system experience to current contract demand ratios. The new allocation factor will more closely track developments on the East Tennessee system where contract demand levels are changed regularly. It will also be free from the happenstance anomalies that can distort the three day peak volumes.

The D_2 allocation factor has been changed from a Section 4 Allocation Factor (which was only recently adopted in November, 1987, when East Tennessee incorporated two part demand adjustments in its PGA) to an actual sales ratio reflecting recent twelve-month experience. The twelve-month period used for each current adjustment, creates a "moving base period" thus capturing recent changes in system experience.

Annual Allocation of Fixed Commodity Costs

A new Section 22.1 allows East Tennessee to allocate on an annual basis fixed gas costs that are determined on an annual or semiannual basis and that are classified to Seller's commodity rates to be allocated to quarterly gas costs on an annual basis. These types of costs—such as minimum bill charges, the portion of fixed transmission charges for imported gas classified to commodity rates and purchased gas demand costs included in single part rate schedules—are essentially annual fixed costs which should be allocated on a level basis to commodity rates. The allocation would be calculated in the Annual Gas Rate Adjustment using the projected annual sales and would attribute to each quarterly PGA Period a total annual fixed cost based on projected billing determinants for that PGA Period. The quarterly and monthly costs derived through the annual allocation would be used for calculating the Current Adjustment, the Unrecovered Gas Costs and the Assessment Test.

East Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Acting Secretary.

[FR Doc. 88-10268 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-113-000]

El Paso Natural Gas Co.; Petition for Waiver of Regulations Under Order No. 483

May 3, 1988

Take notice that on April 28, 1988, El Paso Natural Gas Company (El Paso) filed a petition for waiver of regulations under Order No. 483.

El Paso states that because of the timing of its last PGA filing and the timing of its initial annual PGA filing, El Paso believes that the transitional filing required under § 154.310 will complicate rather than facilitate the transition to the Commission's new PGA procedures. El Paso states that its most recent filing became effective on April 1, 1988, and its initial annual filing will be effective on July 1, 1988, making the transitional filing effective for a one-month period commencing June 1, 1988. El Paso believes that any benefit that might result from the transitional adjusted current PGA rate for El Paso would be outweighed by the burdens associated with preparing, processing, and reviewing a transitional El Paso PGA filing which would be effective for only a brief period and that any adverse consequence that might result from waiver of the transitional filing requirement will be accommodated through its acceptance of the three percent test for assessment of past performence.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before May 10, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10159 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-136-000]

El Paso Natural Gas Co.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that El Paso Natural Gas Company ("El Paso"), on April 29, 1988, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes would revise Section 19, Purchased Gas Cost Adjustment Provision ("PGA"), of the General Terms and Conditions in El Paso's First Revised Volume No. 1 Tariff.

El Paso states that by Order No. 483, *et seq.*, issued at Docket No. RM86-14-

000, the Federal Energy Regulatory Commission ("Commission") amended its regulations governing the procedures by which a pipeline company may pass through changes in the cost of purchased gas to its jurisdictional customers under the PGA clause option. Pipelines electing to continue use of the PGA option for purchased gas cost recovery are required, under § 154.303 of the Commission's Regulations, to file tariff sheets on May 1, 1988 to be effective on June 1, 1988, revising the PGA provisions of the company's tariff consistent with the amended PGA Regulations. Accordingly, El Paso states that the tendered tariff sheets, when accepted for filing and permitted to become effective, will confirm El Paso's election to continue to recover purchased gas costs via the PGA clause option by revising the PGA provisions of El Paso's tariff in compliance with the Commission's Regulations. For reasons set forth in its filing, El Paso requested waiver of certain of the Commission's Regulations related to the refund subaccount maintenance procedures and transition rules.

El Paso requested that the Commission grant such waiver of its applicable rules and regulations as may be necessary to permit the tendered tariff sheets and the revised PGA provisions set forth therein to become effective June 1, 1988, as provided for in the Commission's Regulations.

Copies of the filing were served upon El Paso's interstate pipeline system sales customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 835.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10270 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-132-000 and TQ88-1-34-000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that on April 29, 1988, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective June 1, 1988.

FERC Gas Tariff, First Revised Volume No.

27th Revised Sheet No. 8
2nd Revised Sheet No. 41
2nd Revised Sheet No. 42
4th Revised Sheet No. 43
4th Revised Sheet No. 44
2nd Revised Sheet No. 45
2nd Revised Sheet No. 46
2nd Revised Sheet No. 47
2nd Revised Sheet No. 48

FERC Gas Tariff, Original Volume No. 2

49th Revised Sheet No. 128

Reason for Filing

In compliance with the amended regulations set forth in Order No. 483, FTG is filing Revised Sheet Nos. 41 through 48, to be effective June 1, 1988 to establish a revised Section 15 (Purchased Gas Adjustment Clause) of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

27th Revised Sheet No. 8 and 49th Revised Sheet No. 128 are being filed pursuant to the transition rules in Section 154.310 and contain revisions to FTG's Rate Schedules G and I and Rate Schedule T-3, respectively, to: (1) Revise the current adjustment to reflect a decrease in FGT's average cost of gas purchased for sale and company use; (2) maintain the existing surcharge rate established in Docket No. TA88-3-34-000; and (3) adopt the tariff sheet format specified in the regulations.

FTG states that the effect of the purchased gas cost reduction being filed represents a decrease of 1.054¢/therm for Rate Schedules G and I and .33¢/Mcf for Rate Schedule T-3 as measured against FGT's Semi-Annual PGA filing in Docket No. TA88-3-34-00 effective April 1, 1988.

FGT states that copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, First Revised Volume No. 1, Original Volume No. 2 and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary

[FR Doc. 88-10263 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-112-000]

Inter-City Minnesota Pipelines Ltd., Inc.; Request for Waiver of Purchase Gas Adjustment Regulations

May 3, 1988.

Take notice that on April 27, 1988, Inter-City Minnesota Pipelines Ltd., Inc. (Minnesota Pipelines) filed a request for waiver of purchase gas adjustment regulations. Minnesota Pipelines requests the Commission to waive the May 1, 1988 filing deadlines established under Order Nos. 483 and 483-A.

Minnesota Pipelines believes that a waiver from the Commission's May 1, 1988 required filing is warranted because it intends to file with the Commission, by July 31, 1988, an application to fully "unbundle" its services that will have the support of its customers. The result of the proposed unbundling will be the conversion of all present sales services to firm transportation leaving the pipeline with no purchased gas costs at all, which would make the May 1 PGA revision become obsolete.

Minnesota Pipelines states that it currently uses and would elect to continue using its PGA clause, if it were to remain a seller of gas. However, Minnesota Pipelines states that given its small size and the nature of its gas purchases, together with the fact that it intends to "unbundle" its services, the May 1 filing would have only an interim impact.

Minnesota Pipelines states that a waiver of the May 1, 1988 filing would not in any way disturb the policy behind the new PGA regulations because Minnesota Pipelines has no competition in its service area and it will, therefore, receive no competitive advantage as a result of this waiver. Minnesota Pipelines states that if the Commission denies the requested waiver, Minnesota Pipelines will suffer undue hardship.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before May 10, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10160 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-116-000]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that on April 29, 1988, Louisiana-Nevada Transit Compnay (LNT) tendered for filing Fourteenth Revised Sheet No. 4 to its FERC gas tariff changing the rates in its Rate Schedules G-1 and X-2 effective June 1, 1988. LNG also tendered for filing First Revised Sheet No. 18 to delete the PGA clause effective June 1, 1988. The following tariff sheets are being deleted to eliminate the PGA clause:

Original Sheet No. 19
Original Sheet No. 20
Original Sheet No. 21
Original Sheet No. 22
Original Sheet No. 23

LNT states that the changes in rate filed herein are to comply with § 154.38(d)(4)(vi)(a) of the Commission's Regulations and establish new Base Tariff Rates. The tariff changes to delete the PGA clause are made in accordance with § 154.303(b)(3) of the Commission's Regulations.

LNT states that the new Base Tariff Rate for Rate Schedules G-1 and X-2 amounts to $1.2248/Mcf which is a reduction of $.347/Mcf from the present rate of $1.5718. The reduction for these rate schedules is $368,604 annually.

Copies of this filing were served upon LNT's jurisdictional customers, Arkansas Louisiana Gas Company and United Gas Pipeline Company, and upon the Public Service Commissions of the states of Arkansas and Louisiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10272 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-47-001]

MIGC, Inc.; Correction to Filing

May 3, 1988.

Take notice that on April 25, 1988, MIGC, Inc. (MIGC) tendered for filing Substitute Forty-Sixth Revised Sheet No. 32 to be effective May 1, 1988, as a corrected substitute for Forty-Sixth Revised Sheet No. 32 contained in MIGC's March 15, 1988, filing (53 FR 9684, March 24, 1988).

MIGC states that in preparing Forty-Sixth Revised Sheet No. 32 for inclusion in its March 14, 1988, PGA filing herein, MIGC inadvertently utilized the ($.9373) cumulative PGA adjustment reflected on Forty-Fifth Revised Sheet No. 32 instead of the revised, superseding cumulative adjustment of ($.7704) reflected on Substitute Forty-Fifty Revised Sheet No. 32.

MIGC requests such waivers of the Commission's Rules and Regulations and/or the provisions of its FERC Gas Tariff as may be necessary to permit Substitute Forty-Sixth Revised Sheet No. 32 to become effective May 1, 1988, as proposed.

Copies of this corrected tariff sheet are being sent to all of MIGC's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1987)). All such motions or protests should be filed on or before May 10, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10161 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-129-000 and TQ88-1-16-000]

National Fuel Gas Supply; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that National Fuel Gas Supply Corporation ("National") on April 29, 1988, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, six copies of the following tariff sheets:

Thirteenth Revised Sheet No. 4
Second Revised Sheet No. 59
Third Revised Sheet No. 60
Third Revised Sheet No. 61
Second Revised Sheet No. 62
Third Revised Sheet No. 63
Third Revised Sheet No. 64
Third Revised Sheet No. 65
Fourth Revised Sheet No. 66
Third Revised Sheet No. 67
Second Revised Sheet No. 67-A
Third Revised Sheet No. 68

National states that the purpose of the filing is to reflect the PGA rate changes in compliance with Order Nos. 483 and 483-A.

National states that Thirteenth Revised Sheet No. 4 reflects an overall decrease of 24.57 cents per dth. The change results from a decrease in current purchased gas costs only.

National states that the revised tariff sheets also propose a two part LIFO storage rate which recognizes both demand-related and commodity-related storage gas costs for purposes of developing National's quarterly rates. The revised sheets also propose to implement a demand cost subaccount of No. 191 and a commodity cost subaccount of Account No. 191, and to separately state demand and commodity cost components in National's annual PGA surcharge.

The proposed effective date of the tariff sheets is June 1, 1988.

National states that copies of this filing were served upon the Company's jurisdictional customers and the regulatory commissions of the states of New York, Ohio, Pennsylvania, Delaware, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Procedural Rules (18 CFR 385.214). All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Acting Secretary.

[FR Doc. 88-10264 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-128-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that National Fuel Gas Supply Corporation ("National") on April 29, 1988, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, six copies of the following tariff sheets:

Fourth Revised Sheet No. 1
First Revised Sheet No. 1-A
Second Revised Sheet No. 69
Second Revised Sheet No. 70
First Revised Sheet No. 71
First Revised Sheet No. 72

National states that the purpose of this filing is to establish the procedures pursuant to which National will recover the take-or-pay charges approved by the Federal Energy Regulatory Commission ("Commission") to be billed by Texas Eastern Transmission Corporation ("Texas Eastern") and subsequently paid by National, under Texas Eastern's tariff sheets accepted for filing at Docket No. RP88-80-000.

On March 22, 1988, Texas Eastern filed at Docket No. RP88-80-000 tariff sheets containing a mechanism for the recovery of take-or-pay charges billed by United Gas Pipe Line Company ("United"), pursuant to Commission authority issued at Docket No. RP88-27-000. Subsequently, on April 21, 1988, the Commission issued an order accepting Texas Eastern's tariff sheets for filing, suspending the tariff sheets, and placing the tariff sheets into effect subject to refund.

National states that if at any time Texas Eastern is permitted by Commission order to change its take-or-pay procedures and/or the amounts to be recovered pursuant to those procedures, National will likewise change its take-or-pay procedures and/or the amounts to be recovered pursuant thereto. National further states that it agrees to refund to its customers any refunds received from Texas Eastern in Docket No. RP88-80-000.

The proposed effective date of the tariff sheets listed above is May 1, 1988.

Copies of National's filing were served on National's jurisdictional customers and on interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10271 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-110-000]

North Penn Gas Co.; Petition of North Penn Gas Co. for Authority to Institute Direct Billing Procedure to Recover Certain LNG Costs

May 3, 1988.

Take notice that on April 25, 1988, North Penn Gas Company (North Penn) filed a petition for authority to implement a direct billing mechanism to recover certain LNG costs that North Penn is being assessed on a direct bill basis by CNG Transmission Corporation (CNG). North Penn stresses that its recovery proposal is applicable to Corning Natural Gas Corporation (Corning).

North Penn requests that the Commission require the joinder of Corning and CNG as indispensible parties. North Penn also requests consolidation of the instant docket with *Consolidated Gas Supply Corp.*, Docket No. CP87-195.

North Penn requests waiver of Commission regulations, rules and orders to the extent necessary to permit the proposed direct billing mechanism.

North Penn states that it has served a copy of the petition on CNG, North Penn's wholesale customers (including Corning), interested State Commissions, and each person listed on the service list in *Consolidated Gas Supply Corp.*, Docket No. CP87-195. North Penn also requests expeditious Commission consideration of the petition.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 10, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10164 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-106-000]

Northern Natural Gas Co., Division of Enron Corp.; Filing

May 2, 1988.

Take notice that on April 22, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) FERC Gas Tariff, Third Rivised Volume No. 1,

First Revised Sheet No. 52c.9a

Northern states that in order to implement the first come, first served scheduling requirements in the least disruptive manner and to recognize the proper priority of those requests received during the 45-day open season period, Northern proposes the enclosed tariff modification to clarify that requests received during the 45-day period will be considered as concurrently received for the purpose of scheduling of capacity.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 9, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10156 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-107-000]

Northern Natural Gas Co., Division of Enron Corp.; Notice of Filing

May 2, 1988.

Take notice that on April 22, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) FERC Gas Tariff, Third Revised Volume No. 1.

Original Sheet No. 52f.12a
First Revised Sheet No. 52f.13
Second Revised Sheet No. 85o.5
First Revised Sheet No. 85p
First Revised Sheet No. 85p.1
Second Revised Sheet No. 85p.2
First Revised Sheet No. 85p.3
First Revised Sheet No. 85p.4
Second Revised Sheet No. 85p.5

Northern states that Sheet Nos. 52f.12a, 52f.13, 85o.5 and 85p.5 reflect a revision to the data to be provided on a transportation request for Rate Schedules FT-1 and IT-1 as stated in the General Terms and Conditions (GT&C) section 18A of the Rate Schedule FT-1. Northern has listed in the revised section 18A of the GT&C all information required for a valid request.

Northern states that Sheet Nos. 85p through 85p.4 reflect modifications to the Form of Transportation Service Agreement for Rate Schedule IT-1 as contained in Northern's FERC Gas Tariff Third Revised Volume No. 1. The purpose of the proposed change is to streamline the administrative procedure and thus expedite and make more efficient the administrative process associated with providing transportation service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC, 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 9, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10157 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-122-000, TA88-2-55-000, TA87-3-55-004]

Questar Pipeline Co.; Rate Change

May 4, 1988.

Take notice that on April 29, 1988, Questar Pipeline Company (Questar Pipeline), formerly Mountain Fuel Resources, Inc., tendered for filing and acceptance revised tariff sheets, to be effective June 1, 1988, to its FERC Gas Tariff, First Revised Volume No. 1, as follows:

Fourteenth Revised Sheet No. 12
First Revised Sheet No. 57
Third Revised Sheet No. 58
Third Revised Sheet No. 59
Third Revised Sheet No. 60
First Revised Sheet No. 66

Questar Pipeline also tendered for filing and acceptance the following tariff sheets, to be effective January 1, 1988:

Eighth Revised Sheet No. 14
Second Revised Sheet No. 63
Second Revised Sheet No. 65

Questar Pipeline states that the purpose of this filing is: (1) To adjust the purchased gas cost charge under its sale-for-resale Rate Schedule CD-1; (2) to implement a new Purchased Gas Adjustment clause to its FERC Gas Tariff, First Revised Volume No. 1, pursuant to Commission orders in Docket No. RM86-14; and (3) to remove the incremental pricing provision from its FERC Gas Tariff pursuant to Commission order dated July 27, 1987, in Docket No. RM87-28-000.

Questar Pipeline further states that Fourteenth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of \$1.99180/Dth for sales under Rate Schedule CD-1 which is \$0.14551/Dth less than the currently effective rate of \$2.13731/Dth. The demand base cost of purchased gas as adjusted is increased by \$0.28923 to \$1.39705/Mcf, and its surcharge adjustment is increased by \$0.17313/Dth from \$(0.21530)/Dth to \$(0.04217)/Dth.

Questar Pipeline has requested any necessary waivers of the Commission's Rules and Regulations. Regulations to allow the tendered tariff sheets to become effective as proposed, and states that it has provided a copy of the filing to its sales customer and state public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10265 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA86-19-001]

System Energy Resources, Inc.; Order Phasing Proceeding and Establishing Hearing Procedures

Issued May 4, 1988.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon and Charles A. Trabandt.

Introduction

On June 18, 1987, the Commission issued a letter order noting the disagreement of System Energy Resources, Inc. (SERI) with certain items contained in staff's audit report of SERI's books and records.[1] The disagreement related to whether SERI has: (1) Properly accounted for income tax benefits during the construction and operation of the Grand Gulf Project; (2)

[1] System Energy Resources, Inc., 39 FERC ¶ 61,385 (1987).

properly capitalized miscellaneous expenses as plant in service; and (3) properly accounted and billed for bank fees. On July 17, 1987, SERI requested that the matters be set for hearing pursuant to § 41.7 of the Commission's regulations (18 CFR 41.7 (1987)). On September 16, 1987, the Commission issued an order establishing hearing procedures.[2]

Background

SERI is a wholly-owned subsidiary of Middle South Utilities (MSU). SERI joined its parent MSU and the other wholly-owned subsidiaries of MSU [3] (the MSU Group) in filing consolidated Federal income tax returns. The major issue in the above-captioned proceeding is whether SERI properly accounted for the time value of all cost-free capital realized by the MSU Group from income tax deductions generated by SERI and used to reduce the consolidated income tax liability of the MSU Group. Audit staff asserted that SERI's method of accounting for such tax benefits resulted in an overstatement of: (1) Allowance for funds used during construction (AFUDC) accrued during the construction period; and (2) cost-of-service tariff billings to other companies in the MSU Group.

MSU's method of distributing consolidated income tax liability among the MSU Group and the use of such distributions as a basis for each company recognizing in its accounts current and deferred income taxes, including investment tax credits (ITCs), is a contributory cause of the disputed income tax accounting issue in the ongoing SERI proceeding. The method of tax allocation used by the MSU Group withheld from SERI certain amounts of cost-free capital that were distributed to other companies in the MSU Group. SERI did not recognize such cost-free capital when accruing AFUDC during the construction period and when calculating its return on rate base when tariff billings commenced.

Subsequent to the onset of the ongoing SERI proceeding, audit staff completed financial audits of four other companies in the MSU Group: Arkansas Power & Light Company, Mississippi Power & Light Company, Louisiana Power & Light Company and New Orleans Public Service Company. The audit staff, consistent with its position in this proceeding, has taken the position that these companies also have not complied with the Commission's accounting requirements for recording income tax expense. Audit staff asserts that these companies have improperly recognized ITCs that were not realized on the consolidated income tax returns, and thereby overstated the amounts of accumulated deferred ITCs recorded in their accounts and financial reports to the Commission.

In Arkansas Power & Light Company, Mississippi Power & Light Company, and Louisiana Power & Light Company, the Commission issued letter orders noting that the issue involving the accounting for income tax benefits and unused investment tax credits will be resolved in a separate proceeding.[4] In New Orleans Public Service Company, the Chief Accountant issued a letter order noting NOPSI's disagreement with audit staff concerning NOPSI's recording of unused investment tax credits, and referred that issue to the Commission for separate action.[5] In all four proceedings, this issue affects affiliated service company billings to each company from MSU System Services Inc., and affiliated fuel company billings to each company from System Fuels, Inc. Because audit staff is in the process of completing its reports on the examinations of these affiliated companies, the Commission and the Chief Accountant reserved approval of each company's accounting for costs by MSU System Services Inc., and System Fuels, Inc., pending the completion of audit staff's reports and the instant proceeding.

Discussion

The Commission finds that the income tax issue in the ongoing SERI proceeding in Docket No. FA86-19-001 should be addressed in Phase II of Docket No. FA86-19-001, and expanded to include an investigation into the accounting methods used by other companies in the MSU Group. First, the tax allocation policies that are at issue in the ongoing SERI proceeding are also followed by other members of the MSU Group. Second, a complete record of the effects of the method of allocating consolidated income tax liability to members of the MSU Group is necessary to decide the tax allocation question at issue in the ongoing proceeding. The Commission needs to consider the effects of the recording of the unused ITCs by Arkansas Power & Light Company, Mississippi Power & Light Company, Louisiana Power & Light Company and New Orleans Public Service Company. Thus, the above jurisdictional companies need to be parties to the ongoing proceeding. Third, resolving the issue of the tax allocation policies used by the MSU Group in one proceeding would be administratively efficient. Fourth, it is necessary to resolve this issue on a timely basis in order to address the possibility of significant rate refunds from SERI, and to resolve issues which arise from recording approximately $300 million of unused ITCs on the financial statements of the MSU Group.

Accordingly, the above described issues are severed from the ongoing proceeding and are to be addressed in Phase II of Docket No. FA86-19-001.

Any interested person seeking to participate in Phase II of Docket No. FA86-19-001 shall file a protest or a motion to intervene pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1987)) no later than May 24, 1988.

The Commission Orders:

(A) The above described issues involving the accounting for income tax benefits and investment tax credits and as set forth in Docket Nos. FA86-19-001, FA85-58-000, FA85-65-000, FA86-63-000 and FA87-23-000 will be addressed in Phase II of Docket No. FA86-19-001.

(B) System Energy Resource, Inc., Arkansas Power & Light Company, Mississippi Power & Light Company, Louisiana Power & Light Company, and New Orleans Public Service Company are hereby made parties to the proceeding in Phase II.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205, 206, and 301 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the appropriateness of the accounting practices of the MSU Group as discussed above.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in Phase II of this proceeding, to be held within approximately 20 days of the date of this order, in a hearing room of

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[2] System Energy Resources, Inc., 40 FERC ¶ 61,249 (1987).

[3] The other wholly-owned subsidiaries of MSU are: Mississippi Power & Light Company; Louisiana Power & Light Company; Arkansas Power & Light Company; New Orleans Public Service, Inc.; and MSU System Services Inc.

[4] Arkansas Power & Light Company, Docket No. FA85-58-000; Mississippi Power & Light Company, Docket No. FA85-65-000; Louisiana Power & Light Company, Docket No. FA86-63-000.

[5] New Orleans Public Service Company, Docket No. FA87-23-000 (issued April 20, 1988).

the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Acting Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10257 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-115-000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

May 4, 1988.

Take notice that on April 29, 1988, Texas Gas Transmission Corporation (Texas Gas) tendered for filing its FERC Gas Tariff, Original Volume No. 2-A, and changes to its FERC Gas Tariff, Original Volume No. 1, Original Volume No. 2 and Original Volume No. 3. The proposed changes would increase revenues from jurisdictional sales and services by approximately $85 million, exclusive of the recovery of payments made in lieu of take-or-pay obligations, based on the twelve-month period ended January 31, 1988, as adjusted, compared with the underlying rates. The underlying rates are the base tariff rates as set forth on Texas Gas' FERC Gas Tariff, Original Volume No. 1, Substitute Eleventh Revised Sheet No. 10, effective February 1, 1988, plus the current purchased gas adjustment.

Texas Gas states that the adjustment in rates are attributable to:

(1) Revised system rate design quantities:

(2) Increases in operating expense;

(3) Increase in rate of return and related taxes; and

(4) The recovery of payments made in lieu of take-or-pay obligations.

Texas Gas requests an effective date of November 1, 1988, for the proposed Tariff Sheets. Texas Gas further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. In accordance with Rule 2.14 and 2.11 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10273 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-68-004]

Transcontinental Gas Pipe Line Corp.; Compliance Tariff Filing

May 4, 1988.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 29, 1988 certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are to become effective May 1, 1988.

Transco states that the purpose of its tariff filing is to revise the rates and tariff provisions related to the recovery of producer buyout and buydown costs which were included in Transco's filing of March 1, 1988 in Docket No. RP88-68. Such revisions are being made to comply with Ordering Paragraphs (E), (F), and (I) of the Commission's Order dated March 31, 1988. Transco further states that it has satisfied the remaining conditions of the Commission's March 31, 1988 order required for a May 1, 1988 effective date, namely, the acceptance of its blanket certificate under Part 284, Subpart G, of the Regulations (issued April 29, 1988 in Docket No. CP88-328-000).

Transco also states that copies of the instant filing are being mailed to its jurisdictional customers, state commissions and interested parties. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main office at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said compliance tariff filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 11, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10269 Filed 5-6-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3376-7]

Hazardous Waste (RCRA); Integrated Training and Technical Assistance Initiative

AGENCY: Environmental Protection Agency.

ACTION: Extension of Grant Application Deadline.

RCRA Integrated Training and Technical Assistance Program: (Original FR Notice January 22, 1988, Vol. 53, No. 14, pg. 1836-37).

The deadline for submission of grant applications by States under the RCRA Integrated Training and Technical Assistance (RITTA) Program (53 FR 1836-37.) is extended by 10 days (from May 15, 1988) to May 25, 1988 (i.e., postmarked by May 25, 1988). This extension is being provided to allow States additional time to coordinate with the various agencies, institutions, etc., which may be taking an active role with the regulatory agency in accomplishing RITTA Program goals. No further extensions will be available.

FOR FURTHER INFORMATION CONTACT: Kate Connors, Office of Solid Waste and Emergency Response (WH-562A), Office of Program Management and Technology, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-9829.

SUPPLEMENTARY INFORMATION: Applicants are reminded that this program is eligible for intergovernmental review under Executive Order 12372 and is subject to the review requirements of section 204 of the Demonstration Cities and Metropolitan Development Act.

T. Michael Taimi,

Director, Cross-Media Analysis Staff.

May 2, 1988.

Thomas W. Devine,

Director, Office of Program Management and Technology.

May 2, 1988.

[FR Doc. 88-10217 Filed 5-6-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00091; FRL-3376-9]

Biotechnology Science Advisory Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 1-day meeting of the Biotechnology Science Advisory Committee. The meeting will be open to the public. The Committee will be informed of and discuss issues associated with rulemaking for biotechnology within the Offices of Toxic Substances and Pesticide Programs. The Committee will also discuss confidentiality issues and be informed of recent product reviews. A status report will be presented to the Committee highlighting an upcoming conference sponsored by EPA, USDA, and FDA to discuss scientific issues and safety assessment considerations for transgenic plants.

DATES: The meeting will be held on Monday, May 23, 1988, starting at 10 a.m. and ending at approximately 5 p.m.

ADDRESS: The meeting will be held at: The Grand Hyatt Hotel, 1000 H St., NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Environmental Protection Agency, The TSCA Assistance Office, Office of Pesticides and Toxic Substances (TS-799), 401 M St., SW., Washington, DC 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: Attendance by the public will be limited to available space. The TSCA Assistance Office will provide summaries of the meeting at a later date.

Dated: May 4, 1988.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 88-10313 Filed 5-6-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180778; FRL-3376-5]

Receipt of an Application for a Specific Exemption To Use Avermectin B_1; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Department of Food and Agriculture (hereafter referred to as the "Applicant") for use of avermectin B_1 (Agrimec 0.15 EC Miticide/Insecticide™) to control two-spotted spider mites (*Tetranychus urticae*) and European red mites (*Panonychus ulmi*) on 21,500 acres of pears in California. Avermectin B_1 (CAS 63AB) contains a mixture of avermectins containing $\geq 80\%$ avermectin B_{1a} (5-0-demethyl avermectin A_{1a}) and $\leq 20\%$ avermectin B_{1b} (5-0-demethyl-25-de(1-methylpropyl-25-(1-methylethyl)avermectin A_{1a}). In accordance with 40 CFR 16624, EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before May 16, 1988.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180778" should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Room 246, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice 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 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 inspection in Room 246 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: Libby Pemberton, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703)-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of avermectin B_1, manufactured as Agrimec 0.15 EC Miticide/Insecticide™, by MSD AGVET, a division of Merck & Co., Inc., on pears in California. No tolerances have been established for avermectin B_1 on any raw agricultural commodities.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant proposes product per acre per application. A maximum of two applications will be made per crop season. Applications would be made through October 31, 1988.

The Applicant indicates that the percent control with registered alternatives has been steadily decreasing over the past five years. Those products include hexakis, amitraz, dicofol, chinomethionat, foliar spray oil, formetanate, and propargite.

The Applicant indicates that without adequate control of the mites economic losses expected could total over $5 million.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice in the **Federal Register** and solicit public comment on an application involving the first food use of a pesticide. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Dated: April 28, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-10218 Filed 5-6-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180777; FRL-3376-4]

Receipt of Applications for Specific Exemptions to use Clofentezine; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Maryland, New Hampshire, and North Carolina Departments of Agriculture (hereafter referred to individually by State or collectively as "Applicants") for use of the unregistered active ingredient clofentezine (3, 6-bis (2-chlorophenyl)-1, 2, 4, 5-tetrazine) to control European red mites and (in New Hampshire) two spotted spider mites on apples. In accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant these specific exemption requests.

DATE: Comments must be received on or before May 16, 1988.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180777," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Room 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice 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 inspection in Room 246 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: Libby A. Pemberton, Registration Division (TS-767 C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703)-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicants have requested the Administrator to issue specific exemptions to permit the use of the unregistered active ingredient, clofentezine, available as the pesticide product Apollo, manufactured by Nor-Am Chemical Company, to control European red mites and (in New Hampshrie) two spotted spider mites on apples.

Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

Maryland has requested authorization to make one complete or two "alternate row middle spray" applications with Apollo. A maximum of eight ounces of formualted product (0.25 pound active ingredient) is proposed to be applied per acre by ground equipment as a dilute or concentrate spray. The time of treatment extends until 45 days before harvest.

New Hampshire has requested authorization to make one application using up to eight ounces of formulated product (0.25 pound active ingredient) per acre. Optimal application time is at first or second cover which is expected in late May or early June. No applications will take place after June 30.

North Carolina has requested authorization to make one application using up to four ounces of formulated product (0.125 pound active ingredient) per acre by ground equipment as a dilute or concentrate spray. Application time is from tight cluster to within 45 days of harvest. Requested expiration date is November 15.

Maryland proposes to treat a maximum of 5,000 acres of apples. A maximum of 1,250 gallons of product would be needed under the proposed exemption.

New Hampshire proposes to treat a maximum of 1,200 acres of apples throughout the state. A maximum of 75 gallons of Apollo will be needed.

North Carolina proposes to treat a maximum of 14,531 acres of apples. A maximum of 227 gallons of Apollo will be needed.

The Applicants claim that European red mites and (in New Hampshire) two spotted spider mites have developed resistance to Plictran (cyhexatin) and Kelthane (dicofol) which historically has been used for control of mites. Similar resistance also exists to the related organo-tin acaricide, Vendex (febutatin-oxide). Other acaricides such as demeton, foremetanate hydrochloride, oxamyl and propargite are not effective, toxic to beneficials or otherwise not appropriate for mite control at various times.

The Applicants state that the result of not having an effective control of these mites would be decreased fruit size, loss of fruit set and reduced fruit quality. Maryland estimates that losses of up to $1.3 million in gross revenues for Maryland apple growers will result if Apollo is not available for use in 1988. New Hampshire apple growers would experience an approximate $60,000 loss without use of Apollo this year.

This notice does not constitute a decision by EPA on the applications themselves. The regulations governing section 18 require that the Agency publish notice in the **Federal Register** and solicit public comment on applications involving an unregistered active ingredient. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Dated: April 25, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-10219 Filed 5-6-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140095; FRL-3376-3]

Access to Confidential Business Information by the Cadmus Group, Dynamac Corp., and Icair Life Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, The Cadmus Group, and The Cadmus Group's subcontractors, Dynamac Corporation and ICAIR Life Systems, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than May 23, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS-799), Office of

Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street SW., Washington, DC 20460 (202-554-1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or chemical mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Chemical Substances Inventory, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, and 8 of TSCA.

Under contract number 68-01-7363, EPA's contractor The Cadmus Group (CAD), 375 Concord Avenue, Belmont, MA and its subcontractors Dynamac Corporation (DYN), Dynamac Building, 11140 Rockville Pike, Rockville, MD: and ICAIR Life Systems (ILS), 1725 Jefferson Davis Highway, Arlington, VA, will assist the Office of Policy, Planning, and Evaluation's Chemical and Statistical Policy Division in the analysis of data collected under TSCA for the purpose of evaluating agency policies, regulations, administrative actions, and regulatory activities.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract number 68-01-7363, CAD, DYN and ILS will require access to CBI submitted to EPA under TSCA to perform successfully the duties specified under the contract. CAD, DYN, and ILS personnel will require access to information submitted under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide CAD, DYN, and ILS access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters or at the contractor and subcontractor sites identified above. Upon completing review of the CBI materials under the contract, CAD, DYN, and ILS will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1989.

CAD, DYN, and ILS have been authorized for access to TSCA CBI at their facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved security plans prepared by CAD, DYN, and ILS and has performed the required inspection of their facilities and found them to be in compliance with the requirements of the manual. Contractor personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: May 2, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-10220 Filed 5-6-88; 8:45 am]

BILLING CODE 6560-50-M

[FR 3375-9]

Water Pollution Control; Final Determination of the Assistant Administrator for Water Concerning the Russo Development Corporation Site; Carlstadt, NJ

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of decision to prohibit the authorization of wetlands owned by the Russo Development Corporation for the discharge of dredged or fill material in Carlstadt, New Jersey.

SUMMARY: This notice of EPA's final determination pursuant to section 404(c) of the Clean Water Act to prohibit authorization of approximately 52.5 acres of existing, unauthorized fill in wetlands and prohibit the placement of fill into an additional 5 acres of wetlands owned by the Russo Development Corporation (Russo) based upon findings that the discharges of fill material into the wetlands have resulted and would result in unacceptable adverse effects to wildlife.

EFFECTIVE DATE: The effective date of the final determination is March 21, 1988.

FOR FURTHER INFORMATION CONTACT: Charles K. Stark, Jr., Office of Wetlands Protection, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, (202) 475-8796.

Copies of EPA's final determination are available for inspection in the Public Information Reference Unit, EPA Library, Room M 2904, 401 M Street SW., Washington, DC 20460 and the Marine and Wetlands Protection Branch, EPA Region II, Jacob K. Javits Federal Building, Room 837, New York, New York 10278

SUPPLEMENTARY INFORMATION: Under section 404(c) of the Clean Water Act, the Administrator of EPA has the authority to prohibit or restrict the use of a site as a disposal site for dredged or fill material, after notice and opportunity for public hearing, whenever he determines that such disposal will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Responsibility for 404(c) determinations has been formally delegated to the Assistant Administrator for Water.

In accordance with section 404(c) regulations (40 CFR Part 231), EPA's Regional Administrator, Region II, Mr. Christopher Daggett, initiated section 404(c) proceedings with respect to the existing and proposed fill in the Russo owned wetlands in Carlstadt, New Jersey. The site (Block 131.1, Lots 59, 64.01-74.06, 66.01/02) is situated in the northern portion of the Hackensack Meadowlands, west of the Hackensack River. Fill is in place on approximately 52.5 acres and six warehouses have been constructed on 44 acres of that fill. No construction has occurred on approximately 8.5 of the 52.5 acres. Wetlands and open water remain on 5 acres of the site. It was determined from interpretation of aerial photography and on site investigations that the 52.5 acres of wetlands that have received fill, as well as 5 unfilled acres of wetlands, were comprised of a mixture of emergent vegetation, wet meadow, common reed, old field, and a wooded stand. The site provided/provides valuable wildlife habitat for a variety of amphibians, reptiles, birds, and mammals. The vegetational diversity and occurrence of a relatively uncommon habitat for the Hackensack Meadowlands, wet meadow, contributed to the site's wildlife habitat value.

The Regional Administrator's action was in response to a notice by the U.S. Army Corps of Engineers, New York District, of their intent to issue a section 404 permit to Russo which would authorize the 52.5 acres of fill now in place and authorize the placement of 5 additional acres of fill on site in order to complete a warehouse complex. Russo proposed mitigation for the loss of wetlands values which included enhancement of nearby (although not delineated) wetlands northeast of the project site in the Hackensack Meadowlands and preservation of 23 acres of wetlands in Troy Meadows of the Passaic River basin. The mitigation effort would provide a one-half to one (enhanced to lost) compensation, on a value-for-value basis, for the values lost from filling approximately 57.5 acres of wetlands on site.

On January 19, 1988, Mr. Daggett forwarded a recommended determination to prohibit the authorization of the Russo owned wetlands as a discharge site to EPA Headquarters for review and final determination. The administrative record was subsequently delivered to headquarters on January 21, 1988. Mr. Daggett's recommendation was based upon unacceptable adverse effects to wildlife.

EPA's Assistant Administrator for Water considered the record in this case, public comments, information received during EPA's public hearing, and information provided by other agencies and organizations. He also consulted with Russo, the Corps of Engineers, and other knowledgeable individuals. Based upon this review, the Assistant Administrator determined that authorizing the maintenance of approximately 52.5 acres of fill and the placement of additional fill into 5 acres of wetlands has resulted and would result in unacceptable adverse effects to wildlife.

The record in this case revealed that the Russo tract was/is comprised of a mix of wetland types and that the juxtaposition of these wetland types to each other as well as to adjacent wetlands provided/provide valuable wildlife habitat that is rare and contributed/contributes to wildlife habitat diversity within the Hackensack Meadowlands. In addition, the Russo tract provided/provides habitat for a large mix of species, many of which are experiencing population declines, that is in whole or in part attributed to the loss and/or deterioration of habitat. The Assistant Administrator concluded that the Russo owned wetlands did/do provide important wildlife habitat from a site specific and cumulative standpoint and that the existing and proposed fill has destroyed/will destroy this habitat thereby seriously impacting wildlife. He also concluded that these impacts are such that the diversity and habitat values that were/are provided by the Russo owned wetlands should be preserved. That is, there should be no net loss of these wildlife values as a result of the fill. Like the Regional Administrator, the Assistant Administrator concluded that the offered mitigation would not offset the significant wildlife impacts identified in the recommended and final determinations and that, accordingly, the existing/proposed fill has resulted/will result in unacceptable adverse impact to wildlife under section 404(c) of the Clean Water Act. Under the authority delegated by the Administrator of the Environmental Protection Agency, the Assistant Administrator prohibited authorization of the Russo owned wetlands as a discharge site. EPA's action denies Russo legal authorization for approximately 52.5 acres of existing fill and prohibits the proposed deposition of fill material on the remaining 5 acres of wetlands.

Dated: April 28, 1988.

Tudor Davies,

Acting Assistant Administrator for Water.

[FR Doc. 88-10221 Filed 5-6-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Consumer Satisfaction Survey.

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for the review and approval of the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

COMMENTS: Comments on this collection of information should be submitted on or before June 8, 1988.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval to initiate an annual survey of 500 bank consumer complainants to obtain information concerning the effectiveness of FDIC's complaint handling and inquiry system. Responses are voluntary. It is estimated that it would take the average respondent 10 minutes to complete the questionnaire. The total annual burden of all 500 respondents would be approximately 85 hours.

Dated: May 3, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-10176 Filed 5-6-88; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register**, in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010756-001

Title: Transocean Terminal Operators, Inc.

Parties: Cavalair Corporation, Oceanic Shipping Company, Inc.

Synopsis: The amendment modifies the basic agreement to convert it from a joint venture to a corporation under the name Transocean Terminal Operators, Inc., to provide terminal and stevedoring operations at the Port of New Orleans.

By Order of the Federal Maritime Commission.

Dated: May 4, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88-10172 Filed 5-6-88; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Wyoming Bancorporation; Acquisition of Company Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 88-1699) published at page 2539 of the issue for Thursday, January 28, 1988.

Under the Federal Reserve Bank of Kansas City, the entry for First

Wyoming Bancorporation is revised to read as follows:

A. **Federal Reserve Bank of Kansas** City (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Wyoming Bancorporation*, Cheyenne, Wyoming; to acquire 50 percent of the outstanding common stock of Item Processing Center, Inc., Cheyenne, Wyoming, and thereby engage in providing data processing and data transmission services pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the United States.

Comments on this application must be received by May 25, 1988.

Board of Governors of the Federal Reserve System, May 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-10151 Filed 5-6-88; 8:45 am]

BILLING CODE 6210-01-M

Liberty National Bancorp, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has 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 activities will be conducted throughout 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.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 27, 1988.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Liberty National Bancorp, Inc.*, Louisville, Kentucky; to engage *de novo* through its subsidiary, Liberty Financial Services, Inc., Louisville, Kentucky, in selling insurance, as agent, that is directly related to the extension of credit by Company and is limited to ensuring the repayment of the outstanding balance due on the extension of credit in the event of the death, disability, or involuntary unemployment of the debtor, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. In addition, insurance will be sold limited to ensuring repayment of the outstanding balance on such extension of credit in the event of loss or damage to any property used as collateral for the extension of credit; and the extension of credit is not more than $10,000 or $25,000 if it is to finance the purchase of a residential manufactured home and the credit is secured by the home, pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y. These activities will be conducted in the State of Tennessee.

Board of Governors of the Federal Reserve System, May 3, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-10152 Filed 5-6-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88P-0134]

Canned Pineapple Deviating from Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Dole Packaged Foods Co., a subsidiary of Castle & Cooke, Inc., to market test a style of pack of canned pineapple, designated as "whole," that is not provided for by the U.S. standard of identity for canned pineapple (21 CFR 145.180(a)). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than August 8, 1988.

FOR FURTHER INFORMATION CONTACT: Howard A. Anderson, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0109.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Dole Packaged Foods Co., 50 California St., San Francisco, CA 94111.

The permit covers limited interstate marketing tests of canned, peeled and cored, whole pineapple packed in pineapple juice. The test product deviates from the U.S. standard of identity for canned pineapple in § 145.180(a) in that the style of pack is whole pineapple, a style not provided for by the standard. The product meets all requirements of the standard with the exception of this deviation. The permit provides for the temporary marketing of 100,000 cases, each containing 12 20-ounce cans. The test product will be distributed in St. Louis, MO, Des Moines, IA, and Indianapolis, Fort Wayne, and Evansville, IN.

The test product is to be manufactured at Dole Philippines, Inc., Makati, Rizal, Philippines.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than August 8, 1988.

Dated: April 29, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc 88-10169 Filed 5-6-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87N-0056]

Model Food Protection Unicode; Notice of Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is making available for comment the draft model Food Protection Unicode that updates and combines the food protection and sanitation provisions currently contained in separate model codes covering food service, food vending, and retail food stores. FDA will continue to provide upon request copies of separate codes, taken from the completed Food Protection Unicode, to those jurisdictions that regulate only part of the retail food industry. The model Food Protection Unicode was intiated in cooperation with several national organizations concerned with retail food protection.

DATE: Comments by August 8, 1988.

ADDRESSES: A copy of the draft model Food Protection Unicode is available for public review at, and written comments on the draft may be submitted to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Single copies of the draft model Food Protection Unicode may be obtained by contacting Arthur L. Banks (address below).

FOR FURTHER INFORMATION CONTACT: Arthur L. Banks, Center for Food Safety and Applied Nutrition (HFF-342), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0140.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 13, 1987 (52 FR 11885), FDA announced that is was planning to update the existing retail food protection and sanitation codes and to combine them into a new model Food Protection Unicode. In that notice, the agency supported the need for such action by citing the problems with the codes that States have adopted in response to the model codes as well as the opportunities offered by a new unified code (see 52 FR 11885 for complete discussion). FDA is now announcing that the draft model Food Protection Unicode is available for comment.

Interested persons may, on or before August 8, 1988, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 29, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-10168 Filed 5-6-88; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1988:

Name: National Advisory Council on the National Health Service Corps; HHS.

Date and Time: May 23-25, 1988, 8:00 a.m.

Place: Fairmont Hotel, Anacondo, Montana 59711. Visits will be made to National Health Service Corps and Indian Health Service sites in Billings, Big Timber and Deer Lodge on Monday and Tuesday, May 23 and 24. No transportation will be provided for visitors and observers.

The meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provision of the legislation.

Agenda: The agenda will include a discussion of Indian Health Service activities, overall NHSC policies, budget and other topics at the pleasure of the Council.

Anyone requiring information regarding the subject Council should contact Anna Mae Voigt, National Advisory Council on the National Health Service Corps, Room 7A-23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-4814.

Agenda Items are subject to change as priorities dictate.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88-10234 Filed 5-6-88; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

National Commission on Orphan Diseases; Public Meeting

AGENCY: Office of the Assistant Secretary for Health; HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing a meeting of the National Commission on Orphan Diseases scheduled on June 9 and 10, 1988.

DATE: Date, time and place. Open Public Meeting, June 9, 1988, 9:00 a.m.-4:00 p.m. and June 10, 1988, 8:30 a.m.-5:00 p.m.; Open Public Session, June 9, 1988, 4:00 p.m.-5:00 p.m.; Farragut Square Room, Grand Hyatt, 1000 H St., NW., Washington, DC 20001. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate in the Open Public Session should be sent to: Mary C. Custer, Ph.D., Executive Secretary, National Commission on Orphan Diseases, Office of the Assistant Secretary for Health, 5600 Fishers Lane, Room 18-38, Rockville, MD 20857, 301-443-6156.

Agenda: Open Public Session

Interested persons may present data, information or views, orally or in writing, on issues pending before the Commission or on any of the duties and responsibilities of the Commission on June 9 from 4 p.m. to 5 p.m. Those desiring to make oral presentations should notify the contact person before May 27, 1988 and submit a brief statement of the information they wish to present to the Commission. The request should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. Any person attending the open public session who does not request prior approval to speak may make an oral presentation at the conclusion of the session, if time permits, at the chairperson's discretion.

Agenda: Open Commission Meeting

The Commission will review the draft summary of the public hearing held in Dallas, Texas on February 4, 1988, as well as an overall summary of all four public hearings held by the Commission between July, 1987 and February, 1988. The Commission will discuss the reports on product and professional liability issues and the peer review process. Preliminary results of the survey of rare disease research activities of Federal agencies will also be discussed. In addition, the Commission will hold roundtable discussions with representatives of private foundations and rare disease voluntary organizations.

SUPPLEMENTARY INFORMATION: The Commission meeting will be conducted in accordance with the agenda published in this **Federal Register** notice. Any changes in the agenda will be announced at the beginning of the meeting.

Persons interested in specific agenda items to be discussed in the open meeting may ascertain from the contact person the approximate time of discussion.

A list of Commission members and the charter of the Commission will be available at the meeting. Interested persons who are unable to attend the meeting may request this information from the contact person. In addition, summary minutes of the meeting will be available upon request from the contact person.

This notice is issued under 10(a) (1) and (2) of the Federal Advisory Committee Act, Pub. L. 92–463 (5 U.S.C. Appendix I).

Dated: April 29, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88–10209 Filed 5–6–88; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-08-4212-13; AZA-23085]

Realty Action; Exchange of Public Lands, Maricopa, Cochise and Pima Counties, AZ

The following described federal lands have been determined to be suitable for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Base and Meridian, Maricopa County, Arizona

Township 6 North, Range 2 West,
- Sec. 4, lots 1–4, incl., S½N½, S½;
- Sec. 5, lots 1–4, incl., S½N½, S½;
- Sec. 6, lots 1–7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
- Sec. 7, lots 1–4, incl., E½W½, E½;
- Sec. 8, all;
- Sec. 9, all;
- Sec. 17, all;
- Sec. 18, lots 1–4, incl., W½NE¼, SE¼NE¼, E½NW¼, E½SE¼.

Total acres 4,878.43.

In exchange for the above described public lands, the United States will acquire all or part of the below-described private lands from San Pedro Investment Group, an Arizona General Partnership, or their nominee.

Gila and Salt River Base and Meridian, Mohave County, Arizona

Parcel 1(A)

Lot 3, the south half of Lot 4, the east half of the SW quarter, that portion of the north half of the SE quarter lying west of the west boundary of the Southern Pacific Railroad and that portion of the SW quarter of the SE quarter lying west of the west boundary of the Southern Pacific Railroad, all in section 19, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona.

Except all coal and other minerals as reserved in patents to said land.

Parcel 1(B)

Lots 2 and 3 and that portion of Lot 1 lying west of the west boundary of the Southern Pacific Railroad in section 30, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona.

Except all coal and other minerals as reserved in patents to said land.

Parcel 2

The north half of Lot 4 in section 19, T. 21 S., R. 22 E., Gila and Salt River Base and Meridan, Cochise County, Arizona.

Except all coal and other minerals as reserved in patents to said land.

Parcel 3(A)

That portion of the following described property lying east of the east line of the Southern Pacific Railroad Company's right-of-way:

The SW quarter of the SE quarter of section 19; and Lot 1 of section 30;

All in T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona.

Parcel 3(B)

That portion of the north half of the SE quarter lying east of the railroad right-of-way;

The SE quarter of the SE quarter, and all that portion of the south half of the NE quarter lying east of the railroad right-of-way of section 19;

The south half of the NW quarter; the west half of the SW quarter; the NE quarter of the SW quarter and the NE quarter of section 20;

All in T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona.

Excepting therefrom all the coal and other minerals as reserved unto the United States of America.

Parcel 4(A)

That portion of the SE quarter of the NE quarter of section 13, T. 21 S., R. 21 E., Gila and Salt River Base and Meridian, Cochise County, Arizona, lying southerly of the Southern Pacific Railroad as it existed on November 28, 1966.

Parcel 4(B)

The NE quarter of the SE quarter of section 13, T. 21 S., R. 21 E., Gila and Salt River Base and Meridian, Cochise County, Arizona.

Parcel 4(C)

Those portions of the SE quarter of the NW quarter, the NE quarter of the SW quarter and Lot 2 of section 18, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona, lying westerly of the Southern Pacific Railroad as it existed on November 28, 1966.

Except all coal and other minerals as reserved in the patent.

Parcel 4(D)

Lot 3 of section 18, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona.

Except all coal and other minerals as reserved in the patent.

Except that portion of the SE quarter of the NE quarter and NE quarter of the SE quarter of section 13, T. 21 S., R. 21 E., and the NE quarter of the SW quarter and Lots 2 and 3 of section 18, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows:

Beginning at a point on the west line of said section 18, said point being N. 00°01'40" east, a distance of 2,715.21 feet from the SW corner of said section 18;

Thence N. 89°35'50" east, a distance of 203.62 feet;

Thence N. 79°13'50" east, a distance of 708.88 feet to a point on the westerly right-of-way line of the Southern Pacific Railroad;

Thence southerly along the arc of a circular curve to the right, having a central angle of 12°40'40" and a radius of 4,631,60 feet, a distance of 1,024.83 feet along said right-of-way;

Thence S. 26°44'20" E., a distance of 744.76 feet along said right-of-way to the south line of said NE quarter of the SW quarter of section 18;

Thence S. 89°47'30" W., a distance of 1,793.36 feet along said line to the west line of said section 18;

Thence N. 89°56'40" W., a distance of 400.00 feet along the south line of the NE quarter of the SE quarter of said section 13;

Thence N. 07°51'40" E., a distance of 364.63 feet;

Thence N. 27°59'20" W., a distance of 314.90 feet;

Thence N. 02°13'20" W., a distance of 150.22 feet;

Thence N. 24°21'40" E., a distance of 302.02 feet;

Thence N. 12°32'40" E., a distance of 436.16 feet;

Thence S. 71°16'00" E., a distance of 297.21 feet to the Point of Beginning.

Parcel 5(A)

The SW quarter of section 17; the SW quarter; the SW quarter of the NE quarter; and those portions of the SE quarter of the NW quarter and the NE quarter of the SW quarter of section 18, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona, lying easterly of the Southern Pacific Railroad Transportation Company right-of-way as it existed on November 28, 1966.

Excepting all the coal and other minerals as more fully set forth and reserved in the patent to the United States of America.

Parcel 5(B)

Those portions of Lots 2 and 3 of section 18, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona, lying easterly of the Southern Pacific Railroad Transportation Company right-of-way as it existed on November 28, 1966.

Parcel 5(C)

Lot 1 of section 18, T. 21 S., R. 22 E., Gila and Salt River Base and Meridian, Cochise County, Arizona.

Except all oil, gas and other hydrocarbons and all other minerals of whatever kind of character, whether now known to exist or hereafter discovered (it being intended that the word "minerals" as used herein shall be defined in the broadest sense of the word and shall include, but not be limited to, oil, gas, other hydrocarbons, sand, gravel, stone, pumice, pumicite, cinders, clay and all other common materials and all other mineral substances and products, both metallic and nonmetallic, solid or liquid or gaseous) as more fully set forth and reserved in deed recorded November 2, 1984 in Docket 1808, page 565.

Parcel 6(A)

T. 19 S., R. 16 E., Gila and Salt River Base and Meridian, Arizona
Sec. 17, SW¼SW¼SW¼NW¼, E½SW¼NW¼, SE¼NW¼, NE¼NW¼SW¼, S½NW¼SW¼, NE¼SW¼;
Sec. 18, S½NE¼NW¼, SE¼NW¼NE¼NW¼, S½NE¼NE¼NW¼, SE¼NW¼, NE¼SW¼, S½N½SE¼.

Parcel 6(B)

T. 19 S., R. 16 E., Gila and Salt River Base and Meridian, Arizona
Sec. 18, W½ Argonaut Patented Mining Claim (SW¼SE¼, W½SE¼SE¼);
Sec. 19, Colchis Patented Placer Mining Claim (E½NW¼, NE¼SW¼).

Parcel 7(A)

T. 19 S., R. 16 E., Gila and Salt River Base and Meridian, Arizona
Sec. 15, All that part of W½SW¼ lying mortherly of the Greaterville Road as now established; except one acre owned by School District No. 37, Pima County, Arizona, and described as follows: Beginning at the NW corner of the SW quarter of said section 15; Thence east 8 rods; Thence south 20 rods; thence west 8 rods; thence north 20 rods to the Point of Beginning.

Parcel 7(B)

T. 19 S., R. 16 E., Gila and Salt River Base and Meridian, Arizona
Sec. 16, All that part of S½ lying northerly of the Greaterville Road as now established; except Parcel 206, Singing Valley Central, Book 5 of Records of Surveys, Page 6, Pima County Records.

Parcel 7(C)

T. 19 S., R. 16 E., Gila and Salt River Base and Meridian, Arizona
Sec. 17, SE¼.

Parcel 7(D)

The east half of that certain Patented Placer Mining Claim known as the Argonaut in the Greaterville Mining District in the County of Pima, said east half comprising the S½SW¼, section 17, and the E½SE¼SE¼, section 18, T. 19 S., R. 16 E., Gila and Salt River Base and Meridian, Arizona.

Parcel 7(E)

Sec. 21, NW¼.

Excepting from Parcels 2, 3 and 5, the building site consisting of no more than 40 acres to be surveyed.

Parcels 1, 2, 3, 4 and 5 are shown as Parcels 201 through 205 and 207 through 218 inclusive. Singing Valley Central as shown in Book 5 of Record of Surveys, Page 6, Pima County Records.

The exchange proposal involves all the exchange proponent's interest in the surface and mineral estate of the private lands and the surface and mineral estate of the public lands. The exchange is consistent with the Bureau's land use planning objectives.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All valid existing rights.

The lands to be acquired by the United States from San Pedro Investment Group shall be subject to certain easements, permits, and other encumbrances detailed in Schedule B of Ticor Title insurance policies: F-83073, F-830918, F-830730-B, E-456107, E-456123 and Cochise Title Policy 30-012,673.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice shall segregate the affected public lands from appropriation under the public land laws, including the mining laws, and from any subsequent land exchange proposals filed by any proponent other than San Pedro Investment Group or their nominee.

The segregation of the described selected lands shall terminate upon issuance of a document conveying title to such lands or upon publication in the **Federal Register** of a notice of termination of the segregation, or the expiration of two years from the date of initial publication (November 27, 1987), whichever occurs first.

Upon completion of the official appraisal, acreage adjustments will be made to equalize the values of the offered and selected lands.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Phoenix District Manager, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Herman L. Kast,

Acting District Manager.

Date: May 3, 1988.

[FR Doc. 88-10194 Filed 5-6-88; 8:45 am]

BILLING CODE 4310-32-M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: Private Rental Survey

Abstract: Respondents supply identifying information, and descriptive and rental data on private rental houses, apartments, mobile homes, and trailer spaces. This information allows the Bureau to establish comparable rental rates for occupants of Government furnished quarters

Bureau Form Numbers: 7-2226 and 7-2227

Frequency: On occasion

Description of Respondents: Small businesses or organizations

Annual Responses: 3,000

Annual Burden Hours: 590

Bureau clearance officer: Pat Scott, 202-343-4249.

C. Dale Duvall,

Commissioner.

Date: April 21, 1988.

[FR Doc. 88-10195 Filed 5-6-88; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Management Policies

AGENCY: National Park Service, Interior.

ACTION: Notice of extension of comment period for draft National Park Service revised management policies.

SUMMARY: On March 25, 1988, the National Park Service published a notice of availability of draft revised management policies for public review and comment (53 FR 9821). The comment period was scheduled to close on May 10, 1988. This notice extends the comment period on those proposed policies.

DATES: The National Park Service will consider all comments on the draft revised management policies submitted or postmarked by June 10, 1988.

ADDRESS: Comments should be directed to: Chief, Office of Policy, National Park Service, P.O. Box 37127, MIB-MS1226, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Office of Policy, 202/343-4298 or 7456.

SUPPLEMENTARY INFORMATION: On March 25, 1988, the National Park Service published notice of availability of proposed draft management policies for management and operation of National Park Service areas with request for public review and comment. Several individuals and groups have requested an additional period of time in which to comment. Because of this interest, and in an effort to ensure maximum public involvement, the Service is extending the comment period to June 10, 1988.

Denis P. Galvin,

Acting Director.

[FR Doc. 88-10259 Filed 5-6-88; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31202]

Supplement; the Mahoning Valley Railway Co.; Lease, Acquisition and Operation Exemption; Certain Lines of LTV Steel Co., Inc.

The notice of exemption published January 20, 1988, 53 FR 1528, concerned the lease, acquisition, and operation by The Mahoning Valley Railway Company (MVR) of certain properties of LTV Steel Company, Inc. (LTV), a noncarrier.

The notice of exemption stated that the involved lines total 24.07 miles and consist of 15.38 route miles and 8.69 miles of industrial track. The notice also stated that this property is divided into two sections, the Massillon Line and the Canton Line and that MVR will operate over LTV's property and assigned easement rights pursuant to a lease agreement with LTV.

By supplemental statement filed April 11, 1988, MVR states that the 24.07 miles consists of 0.24 route miles and 23.83 miles of industrial spur track. It also states that the Massillon Line crosses property owned by LTV. The notice should have referred to LTV Steel, Bar Division (LTV Bar) as the owner of the subject property.

The appropriate portions of the notice of exemption are clarified as follows:

The lines total 24.07 miles and consist of 0.24 route miles and 23.83 miles of industrial spur track. The LTV property over which MVR will operate is divided into two sections. No mileposts have been erected. (1) The Massillon Line is approximately 8.60 track miles (composed of 0.04 route miles and 8.56 miles of industrial spur track), beginning at a point approximately 2,300 feet south of Ordbrook Ave., SW., Perry Township, Stark County, OH, and running in a northeasterly direction for a distance of approximately 1.22 miles to a point also in Perry Township, adjacent to Conrail Interchange Yard. The Massillon Line crosses property owned by LTV Bar and Mercury Stainless, Inc. (Mercury). MVR will operate over LTV Bar's properties under a lease agreement with LTV. It will operate over Mercury's property as the assignee of the rights held by LTV under a perpetual easement. MVR will also operate over certain industrial spur track which connects with the Massillon Line. (2) The Canton Line is approximately 15.47 track miles (composed of 0.2 route miles and 15.27 miles of industrial spur track), bounded on the north by the line of Conrail and on the south by properties of LTV Bar, and beginning at a point approximately 1,500 feet east of Trump Road in Perry Township, and then running in a southwesterly direction approximately 1.44 miles to a point in the city of Canton, OH, approximately 750 feet from the western border of LTV Bar. The Canton Line then encircles the LTV Bar facilities and merges back into itself. MVR will also operate over certain industrial spur track which connects with the Canton Line. The transaction was expected to be consummated on or before April 16, 1988.

The notice of exemption should be considered clarified to the extent indicated here, and in all other respects it shall remain in full force and effect.

Decided: April 27, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-9839 Filed 5-6-88; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31159]

Waccamaw Coastline Railroad Co., Inc.; Modified Rail Certificate

A notice was filed by Waccamaw Coastline Railroad Co., Inc. (Waccamaw), for a modified certificate of public convenience and necessity under 49 CFR 1150.23. Waccamaw has entered into an agreement with Horry County, SC, to operate 14.10 miles of track from Conway, SC (milepost ACD 336.10) to Myrtle Beach, SC (milepost ACD 350.20). Horry County Coastline Railroad Co., Inc. (HCCR), operated the line prior to Waccamaw, which began operations on October 10, 1987.

Horry County purchased the track from Seaboard System Railroad, Inc. (Seaboard) and HCCR was authorized to operate the line on November 5, 1984 in Finance Docket No. 30564. The abandonment of the track by Seaboard was approved by the Commission on September 12, 1984 in No. AB–55 (Sub-No. 107).

This notice must be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Dated: May 2, 1988.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–10182 Filed 5–6–88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under Resource Conservation and Recovery Act; Erie Coatings & Chemicals, Inc., et al.

In accordance with Departmental policy, notice is hereby given that on April 28, 1988, a proposed Consent Decree in *United States v. Erie Coatings & Chemicals, Inc., et al.*, Civil Action No. 86–CV–60136–AA, was lodged with the United States District Court for the Eastern District of Michigan. The proposed Consent Decree provides for compliance with interim status standards under the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, at defendants' facility in Erie, Michigan.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Erie Coatings & Chemicals, Inc., et al.*, D.J. reference 90–7–1–304.

The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Michigan, Federal Building and United States Courthouse, 231 W. Lafayette Street, Detroit, Michigan 48226, at the Region V office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 9th Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–10133 Filed 5–6–88; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 87–29]

Joseph P. Hutsko, D.O.; Denial of Application for Registration

On Februrary 17, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Joseph P. Hutsko, D.O., of 111 West Susquehanna Street, Allentown, Pennsylvania. The Order to Show Cause sought to deny Dr. Hutsko's pending application for registration as a practitioner under 21 U.S.C. 823(f), executed on November 24, 1986, on the ground that his registration would be inconsistent with the public interest, based upon the following: (1) On April 8, 1985, in the Pennsylvania Court of Common Pleas for Lehigh County, he was convicted, after a trial by jury, of nine counts of unlawful dispensing of Phentermine, a Schedule IV controlled substance, in violation of P.S. 780–113(14), all felony offenses relating to controlled substances; nine counts of dispensing Phentermine without proper labeling in violation of P.S. 780–113(17); and eight counts of intentionally submitting fraudulent claims for furnishing services under the Pennsylvania Medical Assistance Program, in violation of 62 Pa. C.S. 1407(a)(1)(4)(6)(7); and (2) On October 17, 1986, the Administrator revoked Dr. Hutsko's previous DEA Certificate of Registration and denied his pending application for renewal, executed on September 23, 1985, based upon his improper handling of controlled substances.

Through counsel, Dr. Hutsko filed a timely request for a hearing on the issues raised in the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. On March 17, 1987, Judge Young issued an order for prehearing statements requiring each party to submit prehearing statements on or before April 20, 1987. Both parties complied with that order. On August 20, 1987, a telephonic prehearing conference was held and the hearing was scheduled for October 29, 1987. In a letter addressed to counsel for the Government dated September 15, 1987, Dr. Hutsko requested that the hearing in this matter be cancelled. He also made statements denying that he improperly dispensed controlled substances, claiming he had been duped by the undercover state agents. On October 2, 1987, counsel for Dr. Hutsko informed Judge Young that his client wished to withdraw his earlier request for a hearing in the matter, and, instead, desired to file a written statement. Based upon that request, Judge Young terminated the proceedings before him and granted Dr. Hutsko permission to file a written statement for consideration by the Administrator on or before November 9, 1987. On November 12, 1987, counsel for Dr. Hutsko submitted a written statement on behalf of his client to the Office of the Administrative Law Judge.

The Administrator finds that Dr. Hutsko has waived his opportunity for a hearing on the issues raised in the Order to Show Cause, and enters this final order based upon the investigative file, the record of the proceeding and the written statement submitted on behalf of Dr. Hutsko. See 21 CFR 1301.54(c), 1301.54(d) and 1301.54(e).

On October 17, 1986, the Administrator issued a final order revoking Dr. Hutsko's previous DEA Certificate of Registration. See *Joseph P. Hutsko, D.O.*, 51 FR 37091 (1986). Dr. Hutsko did not request a hearing in that matter. At that time, Dr. Hutsko's registration was revoked based upon his having been found guilty of numerous violations relating to controlled substances and of numerous charges of submitting fraudulent claims for payment with the Pennsylvania Medical Assistance Program, and the suspension of his state medical license. He has yet to be sentenced on the criminal charges. Since the issuance of the previously mentioned final order, Dr. Hutsko's state medical license has been reinstated. All of the findings contained in the October 17, 1986, order revoking Dr. Hutsko's previous registration are incorporated in this final order as though they were set forth at length herein, with the exception of the finding and discussion with respect to his lack of state authorization to handle controlled subtances.

In his written statement, Dr. Hutsko alleged that he had been practicing as an osteopathic physician in Allentown for 17 years and has enjoyed a "reputation as an excellent family practitioner who devotes a majority of his practice to the care of the poor." He also alleged that he has complied with the terms of probation regarding his medical license. Finally, he claimed that the money he received as a result of submitting fraudulent claims under the Pennsylvania Medical Assistance Program was nominal and that he never billed the undercover agents for the controlled substances they received during their visits. Dr. Hutsko provided no other documentation to support the allegations in his written statement.

The Administrator is not persuaded that granting Dr. Hutsko's application for registration would be consistent with the public interest. Dr. Hutsko has been found guilty of numerous criminal violations relating to the improper handling of controlled substances and submission of fraudulent claims under the Medical Assistance Program. In his letter to Government counsel, Dr. Hutsko continued to deny any impropriety on his part, even after his guilt was established after a lengthy jury trial. In addition, he reapplied for a DEA Certificate of Registration just one month after his previous registration had been revoked. Finally, the written statement provided nothing more than an unsupported, self-serving statement to the effect that the doctor can be entrusted with a DEA registration. Based upon the overwhelming volume of inculpatory information against Dr. Hutsko, and the lack of any real exculpatory evidence presented on his behalf, the Administrator concludes that his registration would not be consistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the pending application for registration, executed by Joseph P. Hutsko, D.O. on November 24, 1986, be, and it hereby is, denied.

This order is effective May 9, 1988.

John C. Lawn,

Administrator.

Dated: May 2, 1988.

[FR Doc. 88-10154 Filed 5-6-88; 8:45 am]

BILLING CODE 4410-09-M

Edward L. McIver, M.D.; Revocation of Registration

On March 24, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Edward L. McIver, M.D. of 1304 Liberty Road, Youngstown, Ohio 44505 proposing to revoke his DEA Certificate of Registration AM5810444 and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. McIver's lack of authorization to handle controlled substances in the State of Ohio. 21 U.S.C. 824(a)(3).

The Order to Show Cause was sent to Dr. McIver by registered mail. More than thirty days have passed since the Order to Show Cause was recived by Dr. McIver and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Edward L. McIver, M.D. is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that on June 11, 1986, the State Medical Board of Ohio revoked Dr. McIver's license to practice medicine in the State of Ohio, thereby terminating his authority to posses, prescribe, administer, dispense or otherwise handle controlled substances in Ohio. The Administrator concludes that DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See 21 U.S.C. 823(f). The Administrator and his predecessors have consistently so held. See, *Howard J. Reuben, M.D.*, 52 FR 8375 (1987); *Ramon Pla, M.D.* Docket No. 86-54, FR 41168 (1986); *Dale D. Shahan, D.D.S.*, Docket No. 85-57, 51 FR 23481 (1986); and cases cited therein.

Having considered the facts and circumstances in this matter, the Administrator concludes that Dr. McIver's DEA Certificate of Registration should be revoked due to his lack of authorization to handle controlled substances in the State of Ohio. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 21 CFR 0.100(b), orders that DEA Certificate of Registration AM5810444, previously issued to Edward L. McIver, M.D., be, and it hereby is revoked, and any pending applications for registration, be, and they hereby are, denied. This order is effective immediately.

John C. Lawn,

Administrator.

Dated: May 2, 1988.

[FR Doc. 88-10155 Filed 5-6-88; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-20,445]

Fairbanks Morse Engine Accessories, Roscoe, IL; Negative Determination Regarding Application for Reconsideration

By an application dated April 11, 1988, Local #1533 of the United Steel Workers of America (USW) requested administrative reconsideration of the Department's notice of negative determination on the subject petition for trade adjustment assistance for workers at Fairbanks Morse Engine Accessories, Roscoe, Illinois. The denial notice was signed on April 1, 1988 and published in the **Federal Register** on April 11, 1988 (53 FR 11920).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union states that the company has a neighboring plant in Beloit, Wisconsin whose workers were certified for adjustment assistance, TA-W-20,444. Workers in both plants work under the same contract and have the right to transfer from one plant to the other. The union claims that the Roscoe workers have been hurt by foreign trade because of the limited number of jobs available in the Beloit plant to which Roscoe workers may transfer.

The Department's denial was based on the fact that the "contributed importantly" test was not met. Respondents to the Department's survey revealed that they did not import ignition system components in 1986 or 1987. Further, major layoffs at the Roscoe plant occurred in December.

1986, more than one year prior to the date of the petition. Section 223(b)(1) of the Trade Act does not permit the certification of workers separated more than one year prior to the date of the petition which is January 19, 1988.

Certification for adjustment assistance under the Trade Act of 1974 is based on increased imports of the products produced at the workers' firm. Workers at the Beloit and Roscoe plants produce different products. Workers at Beloit produce diesel engines for ship propulsion, power generation and pumping which do not use ignition systems. Workers at the Roscoe plant produce ignition system components. There is no integration of production between the two plants. Further, the fact that workers at both plants are governed by the same collective bargaining agreement would not form a basis for certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 26th day of April 1988.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88-10136 Filed 5-6-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,370A]

Health-Tex, Inc., Cranston, RI; Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under section 222 of the Trade Act of 1974 and in accordance with section 223 of the Act, on March 29, 1988, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Cranston, Rhode Island distribution center of Health-Tex, Inc. A significant portion of output at Cranston was part of the integrated production process of children's wear manufactured at Central Falls, Rhode Island whose workers are certified for trade adjustment assistance under petition, TA-W-20,370.

The notice of certification was published in the Federal Register on April 11, 1988 (53 FR 11921).

Pursuant to section 223(d) of the Act and 29 CFR 90.17, the Director of the Office of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers at Cranston, Rhode Island continue to be attributable to the conditions specified in section 222 of the Act and 29 CFR 90.16(b) in the Departmental regulations.

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided that such request or submission is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below no later than May 19, 1988.

The record of the certifications (TA-W-20,370, TA-W-20,370A and TA-W-20,370B), containing non-confidential information is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC, this 27th day of April 1988.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-10137 Filed 5-6-88; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[88-45]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Open Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: June 1, 1988, 9:30 a.m. to 5:30 p.m., June 2, 1988, 8 a.m. to 5 p.m., June 3, 1988, 8:30 a.m. to 1 p.m.

ADDRESS: NASA Headquarters, Room 226A, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Alexander, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1656).

SUPPLEMENTARY INFORMATION: The Space and Earth Science Advisory Committee consults with and advises NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Sciences programs. The Committee will meet to review programs in the Office of Space Science and Applications (OSSA) and issue final position statements from the Committee. The Committee is chaired by Dr. Louis Lanzerotti and is composed of 32 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 including members of the committee).

Type of Meeting: Open.

Agenda

June 1, 1988

9:30 a.m.—Introductory Comments.

9:45 a.m.—Status Report and Charge to SESAC.

11 a.m.—New Initiatives: Comet Rendezvous-Asteroid Flyby (CRAF)/Cassini.

1 p.m.—New Initiatives: High Resolution Solar Observatory.

2 p.m.—SESAC Discussion.

3:30 p.m.—Office of Exploration Science Planning and Science Interactions with the Space Science Board (SSB) and OSSA.

4:30 p.m.—Science Presentation: The Solar Cycle, Its Prediction, and Its Effects.

5:30 p.m.—Adjourn.

June 2, 1988

8 a.m.—New Initiatives: Earth Probes.

9 a.m.—SESAC Discussion.

9:30 a.m.—Research Base Augmentation and Enhancements.

11:30 a.m.—Panel Discussion on Research and Analysis.

12:30 p.m.—SESAC member Discussions and Writing.

3 p.m.—Panel on Soviet Discussions and Plans.

4 p.m.—Status of the Ongoing OSSA Program.

5 p.m.—Adjourn.

June 3, 1988

8:30 a.m.—Strategic Planning Follow-Up Discussion.

9:30 a.m.—Discussion of SESAC Position Statements.

11:30 a.m.—Legacy to Space Science and Applications Advisory Committee.

1 p.m.—Adjourn.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

Date: May 3, 1988.

[FR Doc. 88-10153 Filed 5-6-88; 8:45 am]

BILLING CODE 7501-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-280 and 50-281]

Virginia Electric and Power Co., Surry Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of Appendix J to 10 CFR Part 50 to Virginia Electric and Power Company (the licensee) for the Surry Power Station, Units 1 and 2, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The exemptions would grant relief from 10 CFR Part 50, Appendix J, paragraph III.A.3, which requires that all Type A (Containment Integrated Leak Rate) tests be performed in accordance with ANSI N45.4-1972, "Leakage Rate Testing of Containment Structures for Nuclear Reactors." ANSI N45.4-1972 requires that leakage calculations be performed using the Point-to-Point method or the Total Time method. Instead, the licensee would rely on the Mass-Point method described in ANSI/ANS 56.8-1987, "Containment System Leakage Testing Requirements."

The licensee's request for exemption and the bases therefore are contained in a letter dated March 1, 1988, as revised on April 8, 1988.

The Need for the Proposed Action

The proposed exemptions are from the standard (ANSI N45.4-1972) referenced in 10 CFR Part 50, Appendix J, which requires the containment leakage calculations be performed using either the Point-to-Point or Total Time method. The licensee proposes to perform the calculations ussing the Mass-Point method, a newer method that has been accepted by the NRC staff. The method is described in the ANSI/ANS 56.8-1987 standard. This method is expected to be incorporated into a planned revision of Appendix J.

Environmental Impacts of the Proposed Action

The proposed exemptions would permit the use of the Mass-Point method in performing leakage calculations. The Mass-Point method hs been accepted by the NRC staff as a more accurate technique that will increase confidence in the integrity of the containment. These exemptions will not negatively impact containment integrity and do not affect the risk of facility accidents. Thus, post-accident radiological releases will not be greater than previously determined, nor do the proposed exemptions otherwise affect radiological plant effluents, or result in any significant occupational exposure. Likewise, the exemptions do not affect nonradiological plant effluents and have no other environmental impacts. Therefore, the Commission concludes that there are no significant radiological or nonradiological environmental impacts associated with the proposed exemptions.

Alternative to the Proposed Action

Because it has been concluded that there are no measurable impacts associated with the proposed exemptions, any alternative to the exemptions will have either no environmental impacts or greater environmental impacts.

The principal alternative to the exemptions would be to deny the requested exemptions. Such action would not reduce environmental impacts of the Surry Units 1 and 2 operations and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statements for the Surry Power Station, Units 1 and 2.

Agencies and Persons Consulted

The NRC staff has 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 exemptions.

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 application for exemptions from 10 CFR Part 50, Appendix J, dated March 1, 1988, as revised on April 8, 1988, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 2nd day of May 1988.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-10210 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regional Programs, Meeting

The ACRS Subcommittee on Regional Programs will hold a meeting on May 24, 1988, at the NRC Region II Office, 101 Marietta Street, Atlanta, GA.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: Tuesday, May 24, 1988—8:30 a.m. until the conclusion of business.

The Subcommittee will review the activities under the control of the NRC Region II Office.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr Paul Boehnert (telephone 202/634-3267) between 7:15 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: May 2, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-10246 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

All Chemical Isotope Enrichment, Inc.; Establishment of Atomic Safety and Licensing Board

[Docket No. 50-603-CP/OL; ASLBP No. 88-570-01-CP/OL]

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

ALL CHEMICAL ISOTOPE ENRICHMENT, INC.
AlChemIE Facility-1 CPDF

This Board is being established pursuant to a notice published by the Commission on April 28, 1988, in the **Federal Register** (53 FR 15317) entitled, "Receipt of Application for Construction Permit, Receipt of Application for Facility Operating License, Availability of Applicant's Environmental Report, Consideration of Issuance of Construction Permit and Facility Operating License and Notice of Opportunity for Hearing." The proposed construction permit and facility operating license would permit the Applicant to use centrifugal machines to enrich nonradioactive isotopes at the existing Centrifugal Plant Demonstration Facility ((AlChemIE) Facility-1 CPDF), located at the Oak Ridge Federal reservation in Oak Ridge, Tennessee. The nonradioactive isotopes would be used in medical, industrial and environmental and energy conservation purposes.

The Board is comprised of the following Administrative Judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Dr. Emmeth A. Luebke, 5500 Friendship Boulevard, Apt. 1923N, Chevy Chase, Maryland 20815

Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Issued at Bethesda, Maryland, this 3rd day of May 1988.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 88-10248 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-604-CP; ASLBP No. 88-571-01-CP]

All Chemical Isotope Enrichment, Inc.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding.

ALL CHEMICAL ISOTOPE ENRICHMENT, INC.
AlChemIE Facility-2 Oliver Springs

This Board is being established pursuant to a notice published by the Commission on April 28, 1988, in the **Federal Register** (53 FR 15315) entitled, "Receipt of Application for Construction Permit, Availability of Applicant's Environmental Report, Consideration of Issuance of Construction Permit and Notice of Opportunity for Hearing." The proposed construction permit would permit the Applicant to use centrifugal machines to enrich nonradioactive isotopes at AlChemIE Facility-2 located at Oliver Springs, Tennessee. The nonradioactive isotopes would be used in medical, industrial, and environmental and energy conservation purposes.

The Board is comprised of the following Administrative Judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Dr. Emmeth A. Luebke, 5500 Friendship Boulevard, Apt. 1923N, Chevy Chase, Maryland 20815

Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Issued at Bethesda, Maryland, this 3rd day of May 1988.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 88-10249 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 030-04951, 030-04971; License Nos. 22-00057-06, 22-00057-32G]

Minnesota Mining and Manufacturing Co.; Confirmatory Order Modifying General License, Effective Immediately

I

Minnesota Mining and Manufacturing Company, 3M Center 220-2E-02, St. Paul, MN 55144-1000, (3M; licensee) is the holder of several byproduct material licenses issued by the Nuclear Regulatory Commission (the Commission or NRC) pursuant to 10 CFR Part 30. License No. 22-00057-06 authorizes 3M to use a variety of radionuclides, including polonium-210 (Po-210), and to conduct a variety of activities with these materials including manufacturing, testing, installing and repairing radioactive sources, and the devices in which they are used.

License No. 22-00057-32G authorizes 3M to distribute Po-210 sources for use in static elimination devices to persons generally licensed in accordance with the provisions of 10 CFR 31.5.

Section 110.23(a)(4) of the Commission's regulations provides a general license to any person to export to any country not listed in § 110.28 (embargoed destinations), polonium-210 in individual shipments of 100 curies or less when contained in static eliminators.

II

On January 25, 1988, 3M's specific licenses were amended by an immediately effective Order which, among other things, suspended the authority of 3M to distribute Model Nos. 902, 902F, 906, and 908 Po-210 static elimination devices.

In January 1988, the NRC Staff received a list from 3M of domestic general licensees who possess the above-described static elimination devices, including persons who appeared to be manufacturing products or packages for products such as food, beverages, pharmaceuticals and cosmetics which are to be consumed by or applied to humans. NRC inspectors reviewing records during January 1988 at the 3M Center in St. Paul, Minnesota also determined that there were indications of a number of failed devices during the previous year that included devices used at facilities which manufacture products for human consumption. Further investigation conducted by 3M, NRC and State personnel revealed additional instances of device failure, including some located at beverage and food processing plants.

Subsequently, the NRC received reports of additional failed static elimination devices used in plants that manufacture products and packages, or package materials for products, which would constitute a direct pathway for human exposure if contaminated.

By Order Modifying General License Issued to Minnesota Mining and Manufacturing Co., published in the **Federal Register** on February 25, 1988 (53 FR 5661), the Commission, pursuant to sections 81, 161b., and 161i. of the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 2 and 31, ordered that the general license in 10 CFR 31.5 be modified effective immediately to suspend the use of any Po-210 static elimination device manufactured by 3M and distributed to general licensees pursuant to 3M License Nos. 22–00057–06 and 22–00057–32G and to require general licensees possessing 3M static elimination devices to return the item within 90 days of the date of the Order to 3M in accordance with instructions provided by 3M. The Order was based on information reviewed to date indicating that 3M static eliminators have experienced frequent failures in what appear to be normal and customary industrial environments (i.e., under ordinary conditions of use). The Commission Order pointed out that such failures are in direct conflict with the domestic licensing basis of these devices including the requirements of 10 CFR 32.51(a)(2)(ii) which states, in part, that "[u]nder ordinary conditions of handling, storage and use of the device, the byproduct material contained in the device will not be released * * *."

III

For the reasons underlying the suspension of the domestic general license ordered on February 18, 1988, in particular, the determination that there is no longer reasonable assurance that such devices will not fail in ordinary use and, thus, that they are not suitable for general license, 3M has agreed to suspend exports under the general license provided for by § 110.23(a)(4) of any such polonium-210 static elimination device manufactured by 3M. 3M's action was confirmed to the Commission by letter dated April 7, 1988. We have determined to confirm 3M's action by this Order. Because of 3M's assent to the terms of this order, prior notice need not be provided and this Order shall be effective immediately.

IV

Accordingly, in view of the foregoing and pursuant to sections 82 and 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 110, it is hereby ordered, effective immediately, as follows:

The general license in 10 CFR 110.23(a)(4) is suspended with respect to the export of any Po-210 static elimination device by 3M.

Pursuant to the Atomic Energy Act of 1954, as amended, any person other than the licensee who may be adversely affected by this Order may request a hearing within 30 days of the date of this Order. Any request for a hearing shall be submitted to the Director, International Programs, GPA, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the Assistant General Counsel for Enforcement at the same address. A request for a hearing shall not stay the immediate effectiveness of this Order.

If a hearing is requested, the Commission shall issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing is whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 22nd day of April, 1988.

James R. Shea,

Director, International Programs, Office of Governmental and Public Affairs.

[FR Doc. 88-10211 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Co. of Colorado; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-34, issued to Public Service Company of Colorado (the licensee), for operation of the Fort St. Vrain Nuclear Generating Station (FSV) located in Weld County, Colorado.

The amendment would modify the setpoints used in the FSV Plant Protective System (PPS). It would bring the method of determining those setpoints into compliance with IST Standard S67.04–1982, "Setpoints for Nuclear Safety-Related Instrumentation Used in Nuclear Power Plants". The licensee has summarized this matter in Attachment 3 to the amendment application, dated February 8, 1988 (P-88025).

The methodology developed by the licensee allows the PPS instrumentation setpoints to account for potential inaccuracies in the instrumentation. Inaccuracies can arise from several factors. These are:

—Accuracy of components not tested when the setpoint is measured
—Accuracy of test equipment, and
—Environmental effects on equipment accuracy.

A separate safety evaluation has been provided for each parameter in the proposed Technical Specification changes. These are:

—Primary Coolant Pressure—High and Low
—Low Superheat Header Temperature and High Differential Temperature between Loop 1 and Loop 2
—Circulator Speed Low
—Loss of Circulator Bearing Water and
—Circulator Speed High-Steam (Drive)

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 8, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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 request for a hearing and a petition for leave to intervene. Requests 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 should 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 proceedings, 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 amendment 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 present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-800-325-6000 (in Missouri 1-800-342-6700). The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to Jose A. Calvo: Petitioner's name and telephone number; date Petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Kelly, Stansfield & O'Donnell, Room 900, 550 15th Street, Denver, Colorado 80202, attorney for the licensee.

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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated February 8, 1988, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Greely Public Library, City Complex, Greely, Colorado.

Dated at Rockville, Maryland this 28th day of April, 1988.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate-IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 88-10212 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-11623, License No. 24-04581-19, EA 87-234]

St. Louis University; Order Imposing Civil Monetary Penalty

I

St. Louis University, St. Louis, Missouri, is the holder of Byproduct Material License No. 24-04581-19 issued by the Nuclear Regulatory Commission (NRC/Commission) on January 26, 1976 and renewed in its entirety on September 9, 1981. The license authorizes the licensee to use a teletherapy unit for treatment of humans in accordance with the conditions specified therein.

II

An inspection of the licensee's activities was conducted on December 3-11, 1987. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated January 29, 1988. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) by letter dated February 16, 1988. In its response, the licensee admits the violations occurred as described in the Notice and offered several reasons why the University believes that the imposition of the $6,000 civil penalty is excessive when all the circumstances of the alleged violations are considered.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Six Thousand Dollars ($6,000) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. A copy of the hearing request also shall be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Regional Administrator, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issue to be considered at such a hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 3rd day of May 1988.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluations and Conclusions

On January 29, 1988, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued to St. Louis University for violations identified during a special NRC inspection. St. Louis University responded to the Notice on February 16, 1988. During the inspection, which was conducted in response to a reported employee overexposure obtained from a cobalt-60 teletherapy unit, three 10 CFR Part 20 violations were identified. In its response, the licensee admits the violations occurred as described in the Notice but offers several reasons why the University believes that the imposition of the $6,000 civil penalty is excessive when all the circumstances of the alleged violations are considered. The NRC's evaluation and conclusion regarding the licensee's response are as follows:

Restatement of the Violations

A. 10 CFR 20.101(a) requires that no licensee possess, use, or transfer licensed material in such a manner as to cause any individual in a restricted area to receive in any period of one calendar quarter from radioactive material a total whole body occupational dose in excess of 1.25 rems.

Contrary to the above, during the fourth calendar quarter of 1987, an individual using licensed material in a restricted area received a whole body occupational dose of at least 7.5 rems.

B. 10 CFR 20.201(b) requires that each licensee make such surveys as (1) may be necessary for the licensee to comply with the regulations in Part 20 and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "Survey" means an evaluation of the radiation hazards incident to the use or presence of radioactive materials under a specific set of conditions.

Contrary to the above, the licensee did not make a survey (evaluation) of a radiation hazard to assure compliance with 10 CFR 20.201(a) in that an individual entered a teletherapy room on October 27, 1987, while an 8990 curie cobalt-60 source was in an exposed position and did not evaluate the radiation hazard by surveying the radiation field or by observing the warning light on the control panel, the warning light above the entrane door to the teletherapy room or the Primealert warning light in the maze entrance to the teletherapy room.

C. 10 CFR 20.403(b) requires that a licensee within 24 hours of discovery of an event, report any event involving licensed material possessed by the licensee that may have caused or threatens to cause exposure of the whole body of any individual to 5 rems or more of radiation.

Contrary to the above, on October 27, 1987, the licensee was aware of an overexposure event that threatened to cause whole body exposure in excess of 5 rems and failed to report the event to the NRC within 24 hours. Subsequently, on November 18, 1987, the licensee was informed by its badge processor, Radiation Detection Company, that an individual involved in that event had received a whole body dose of 7.5 rems; however, the licensee did not report the event to the NRC until November 23, 1987.

Collectively, these violations have been classified as a Severity Level II problem (Supplement IV).

Cumulative Civil Penalty—$6,000 (assessed equally among the violations).

Summary of Licensee's Response

The licensee, in its response, admits the violations. However, the licensee presents reasons why the civil penalty is excessive. The reasons are stated below together with the NRC's evaluation.

1. Licensee's Assertions

The University rejects the contention that its employees performed in a "careless" manner and that the followup actions were anything but appropriate in view of the information available at the times the various actions were taken. The judgment of the NRC staff does not take into account the circumstances of the incident, long term performance of personnel nor good faith efforts by involved persons to deal appropriately with the matter.

The University performed both an informal and formal investigation of this incident and developed a series of corrective measures prior to any actions taken by the NRC.

NRC Evaluation

The NRC used the word "careless" to describe the failure of individuals to follow basic radiation safety practices that would have prevented an overexposure of an individual. Before concluding that the involved individuals were careless, the NRC carefully considered that a radiation therapy physicist and the University radiation Safety Officer, probably the two most knowledgeable individuals in the area of radiation safety, disabled a door interlock switch which was part of an essential safety system to control access to the teletherapy treatment room. These individuals then entered the room without verifying that an exposed 8990 curie cobalt-60 source had been returned to a safe shielded position, without making routine direct reading radiation surveys to ensure that it was safe to enter the room, and without observing several warning lights. After considering these factors, the NRC concluded that these failures to follow basic radiation safety practices clearly demonstrated acts of carelessness.

The staff examined the past performance of the licensee, the corrective actions to prevent recurrence and the licensee's identification and reporting of the problem. As stated in the NOV, the NRC concluded that the licensee's corrective actions were not prompt and were only minimally acceptable.

2. Licensee's Assertions

The University believes that the imposition of the $6,000 civil penalty is excessive when all of the circumstances of the alleged violations are considered. In addition, the penalty is nonproductive.

NRC Evaluation

The proposed civil penalty was based on a 50 percent increase in the base amount of the civil penalty for a Severity Level II violation in accordance with the NRC's Enforcement Policy (Appendix C, 10 CFR Part 2). The penalty was raised 50 percent due to the NRC's assessment that the licensee's corrective actions to prevent recurrence were not prompt and were only minimally acceptable. The penalty was proposed to send a message that the NRC considers this violation as a serious matter and to emphasize the need to take timely and comprehensive corrective actions. In its reply to the Notice of Violation, the licensee provides no new or additional information which would warrant mitigation of the civil penalty proposed. Furthermore, as indicated in Enclosure 2 to the letter transmitting this Order, further clarification is necessary to provide assurance that the corrective action will be effective.

NRC's Conclusion

The NRC staff has concluded that the licensee has not provided a sufficient basis for mitigation of the proposed $6,000 civil penalty. Accordingly, a civil penalty in the amount of $6,000 is imposed.

Enclosure 2—NRC Evaluation of the Licensee's Corrective Actions

Licensee's Corrective Actions

In its February 16, 1988 response, the licensee described corrective actions that it had taken and would take in the future. These actions are as follows:

1. Since the teletherapy head is maximally loaded at this time and the necessary surveys have been completed, further surveys of the kind conducted will be justified only if there is clinical need to create a treatment geometry significantly different from those which have already been evaluated;

2. Any plans to conduct surveys with safety features overridden or disabled should be conducted only by designated qualified personnel and only with the prior knowledge and approval of the Committee Chairman or his designee.

3. A written plan for such surveys should be developed which includes assignment of responsibility to only one person for operation of the teletherapy console.

4. During any procedure which may involve high radiation fields, direct reading personnel monitors should be employed and read during the course of, and at the conclusion of, the procedure.

5. Any exposures estimated by calculation to be within 50% of the regulatory limits specified by 1C CFR 20.101(a) should be confirmed as soon as possible from personnel monitoring service.

6. The audible alarm feature of both the interior and exterior beam ON indicators should be activated during surveys when safety devices are disabled.

7. The visual beam ON indicator at the end of the entrance maze has been relocated to eye level.

NRC Evaluation of the Licensee's Corrective Actions

The NRC has reviewed the licensee's reponse to the Notice and has concluded that additional information is required for several of the licensee's corrective actions.

1. With regard to corrective action, Item 2, the licensee should describe how its procedures will be modified to ensure that, before any safety features are overridden or disabled, the matter will be reviewed by the entire Radiation Safety Committee and written approval of the committee will be required before proceeding.

2. With regard to corrective action, Items 3, 4, and 6, the licensee should verify that these corrective actions *will* be implemented, not that they should be implemented.

3. With regard to corrective action, Item 5, the licensee should verify that any entry into a high radiation area that results in an unplanned radiation dose will result in the immediate processing of personnel monitoring devices. It should be noted that it was the licensee's inability to make an accurate estimate or calculation of a radiation dose that resulted in the late reporting of an overexposure event that occurred on October 27, 1987.

[FR Doc. 88-10213 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

Texas Utilities Electric Co. et al.; Prehearing Conference

Before Administrative Judges: Peter B. Block, Chair, Dr. Walter H. Jordan, and Dr. Kenneth A. McCollom.

In the matter of Texas Utilities Electric Co., *et al.*, (Comanche Peak Steam Electric Station, Units 1 and 2), Docket Nos. 50-445-OL2, 50-446-OL2, ASLBP No. 79-430-06-OL, May 2, 1988; and Texas Utilities Electric Co., *et al.*, (Comanche Peak Steam Electric Station, Unit 1), Docket No. 50-445-CPA, ASLBP No. 86-528-02-CPA, May 2, 1988.

We have scheduled a public prehearing conference for May 11, 1988, for the purpose of conducting oral argument concerning consolidation of the two captioned cases and clarifying, to the extent that is currently feasible, the order in which specific issues may be litigated.

The conference is scheduled for 9 am to 1 pm in the Dallas Room of the Downtown Dallas Hilton, 1914 Commerce Street.

For The Atomic Safety and Licensig Board.

Peter B. Block,

Chair, Administrative Judge.

Bethesda, Maryland.

[FR Doc. 88-10247 Filed 5-6-88; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Demonstration Project; Airway Science Curriculum

AGENCY: Office of Personnel Management.

ACTION: Notice of extension of Demonstration Project: Airway Science Curriculum.

SUMMARY: This action extends the Airway Science Curriculum Demonstration Project until July 6, 1992, in order to validate the results of the demonstration.

EFFECTIVE DATE: This action is effective as of July 7, 1988, and expires July 6, 1992.

FOR FURTHER INFORMATION CONTACT: at FAA, Don Higgins, (202) 267-3997; at OPM, Francoise Gianoutsos, (202) 632-6164.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) is conducting a demonstration project under Title VI of the Civil Service Reform Act of 1978 (92 Stat. 1185) entitled "Airway Science Curriculum Demonstration Project." The purpose of the project is to evaluate alternative selection methods for filling positions in several of FAA's technical occupations. The performance, work related attitudes, and perceived potential for supervisory positions of individuals with an aviation-related college-level education, or its equivalent, are compared with those of individuals recruited for the same occupations through traditional methods. In support of this purpose, FAA, with assistance from the University Aviation Association, developed a model Airway Science Curriculum which emphasizes college-level courses in aviation, science and technology, mathematics, computer science, management and general studies as well as technical areas relevant to the pertinent FAA occupations.

Applicants for FAA positions as air traffic controller, electronics technician, aviation safety inspector, and computer specialist who respond to the demonstration Airway Science Announcement are rated on their knowledges, skills, abilities, and other characteristics required by the model Airway Science Curriculum. On the basis of this rating, these individuals are ranked on a separate register parallel to those currently in use. Additionally, applicants for air traffic controller positions must pass the air traffic control examination, and applicants for aviation safety inspector must hold listed certificates and ratings.

This plan was approved as a title VI demonstration project by OPM on July 7, 1983, and the final project plan was published on Friday, July 15, 1983 in the Federal Register (48 FR 32490).

Since then, very few airway science graduates have been hired. This is due in large measure to the fact that the four-year recognized degree programs are only beginning to produce graduates from the program. A four-year extension of the project is necessary to allow for a valid statistical analysis of the program. Under 5 U.S.C. 4703(d)(1)(B), a demonstration project may be extended beyond five years, "* * * to the extent necessary to validate the results of the project." It is expected that within an additional four-year period there will be enough graduates from the Airway Science Curriculum to allow a comparison of job performance between graduates of the program, and traditional hires. Therefore, OPM is extending the FAA demonstration project for four years starting July 7, 1988 to expire on July 6, 1992.

Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 88-10170 Filed 5-6-88; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-25633; File No. SR-MSE-88-3]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange Incorporated Relating to Odd Lot Differential

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 April 4, 1988, the Midwest Stock Exchange, Incorporated ("Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article XXXI, Rules 1, 7, and 10, relating to the trading of odd-lots.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, the Exchange rules require odd lot market orders to be executed based on the last sale price of a round lot order. In addition, a differential of ⅛ point is added or subtracted, whichever is applicable, in all odd lot executions. For example, where a last sale of a round lot occurs at 25, an odd lot sale would take place at 24⅞.

The proposed rule changes will eliminate the ⅛ point differential requirement as well as the use of the last sale as the applicable pricing basis. Instead of basing executions on the last sale, under the proposed change odd lots would be executed based on the best consolidated bid or offer with no differential. Differentials on odd-lot limit orders also will be eliminated.

The proposed rule change is consistent with section 6 of the Securities Exchange Act of 1934 in that it is designed to facilitate transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

[1] A copy of the text of the amendments was submitted by the Exchange and is available for inspection at the places specified in Item IV below.

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 the 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, DC 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, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 31, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-10198 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

May 3, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Hadson Corp.
Common Stock, $.10 Par Value (File No. 7-3298)
High Yield Plus Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-3299)
National Heritage, Inc.
Common Stock, $.01 Par Value (File No. 7-3300)
First City Bancorporation of Texas, Inc. (Delaware)
Common Stock, $.01 Par value (File No. 7-3301)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 24, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-10202 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

May 3, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Templeton Global Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-3285)
MFS Intermediate Income Trust
Shares of Beneficial Interest, No Par Value (File No. 7-3286)
Careercom Corp.
Common Stock, $.01 Par Value (File No. 7-3287)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 24, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-10203 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25636; File No. SR-NASD-88-13]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Proposed Amendment to the Corporate Financing Interpretation To Prohibit Non-Cash Sales Incentives

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 7, 1988, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files a proposed rule change, pursuant to section 19(b)(1) of the Act and Rule 19b-4 thereunder, to add a provision to the NASD's Interpretation of the Board of Governors—Review of Corporate Financing, Article III, Section 1 of the Rules of Fair Practice ("Corporate Financing Interpretation"). The new provision is proposed to follow the paragraph on "Overallotment Options" under the "Arrangement Factors" section of the Corporate Financing Interpretation at page 2033 of the *NASD Manual.* New language is italicized.

Sales Incentives

When proposed in connection with the distribution of a public offering of securities, it shall be an unfair and unreasonable arrangement for a member or person associated with a member to accept, directly or indirectly, any non-cash sales incentive item, including but not limited to travel bonuses, prizes and awards, from an issuer or an affiliate of an issuer in excess of $50 per person per issuer annually. Notwithstanding the foregoing, a member may provide non-cash sales incentive items to its associated persons provided that no issuer, affiliate of the issuer, including specifically an affiliate of the member, directly or indirectly participates in or contributes to providing such non-cash sales incentive.

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 statutory 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.

In Fall of 1985, the NASD Board of Governors approved the recommendation of the Direct Participation Programs and Real Estate Committtees to amend Appendix F to Article III, Section 34 ("Appendix F") of the NASD Rules of Fair Practice to prohibit a sponsor, affiliate of a sponsor (other than a member dealing with persons associated with that member) or a direct participation program from directly or indirectly offering or providing non-cash sales incentive compensation to a member or its associated persons including, but not limited to, travel bonuses, prizes and awards in excess of $50 per person per sponsor. The Direct Participation Programs and Real Estate Committees expressed concern that the emphasis given to non-cash sales incentives undermines members' ability to supervise their sales persons. The proposed amendment to Appendix F would not prohibit a member from offering its own in-house sales incentive program.[1]

The Board of Governors also approved the recommendation of the Committees that the proposed prohibition on non-cash sales incentives should be extended to other product areas and referred the issue to the Investment Companies, Variable Contracts and Corporate Financing Committees. Subsequently, the issue was considered by the referenced Committees.[2]

With respect to the Corporate Financing Committee, the Board of Covernors approved the recommendation of that Committee that non-cash sales incentive programs be prohibited in connection with real estate investment trusts and debt or equity corporate offerings, which are not covered by the provisions of Appensix F.[3] The NASD believes that certain changes in the tax laws embodied in the Tax Reform Act of 1986 and other factors in the real estate market have let to a marked increase in the number of publicly offered REITs in late 1986 and in 1987 in comparison to direct participation programs. Further, sales of REITs are considered to be in direct competition with sales of direct participation programs. In many cases, REITs are sponsored by members or affiliates of members that previously confined their activities to direct participation programs. The characteristics of sales incentives that have been utilized with respect to the distribution of REITs and direct participation programs are similar, although not as frequently used. In comparison, sales incentives have not traditionally been employed in connection with the distribution of corporate debt and equity offerings. Therefore, although sales incentives do not currently appear to be a significant problem in connection with the sale of REIT and corporate offerings, the NASD has determined to adopt the proposed rule change to avoid problems in the future and in light of several complaints that have been received from members with respect to sales incentive programs for REITs.

The rule change proposed by the NASD would insert a new provision under the heading "Arrangement Factors" to provide that it shall be presumed to be an unfair and unreasonable arrangement for a member or person associated with a member to accept, directly or indirectly, any non-cash sales incentive item, including but not limited to travel bonuses, prizes and awards, from an issuer or an affiliate of an issuer in excess of $50 per person per issuer annually. The proposed rule change also includes a provision that provides an exception to the foregoing prohibition for members' in-house sales incentive programs. The proposed rule change states that, notwithstanding the foregoing restrictions on non-cash sales incentives, a member may provide non-cash sales incentive items to its associated persons provided that no issuer, affiliate of the issuer, including specifically an affiliate of the member, directly or indirectly participates in or contributes to providing such non-cash sales incentive.

The proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change presents no impact on competition that is not necessary in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The NASD published the proposed rule change for comment in Notice to Members 86–33 (May 7, 1986). The NASD received 23 comments on the proposed rule change from 22 commenters. Eighteen of the commenters were in favor of the proposed amendment and did not suggest any changes to the language of the proposed provision. Four commenters were opposed to the amendment.

The commenters opposed to the proposed amendment pointed out that the problems experienced by the direct participation program industry with respect to non-cash sales incentives are not present in the context of corporate and REIT offerings. It was further pointed out that corporate and REIT securities lack the characteristics of direct participation programs, which are long-term, illiquid and considered high-risk. Instead, it was urged that the Corporate Financing Department staff evaluate the appropriateness of any arrangement for non-cash sales incentives on a case-by-case basis. However, no guidelines were suggested for such review.

The NASD believes that the sale of REITs are in competition with sales of direct participation programs and are often offered by the same sponsors. Further, the characteristics of sales incentive programs for REITs and direct participation programs are similar. Finally, the NASD has received several complaints from members relating to sales incentive programs for REITs. Therefore, although sales incentives are not currently considered a significant problem in the sale of corporate and REIT offerings, the NASD has determined that the proposed rule change should be adopted at this time to avoid problems in the future.

In addition, one commenter was opposed to the proposed amendment on the basis that non-cash incentives will continue to be permitted for insurance and mutual fund products. As indicated above, the NASD currently has published for comment similar proposed rule changes to prohibit the receipt of non-cash compensation in connection with mutual fund and variable contracts products in Notice to Members 88–17 (March 1, 1988).

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

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[1] The proposed rule change to Appendix F to Article III, Section 34 of the NASD Rules of Fair Practice was filed with the SEC pursuant to SEC Rule 19b–4. See SR–NASD–86–22 and Amendments Nos. 1, 2 and 3 thereto.

[2] At its meeting on January 18, 1988, the NASD Board of Governors approved the publication for comment of proposed rule changes to Article III, Sections 26 and 29 of the NASD Rules of Fair Practice to prohibit the receipt of non-cash compensation in connection with sales of investment company and variable contract securities, respectively. The proposed rule changes were published for comment in Notice to Members 87–17 (March 1, 1988).

[3] The Board of Governors also determined that the proposed rule change to the Corporate Financing Interpretation should become effective concurrently with that to Appendix F, or as soon thereafter as possible. Subsequently, the NASD filed two amendments to SR–NASD–86–22 with substantial language changes on May 14, 1987 and August 7, 1987. Therefore, the NASD postponed the filing of the proposed rule change to the Corporate Financing Interpretation until the staff of the SEC had had an opportunity to review the revised proposed rule change to Appendix F.

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, DC 20549. Copies of the submissions, 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 Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-88-13 and should be submitted by May 31, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: May 2, 1988.

[FR Doc. 88-10199 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25637; File No. SR-NASD-87-55]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

On December 31, 1987, and January 15, 1988, the National Association of Securities Dealers, Inc. ("NASD"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, a proposed rule change to establish a mandatory price and volume reporting system for over-the-counter equity securities that are not part of the NASDAQ System ("non-NASDAQ OTC Securities"), and amend its Best Execution Interpretation relating to retail transactions in these stocks.

The new Schedule H of the NASD's By-Laws requires NASD members executing principal transactions in non-NASDAQ OTC Securities to report price and volume data for days on which their sales or purchases exceed 50,000 shares or $10,000. Where the reporting requirement has been triggered, members must report aggregate volume and the highest price at which they sold the security and the lowest price at which they bought it. Pursuant to a clarifying amendment filed by the NASD on March 31, 1988, members must also report whether the trades establishing the highest price at which they sold and the lowest price at which they purchased the security represented an execution with a customer or with another broker-dealer. Members will have the option of reporting between 4:00 p.m. and 6:30 p.m. Eastern Time on the trade date or between 7:30 a.m. and 9:00 a.m. Eastern Time on the next business day. NASD members that are NASDAQ subscribers will be able to enter the reported information directly into NASDAQ. An alternative electronic reporting vehicle is being developed for those NASD members that are not NASDAQ subscribers.

The amendment to the Best Execution Interpretation requires members dealing in non-NASDAQ OTC Securities to check a minimum of three dealers (or all dealers if three or less) prior to executing any transaction on behalf of a customer.

The proposed rule change was noticed in Securities Exchange Act Release No. 25399, 53 FR 6901 (March 3, 1988). The Commission received one comment letter from the National Quotation Bureau ("NQB"),[1] the publisher of the "pink sheets."

NQB's letter relates to that part of the rule filing which requires price and volume reporting for non-NASDAQ OTC Securities. While NQB supports this initiative, it urges the Commission to require the NASD to make publicly available, on a stock-by-stock basis with data aggregated for all reporting market makers, the price and volume information that will be collected. In support of its position, NQB cites the Congressional finding in section 11A(a)(1)(C) of the Act regarding the benefits of assuring the availability of information with respect to quotations for and transactions in securities.

Although the Commission agrees with NQB that it would be consistent with the purposes of the Act for the reported price and volume information to be publicly disseminated, we do not consider it appropriate to require such dissemination at this point. The proposed price and volume reporting requirements have been devised, in the first instance, as regulatory measures to improve surveillance of trading in non-NASDAQ OTC Securities. We understand that the NASD is considering how the reported information might be disseminated, and we see no reason why the information should not eventually be made publically available.

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 association, and, in particular, the requirements of sections 11A, 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-10200 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34—25641; File No. SR-NSCC-87-12]

Self-Regulatory Organizations; National Securities Clearing Corporation ("NSCC"); Order Extending Approval Of Proposed Rule Change On A Temporary Basis

On October 15, 1987, NSCC filed a proposed rule change (File No. SR-NSCC-87-12) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The proposed rule change revised NSCC's rules to authorize and establish financial and operational standards for a new category of broker-dealer membership, whose activities would be restricted exclusively to the use of the Fund/SERV Service. The proposal also revised NSCC's rules concerning Fund/SERV clearing fund contributions and allocating losses to that fund in the event of systems losses or member default. On January 26, 1988, the Commission approved the proposed rule change on a temporary basis for three months, through April 30, 1988. As discussed below, the Commission is extending its approval of the proposed rule change, on a temporary basis, through June 30, 1988.

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[1] Letter from David M. Burnett, President, National Quotation Bureau, to Jonathan G. Katz, Secretary, SEC, dated March 24, 1988.

The Commission, in its temporary approval order, asked NSCC to evaluate the benefits accruing from lower Fund/SERV clearing fund contributions and limited member assessments. The Commission also asked NSCC to monitor member Fund/SERV settlement activity, and report on the risk that Fund/SERV settlement debits and credits could not be reversed and fully-collected from other Fund/SERV system users. Pursuant to our request, NSCC has provided the Commission with information regarding the benefits and risks associated with the proposed rule change.

The Commission has not fully analyzed the information provided by NSCC and, thus needs more time to study this information before granting final approval of the proposed rule. Nothing in NSCC's information, however, appears to contradict the Commission's preliminary finding that the proposed rule change is consistent with Act and, in particular, with section 17A. Therefore, the Commission believes that it is appropriate to extend the proposed rule change for 60 days.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR-NSCC-87-12) be, and hereby is, approved on a temporary basis through June 30, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1988.

Jonathan Katz,

Secretary.

[FR Doc. 88-10201 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

May 3, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Granges Exploration Ltd.
  Common Stock, No Par Value (File No. 7-3280)
Chicago Pacific Corporation
  Common Stock, $0.01 Par Value (File No. 7-3281)
Freeport-McMoran Oil & Gas Royalty Trust
  Units of Beneficial Interest (File No. 7-3282)
CTS Corporation
  Common Stock, No Par Value (File No. 7-3283)
Cedar Fair, L.P.
  Limited Partner's Units (File No. 7-3284)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 24, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan Katz,

Secretary.

[FR Doc. 88-10204 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

May 3, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securites:

Smucker (J.M.) Company
  Common Stock, No Par Value (File No. 7-3288)
TCW Convertible Securities Fund, Inc.
  Comon Stock, $0.01 Par Value (File No. 7-3289)
Thor Industries, Inc.
  Common Stock, $0.10 Par Value (File No. 7-3290)
USLICO Corporation
  Common Stock, $1.00 Par Value (File No. 7-3291)
Land's End Inc.
  Comon Stock, $0.01 Par Value (File No. 7-3292)
Newell Company
  Common Stock, $1.00 Par Value (File No. 78-3293)
Nuveen California Municipal Value Fund, Inc.
  Common Stock, $0.01 Par Value (File No. 7-3294)
Sahara Casino Partners, L.P.
  Depositary Units (File No. 7-3295)
W.W. Grainger, Inc.
  Common Stock, $1.00 Par Value (File No. 7-3296)
M.A. Hanna Company
  Common Stock, $1.00 Par Value (File No. 7-3297)

These securities are listed and registered on one or more other national securities exchanger and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 24, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-10205 Filed 5-6-88; 8:45 am]

BILING CODE 8010-01-M

[File No. 22-17937]

Application and Opportunity for Hearing; Citicorp

May 3, 1988.

Notice is hereby given that Citicorp (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company of New York (the "Bank") under indentures dated as of February 15, 1972 (the "1972 Indenture"), supplemented as of November 15, 1972 (the "November 1972 Supplement") and June 30, 1974 (the "June 1974 Supplement"), March 15, 1977 (the "March 1977 Indenture") supplemented as of July 1, 1977 (the "July 1977 Supplement"), July 15, 1978 (the "July 1978 Supplement"), February 1, 1979 (the "February 1979 Supplement"), April 15, 1980 (the "April 1980 Supplement"), February 1, 1981 (the "February 1981 Supplemnent"), May 1, 1981 (the "May 1981 Supplement"), August 1, 1981 (the "August 1981 Supplement"), November 1, 1981 (the "November 1981 Supplement"), February 1, 1982 (the "February 1982 Supplement"), February 15, 1982 (the "February 15, 1982 Supplement"), and March 15, 1982 (the "March 1982 Supplement"), August 25, 1977 (the "August 1977 Indenture"), and April 21, 1980 (the "1980 Indenture") between the Company and Bank which were heretofore qualified under the Act, and under a Pooling and Servicing Agreement dated as of October 1, 1987 (the "October Agreement") between Citicorp Mortgage Securities, Inc. ("Citicorp Mortgage") and the Bank which has not been qualified under the Act, 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 Bank from acting as trustee under any of such indentures or agreement. 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 (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Pursuant to the 1972 Indenture, the Company has issued $650,000,000 aggregate principal amount of its Floating Rate Notes Due 1989 (the "Notes") under the June 1974 Supplement, of which $74,304,000 are outstanding as of March 1, 1988. The Notes were registered under the Securities Act of 1933 ("1933 Act") and the 1972 Indenture was qualified under the Act.

(2) Pursuant to the March 1977 Indenture, the Company has issued $350,000,000 aggregate principal amount of its 8.45% Notes Due March 15, 2007. The Company has issued in aggregate principal amount (i) $250,000,000 of its 8⅛% Notes Due July 1, 2007 under the July 1977 Supplement; (ii) $200,000,000 of its Floating Rate Notes Due 1998 under the July 1978 Supplement; (iii) $500,000,000 of its Floating Rate Notes Due 2004 under the February 1979 Supplement; (iv) $250,000,000 of its Floating Rate Notes Due 2010 under the April 1980 Supplement; and (v) $100,000,000 of its Floating Rate Notes Due March 10, 1989 under the March 1982 Supplement (collectively, the "Notes"). Of these, $1,051,334,000 are outstanding as of March 1, 1988. The Notes were registered under the 1933 Act and the March 1977 Indenture was qualified under the Act.

(3) Pursuant to the August 1977 Indenture, the Company has issued $250,000,000 aggregate principal amount of its Rising-Rate Notes, Series A (the "Notes"), of which none are outstanding as of March 1, 1988. The Notes were registered under the 1933 Act and the August 1977 Indenture was qualified under the Act.

(4) Pursuant to the 1980 Indenture, the Company has outstanding as of March 1, 1988, $5,379,488,997 aggregate principal amount of various series of notes (the "Notes"). The Notes were registered under the 1933 Act and the 1980 Indenture was qualified under the Act. The four indentures are hereinafter called the "Indentures," and the securities issued pursuant to the Indentures are hereinafter called the "Notes."

(5) Pursuant to the September Agreement, Citicorp Mortgage Securities, Inc. ("Citicorp Mortgage"), a subsidiary of the Company, issued Mortgage Pass-Through Certificates, Series 1987–18A 10.50%. Pass-Through Rate (the "Series 1987–18A Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1987–18A Mortgage Pool") originated by Citibank, N.A. and having adjusted principal balances aggregating $72,993,941.87 at the close of business on October 1, 1987, which mortgage loans were assigned to the Bank as Trustee simultaneously with the issuance of the Series 1987–18A Certificates. On October 29, 1987, the Company entered into a Guaranty of even date (the "1987–18A Guaranty") pursuant to which, for the benefit of the holders of the Series 1987–18A Certificates, it agreed to be liable for 8.00% of the initial aggregate principal balance of the 1987–18A Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1987–18A Guaranty. The Company's obligations under the 1987–18A Guaranty rank *pari passu* with all unsecured and unsubordinated indebtedness of the Company, and accordingly, if enforced against the Company, the 1987–18A Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1987–18A Certificates were registered under the 1933 Act as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass Through Certificates pursuant to Rule 415 under the 1933 Act.

(6) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(7) The obligations of the Company under the Indentures and the 1987–18A Guaranty are wholly unsecured, are unsubordinated and rank *pari passu.*

(8) Such differences as exist among the Indentures and the respective obligations of the Company under the 1987–18A Guaranty are unlikely to cause any conflict of interest in the trusteeship of the Bank under the Indentures and the September Agreement.

The Company has waived notice of hearing, hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

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 Offices of the Commission's Public Reference Section, File Number 22–17937, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested persons may, not later than May 27, 1988, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by said application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–10206 Filed 5–6–88; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-17908]

Application and Opportunity for Hearing; Norstar Bancorp, Inc.

May 3, 1988.

Notice is hereby given that Norstar Bancorp Inc. (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of Chemical Bank (the "Bank") under an indenture dated as of January 11, 1982 (the "1982 Indenture") between Security New York State Corporation ("Security") and the Bank which has not been qualified under the Act, and under an indenture dated January 1, 1985 (the "1985 Indenture") between the Company and the Bank which was qualified under the Act, 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 Bank from acting as trustee under the aforementioned indentures.

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 as defined in the section 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, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obliger.

The Company alleges:

1. Pursuant to the 1982 Indenture, Security issued approximately $2,276,906 aggregate principal amount of its 10% Notes due 1992 (the "10% Notes) issued in connection with the purchase by Security of all of the outstanding shares of Mohawk National Bank of Schenectady, New York. Subsequent to the issuance of the 10% Notes, Security and the Company merged. The 1982 Indenture was not qualified under the Act in reliance upon section 304(a)(9) of the Act.

2. Pursuant to the 1985 Indenture, the Company issued $100 million aggregate principal amount of its Floating Rate Subordinated Capital Notes due January 1998 (the "Floating Rate Notes"). The Floating Rate Notes were registered under the Securities Act of 1933 ("1933 Act"), and the 1985 Indenture was qualified under the Act.

3. The Company is not in default under the 1982 Indenture, the 1985 Indenture, or any other existing indenture.

4. The Company's obligations under the 1982 Indenture and the 1985 Indenture are wholly unsecured and rank *pari passu.*

5. The provisions of the 1982 Indenture and the 1985 Indenture are 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 Bank from acting as trustee under any of such indentures.

The Company has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application which is on file in the Offices of the Commission's Public Reference Section, File Number 22-17908, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than May 31, 1988, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of fact or law raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-10207 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8085]

Issuer Delisting; Application to Withdraw From Listing and Registration; (UC Corp. Common Stock, Par Value $.34)

May 3, 1988.

UC Corp. ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the listing of its common stock on the Amex. The Company does not see any advantage in the trading of its stock in view of the fact that it has disposed of substantially all of its assets. The Company is no longer conducting an active operating business and its activities are limited to those relating to making liquidating distributions.

Any interested person may, on or before May 24, 1988, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-10208 Filed 5-6-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5376]

San Joaquin Business Investment Group Inc.; Issuance of a Small Business Investment Company License

On February 1, 1988, a notice was published in the Federal Register (Vol. 53, No. 26) stating that an application has been filed by San Joaquin Business Services Group, Inc., with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)) for a license as a small business investment company. Subsequently the company changed its name to San Joaquin Business Investment Group, Inc.

Interested parties were given until close of business March 3, 1988, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09-5376 on April 23, 1988, to San Joaquin Business Investment Group, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: May 3, 1988.

[FR Doc. 88-10251 Filed 5-6-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending April 29, 1988

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45166

Parties: Pan American World Airways, Inc.

Date Filed: April 26, 1988.

Subject: Application of Pan American World Airways, Inc. pursuant to sections 412 and 414 of the Act, requests (1) approval of an agreement between Pan Am Commercial Services, Inc. and the General Department of International Air Services (Aeroflot Soviet Airlines) (Aeroflot), known as the SPATE Agreement of Commercial Partnership between Pan Am and Aeroflot, dated January 1, 1988, and (2) the concomitant conferral of antitrust immunity.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88-10278 Filed 5-6-88; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 29, 1988

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45600

Date Filed: April 27, 1988.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 25, 1988.

Description: Application of Points of Call Airlines Ltd., pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to conduct Class 9-4 (Non-Scheduled International) Charter flights from any point or points in Canada to any points in the United States.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 88-10279 Filed 5-6-88; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

[Order 88-4-86]

Fitness Determination of ChartAir, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 88-4-86, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that ChartAir, Inc., is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, Room 6420, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than May 9, 1988.

FOR FURTHER INFORMATION CONTACT: Janet A. Davis, Air Carrier Fitness Division, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: April 29, 1988.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 88-10135 Filed 5-6-88; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Hazardous materials; Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications 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 of the exemptions granted in March 1988. The modes of transportation involved are identified 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. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
970-X	DOT-E 970	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.21(b), 173.300, 173.302(g).	To authorize use of DOT Specification 3AA2015 or 3AA2400 cylinders, for transportation of a flammable poisonous gas. (Modes 1, and 2.)
2136-X	DOT-E 2136	......do	49 CFR 173.1, 173.3(a), 173.7(a), 174.10, 174.104, 174.3, 174.90(a), 177.801, 177.802.	To authorize shipment of radioactive materials with explosives in Department of Defense containers packaged and loaded by the Department of Defense without carrier inspection. (Modes 1, and 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
2582-P	DOT-E 2582	Airco Special Gases, San Marcos, CA.	49 CFR 175.3, Part 173, Subparts D, E, F, G.	To become a party to exemption 2582 (Modes 1, 2, 3, and 4.)
3004-X	DOT-E 3004	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.302, 175.3	To authorize use of a non-DOT specification cylinder, for transportation of certain flammable, and nonflammable compressed gases. (Modes 1, 2, 4, and 5.)
3004-X	DOT-E 3004	Liquid Air Corporation Walnut, CA	49 CFR 173.302, 175.3	Do.
3004-X	DOT-E 3004	Union Carbide Corporation, Danbury, CT.	49 CFR 173.302, 175.3	Do.
3004-X	DOT-E 3004	Airco Industrial Gases, Murray Hill, NJ.	49 CFR 173.302, 175.3	Do.
3004-X	DOT-E 3004	Big Three Industries, Inc., Houston, TX.	49 CFR 173.302, 175.3	Do.
3126-X	DOT-E 3126	Hercules, Inc., Wilmington, DE	49 CFR 173.62, 177.821, 177.822(b), 177.835(k).	To authorize transport of Class A explosives in DOT Specification 5 metal drums, or in DOT Specification 42B aluminum drums. (Mode 1.)
3549-X	DOT-E 3549	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a), 173.77	To authorize shipment of Class A explosives in special non-DOT specification packagings. (Modes 1, and 2.)
3941-X	DOT-E 3941	Pacific Engineering & Production Co. of Nevada, Henderson, NV.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1, and 2.)
3941-X	DOT-E 3941	Aerojet Solid Propulsion Co., Sacramento, CA.	49 CFR 173.239a(a)(2)	Do.
3996-X	DOT-E 3996	Stauffer Chemical Co., Westport, CT.	49 CFR 173.188	To authorize shipment of phosphoric anhydride in DOT Specification 6K metal drums. (Modes 1, and 2.)
4039-X	DOT-E 4039	Airco Industrial Gases, Murray Hill, NJ.	49 CFR 173.316(a)	To authorize shipment of liquefied hydrogen in a non-DOT specification vacuum insulated portable tank. (Mode 1.)
4612-X	DOT-E 4612	Aldrich Chemical Co., Inc., Milwaukee, WI.	49 CFR 173.135, 173.122, 173.136, 173.139, 173.154, 173.206, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382.	To authorize shipment of small quantities of hazardous materials in inside glass bottles overpacked in metal cans further overpacked in DOT Specification 12B fiberboard boxes. (Mode 1.)
4850-X	DOT-E 4850	The Ensign-Bickford Co. and Dist., Simsbury, CT.	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in lengths not exceeding 100 feet, containing not more than 50 grains per lineal foot of high explosive, as a Class C explosives. (Modes 1, 2, and 4.)
5403-X	DOT-E 5403	Halliburton Services Duncan, OK	49 CFR 173.245(a)(31), 173.248(a)(6), 173.249(a)(6), 173.263(a)(10), 173.264(a)(14), 173.268(b)(3), 173.272(i)(21), 173.289(a)(4), 178.343-2(b), 178.343-5(b)(1)(i), 178.343-5(b)(2)(i).	To authorize use of a non-DOT specification cargo tank meeting the requirements of DOT Specification MC-312 with certain exceptions, in support of oil well acidizing and industrial cleaning operations. (Modes 1, and 3.)
5403-X	DOT-E 5403	Vann Systems, division of Halliburton Co. Houston, TX.	49 CFR 173.245(a)(31), 173.248(a)(6), 173.249(a)(6), 173.263(a)(10), 173.264(a)(14), 173.268(b)(3), 173.272(i)(21), 173.289(a)(4), 178.343-2(b), 178.343-5(b)(1)(i), 178.343-5(b)(2)(i).	Do.
5701-X	DOT-E 5701	Mallinckrodt, Inc., Paris, KY	49 CFR 173.268(a)(3)	To authorize use of a non-DOT specification cargo tank meeting the requirements of DOT Specification 312 with exceptions, for transportation of a certain oxidizer. (Mode 1.)
5704-X	DOT-E 5704	Hercules, Inc., Wilmington, DE	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in non-DOT specification steel drums. (Modes 1, 2, and 3.)
5704-X	DOT-E 5704	Atlas Powder Co., Dallas, TX	49 CFR 173.62, 173.93(e)	Do.
5704-X	DOT-E 5704	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.62, 173.93(e)	Do.
5704-P	DOT-E 5704	Atlantic Research Corp., Gainesville, VA.	49 CFR 173.62, 173.93(e)	To become a party to exemption 5704 (Modes 1, 2, and 3.)
6016-P	DOT-E 6016	S.J. Smith Company, Inc., Davenport, IA.	49 CFR 173.315(a)	To become a party to exemption 6016 (Mode 1.)
6045-X	DOT-E 6045	Viskase Corp., Chicago, IL	49 CFR 173.121	To authorize use of DOT Specification MC-312 cargo tanks for transportation of a flammable liquid. (Modes 1, and 3.)
6080-X	DOT-E 6080	U.S. Department of Energy, Washington, DC.	49 CFR 173.301(d), 173.327(a), 173.337(a)(1).	To authorize use of manifolded cylinders, for transportation of a Class A poison. (Mode 1.)
6309-X	DOT-E 6309	Foam Supplies, Inc., Olivette, MO	49 CFR 173.315(a)(1), 174.63(b)	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1, and 2.)
6309-X	DOT-E 6309	Freeman Chemical Corp., Port Washington, WI.	49 CFR 173.315(a)(1), 174.63(b)	Do.
6309-P	DOT-E 6309	Industrial Polymer Corp., Orange, CA.	49 CFR 173.315(a)(1), 174.63(b)	To become a party to exemption 6309 (Modes 1, and 2.)
6309-X	DOT-E 6309	General Latex and Chemical Corp. of Georgia Dalton, GA.	49 CFR 173.315(a)(1), 174.63(b)	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1, and 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
6418-X	DOT-E 6418	PureGro Co., West Sacramento, CA.	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
6418-X	DOT-E 6418	Wilbur-Ellis Co., Fresno, CA	49 CFR 173.357(b)	Do.
6418-X	DOT-E 6418	Western Farm Service, Inc., Walnut Creek, CA.	49 CFR 173.357(b)	Do.
6418-X	DOT-E 6418	The Dow Chemical Co., Midland, MI.	49 CFR 173.357(b)	Do.
6418-X	DOT-E 6418	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.357(b)	Do.
6484-X	DOT-E 6484	The Dow Chemical Co., Freeport, TX.	49 CFR 172.101, 173.149a	To authorize transport of mixtures of nitromethane and various solvents in DOT Specification MC-307 or MC-312 tank motor vehicles. (Mode 1.)
6484-X	DOT-E 6484	W.R. Grace & Co., Lexington, MA	49 CFR 172.101, 173.149a	Do.
6563-X	DOT-E 6563	Monongahela Power Co., Fairmont, WV.	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made generally in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, and 5.)
6589-X	DOT-E 6589	International Safety Devices, Inc., Hesperia, CA.	49 CFR 173.302(a)(1), 175.3	Reinstatement of exemption that authorizes the shipment of materials in non-DOT specification cylinders. (Modes 1, 2, 4, and 5.)
6611-X	DOT-E 6611	Teisan Kabushiki Kaisha, Tokyo, 105 Japan.	49 CFR 173.318(a)	To authorize use of a non-DOT specification vacuum insulated portable tank, for transportation of a nonflammable gas. (Modes 1 and 3.)
6626-P	DOT-E 6626	National Welders Supply Co., Inc., Charlotte, NC.	49 CFR 173.34(e)15)(i), 173.34(e)(15)(v), 175.3.	To become a party to exemption 6626. (Modes 1, 2, 3, 4, and 5.)
6651-X	DOT-E 6651	Ethone, Inc., West Haven, CT	49 CFR 173.28(h), 173.28(m)	To authorize one-time reuse of single-trip containers for transportation of certain Class B poisonous solids. (Mode 1.)
6704-X	DOT-E 6704	The Dow Chemical Co., Midland, MI.	49 CFR 173.245a, 173.249, 173.253, 173.294, 178.340, 178.343.	To authorize use of non-DOT specification cargo tanks for shipment of certain corrosive liquids. (Mode 1.)
6890-X	DOT-E 6890	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.100(cc), 175.3	To authorize transport of an explosive severance system consisting of linear segments which may contain up to 79 grams of hexanitrostilbene. (Modes 1, 2, 3, and 4.)
6895-X	DOT-E 6895	GTE Products Corp., Danvers, MA	49 CFR 173.140(a)(1), 175.3	To authorize shipment of zirconium liquid mixtures in a DOT Specification 37A steel drum. (Modes 1, 2, 3, and 4.)
6904-X	DOT-E 6904	Aldrich Chemical Co., Inc., Milwaukee, WI.	49 CFR 173.246(a), 175.3	To authorize transport of certain corrosive materials in DOT Specification 12A fiberboard boxes having inside glass, acid resistant bottles not exceeding 1 pint capacity. (Modes 1, 3, and 4.)
6929-X	DOT-E 6929	Morton-Thiokol, Inc., Brigham City, UT.	49 CFR 173.88(e)(2)(ii), 173.92(b)	To authorize shipment of a Class B explosive in rocket motors in a propulsive state. (Modes 1 and 3.)
6929-X	DOT-E 6929	U.S. Department of Energy, Washington, DC.	49 CFR 173.88(e)(2)(ii), 173.92(b)	Do.
6962-X	DOT-E 6962	......do	49 CFR 173.301(d)	To authorize shipment of argon or helium in a slightly opened DOT Specification 3AA1800 or 3AA2000 cylinder. (Modes 1 and 2.)
6971-X	DOT-E 6971	Chem Service, Inc., West Chester, PA.	49 CFR Parts 100-199	To authorize transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes, overpacked in a strong wooden or fiberboard box. (Modes 1, 2, 3, 4, and 5.)
7011-X	DOT-E 7011	Russell-Stanley Corporation, Red Bank, NJ.	49 CFR 173.154, 173.217, 173.239a, 173.245, 173.245b (a)(6), 173.365.	To authorize additional materials that are approved for shipment in DOT Specification 21C fiber drums. (Modes 1, 2, and 3.)
7011-X	DOT-E 7011	......do	49 CFR 173.154, 173.217, 173.239a, 173.245, 173.245b (a)(6), 173.365.	To authorize additional solid materials that are classed as corrosive, flammable, poison B and oxidizer, presently authorized in DOT Specification 21C fiber drums. (Modes 1, 2, and 3.)
7011-X	DOT-E 7011	......do	49 CFR 173.154, 173.217, 173.239a, 173.245, 173.245b (a)(6), 173.365.	To authorize manufacture, marking and sale of removable head non-DOT blow-molded high molecular weight polyethylene container, for transportation of certain materials and those corrosive, flammable, poison B and oxidizers solids presently authorized to be packed in a DOT-21C fiber. (Modes 1, 2, and 3.)
7024-X	DOT-E 7024	B.I. Transportation, Inc., Burlington, NC.	49 CFR 173.249(a)(7)	To authorize transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers identified as sealdtanks. (Mode 1.)
7040-X	DOT-E 7040	Polaroid Corp., Needham Heights, MA.	49 CFR 172.101, 175.3	To authorize carriage of larger quantities of corrosive liquids in DOT Specification 6D cylindrical steel overpack with inside DOT Specification 2SL container mounted on a pallet and covered with a wooden overwrap. (Mode 4.)
7052-P	DOT-E 7052	Siemens Corporate Research and Support, Inc., Jamaica, NY.	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	Siemens, AG Munchen, West Germany.	49 CFR 172.101, 172.420, 175.3	Do.

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
7052-X	DOT-E 7052	EIC Laboratories, Inc., Norwood, MA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	General Motors Corp., Warren, MI	49 CFR 172.101, 172.420, 175.3	Do.
7052-P	DOT-E 7052	Mil-Com Electronics Corp., San Antonio, TX.	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	EnScan, Inc., Eden Prairie, MN	49 CFR 172.101, 172.420, 175.3	Do.
7052-X	DOT-E 7052	Crompton Parkinson, Ltd., Tyne & Wear, England.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Eveready Battery Co., Inc., Rocky River, OH.	49 CFR 172.101, 172.420, 175.3	Do.
7052-X	DOT-E 7052	Terra Tek Systems, Salt Lake City, UT.	49 CFR 172.101, 172.420, 175.3	Do.
7052-P	DOT-E 7052	Acme Aerospace Products Group, Salt Lake City, UT.	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	Hoppecke Battery Co., Hoppecke, West Germany.	49 CFR 172.101, 172.420, 175.3	Do.
7060-X	DOT-E 7060	Federal Express Corp., Memphis, TN.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize carriage of non-fissile radioactive materials aboard cargo aircraft only when the combined transport index exceeds the usual authorized limits specified in Part 175 or the separation distance criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Airborne Express, Ind., Wilmington, OH.	49 CFR 175.702(b), 175.75(a)(3)(ii)	Do.
7060-X	DOT-E 7060	Central Skyport, Inc., Columbus, OH.	49 CFR 175.702(b), 175.75(a)(3)(ii)	Do.
7218-X	DOT-E 7218	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
7455-X	DOT-E 7455	ETI Explosives Technologies International Inc., Wilmington, DE.	49 CFR 176.177(g), 176.177(h), 176.177(n), 176.177(q), 176.177(r), 176.410(e).	To authorize handling and stowage of explosive material in an anchored and unmanned barge. (Mode 3.)
7477-X	DOT-E 7477	Systron Donner Corp, Concord, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize use of non-DOT specification seamless aluminum cylinders, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, and 4.)
7498-X	DOT-E 7498	General Chemical Corp., Parsippany, NJ.	49 CFR 173.263(a)(15), 178.210	To authorize shipment of a corrosive liquid in a non-DOT specification corrugated polypropylene box. (Modes 1, 2, and 3.)
7549-P	DOT-E 7549	ICI Americans Inc., Wilmington, DE	49 CFR 173.245a(a), 173.3a, 174.63(b), 178.245.	To become a party to exemption 7549. (Modes 1, 2, and 3.)
7607-P	DOT-E 7607	Radian Corp., Herndon, VA	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7616-P	DOT-E 7616	Illinois Central Gulf Railroad, Chicago, IL.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To become a party to exemption 7616. (Mode 2.)
7616-P	DOT-E 7616	Burlington Northern Railroad Co., Overland Park, KS.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	Do.
7708-X	DOT-E 7708	HTL Division, Pacific Scientific Co., Duarte, CA.	49 CFR 173.302(a), 175.3, 178.44	To authorize use of non-DOT specification small, high pressure cylinders of welded construction for military weapons systems use only. (Modes 1, 2, 4, and 5.)
7753-P	DOT-E 7753	Albright & Wilson Americas, Richmond, VA.	49 CFR 173.190(b)(2)	To become a party to exemption 7753. (Modes 1, 2, and 3.)
7768-X	DOT-E 7768	Sonoco Plastic Drum, Inc., Lockport, Il.	49 CFR 173.154, 173.217, 173.245b, 173.365, 178.19.	To authorize manufacture, marking and sale of non-DOT specification blow-molded, high molecular weight polyethylene drums, with removable head, for shipment of certain oxidizers, corrosive, flammable and poison B solids. (Modes 1, 2, and 3.)
7770-X	DOT-E 7770	Parlefer S.A.R.L., Paris, France	49 CFR 173.143, 173.264(b)(4), 174.63(b).	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7811-X	DOT-E 7811	Burdick & Jackson, Div. of Baxter Healthcare Corp., Muskegon, MI.	49 CFR 173.119(a)(23), 173.245(a)(18), 173.346(a)(21), 173.347(a)(8), 175.3, 178.210.	To authorize use of DOT Specification 12A corrugated fiberboard box with handholes, for shipment of certain corrosive, flammable, and Class B poisonous liquid. (Modes 1, 2, 3, and 4.)
7811-X	DOT-E 7811	Scientific Products, Div. of Baxter Healthcare, McGaw Park, IL.	49 CFR 173.119(a)(23), 173.245(a)(18), 173.346(a)(21), 173.347(a)(8), 175.3, 178.210.	Do.
7835-P	DOT-E 7835	US Airgas, Inc., Randnor, PA	49 CFR 177.848, Part 107 Appen. B(1).	To become a party to exemption 7835. (Mode 1.)
7876-X	DOT-E 7876	General Chemical Corp., Parsippany, NJ.	49 CFR 173.299(a), 175.3	To authorize shipping description etching acid, liquid, n.o.s. to be used for products which do not comply with the definition in 49 CFR 173.229(a). (Modes 1, 2, 3, and 4.)
7948-X	DOT-E 7948	Erickson, Inc., Richmond, CA	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize use of non-DOT specification cargo tanks complying with DOT Specification MC-307/312 except for bottom outlet valve variation, for shipment of liquid and semi-solid waste material. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
7959-X	DOT-E 7959	Woods Hole, Marthas Vineyard & Nantucket, Steamship Woods Hole, MA.	49 CFR 172.101, 176.78(k)	To authorize stowage of recreational vehicles carrying liquefied petroleum gas for heating and cooking on the vehicle deck of passenger-carrying ferries and other passenger-carrying vessels. (Mode 3.)
7963-P	DOT-E 7963	ICI Americas Inc., Wilmington, DE	49 CFR 173.245, 173.356, 173.360(a)(5).	To become a party to exemption 7963 (Modes 1, 2, and 3.)
7972-X	DOT-E 7972	ETI Explosives Technologies International Inc., Wilmington, DE.	49 CFR 172.504	To authorize transport of limited quantities of explosive in a special shipping container without placarding the vehicle. (Mode 1.)
7987-X	DOT-E 7987	Stauffer Chemical Co., Westport, CT.	49 CFR 173.343, 173.377	To authorize shipment of a poison B, in non-DOT specification five ply natural kraft multiwall bags. (Modes 1, and 2.)
7987-P	DOT-E 7987	ICI Americas Inc., Wilmington, DE	49 CFR 173.343, 173.377	To become a party to exemption 7987. (Modes 1, and 2.)
8074-X	DOT-E 8074	Matheson Gas Products, Inc., Secaucus, NJ.	49 CFR 173.34(d), 175.3	To authorize use of a DOT Specification 3E cylinder without safety devices, for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4, and 5.)
8077-X	DOT-E 8077	Dow Corning Corp., Midland, MI	49 CFR 173.119, 173.136(a)(3), 173.247(a)(7).	To authorize use of non-DOT specification steel drums, for shipment of a flammable and corrosive liquid. (Modes 1, and 2.)
8091-X	DOT-E 8091	AT&T Technologies, Inc., Greensboro, NC.	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, and 5.)
8230-P	DOT-E 8230	Fisher Scientific Co., Fair Lawn, NJ	49 CFR 173.268(b)(6), 173.269(a)(4).	To become a party to exemption 8230 (Modes 1, 2, 3, and 4.)
8284-X	DOT-E 8284	General Chemical Corp., Parsippany, NJ.	49 CFR 173.272(a)(i)22, 174.3, 179.202-12(b).	To authorize shipment of oleum in DOT Specification 103AW or 111A100W2 tank cars equipped with safety valves instead of safety vents. (Mode 2.)
8354-X	DOT-E 8354	Arbel-Fauvet-Rail, Paris, France	49 CFR 173.123, 173.315	To authorize use of non-DOT specification portable tanks, for transportation of certain liquefied petroleum gases and other gases classed as flammable gases and a flammable liquid. (Modes 1, 2, and 3.)
8369-X	DOT-E 8369	Degussa Corp., Teterboro, NJ	49 CFR 173.21	To authorize transport of glycidol separated from certain other chemicals, in non-DOT specification single-trip steel drums or DOT Specification 17E steel drums. (Modes 1, 2, and 3.)
8386-X	DOT-E 8386	J. J. Mauget Co., Los Angeles, CA	49 CFR 172.101, 172.400	To authorize transport of a Class B poison in special pressure sealed polyethylene capsules without the POISON label. (Modes 1, and 2.)
8390-X	DOT-E 8390	Mallinckrodt, Inc., Paris, KY	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8394-X	DOT-E 8394	Whirlpool Corp., La Porte, IN	49 CFR Parts 100-177	To authorize transport of certain thermostatic elements containing small quantities of sodium potassium alloy, liquid packed in a strong fiberboard box. (Modes 1, 2, 3, 4, and 5.)
8401-X	DOT-E 8401	ERA Helicopters, Inc., Anchorage, AK.	49 CFR 175.3, 175.310(c)(3), 175.310(d).	To authorize carriage of fuel in Canadian 5B drums loaded in cargo compartments of passenger-carrying helicopters. (Mode 5.)
8408-X	DOT-E 8408	Presvac Systems (Burlington), Ltd., Burlington, Ont., Canada.	49 CFR 173.119(a), 173.119(m), 1732.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of certain non-DOT specification cargo tanks complying with DOT Specification MC-307 or MC-312, for transportation of flammable liquids, corrosive materials or poison B materials. (Mode 1.)
8414-X	DOT-E 8414	SLEMI, Paris 75116, France	49 CFR 173.315, 174.63(b)	To authorize transport of certain nonflammable gases in non-DOT specification intermodal portable tanks. (Modes 1, 2, and 3.)
8432-X	DOT-E 8432	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.154, 175.3	To authorize transport of plastic bottles containing an aqueous solution of sodium perchlorate and plastic bottles containing aluminum powder together in a wire bound plywood box. (Modes 1, 2, 3, and 4.)
8445-X	DOT-E 8445	Merrell Dow Pharmaceuticals Inc., Cincinnati, OH.	49 CFR Part 173, Subpart D, E, F, H.	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT Specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8445-X	DOT-E 8445	Eveready Battery Company, Inc., Rocky River, OH.	49 CFR Part 173, Subpart D, E, F, H.	Do.
8445-X	DOT-E 8445	Keegan Technology & Testing Associates, Inc., South Plainfield, NJ.	49 CFR Part 173, Subpart D, E, F, H.	Do.
8451-P	DOT-E 8451	Rocket Research Co., Redmond, WA.	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451 (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	ICI Americas, Inc., Byron, GA	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pyrotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
8457-X	DOT-E 8457	DU, Inc., Bethyl, CT	49 CFR Parts 100-177	To authorize transport of an electronic device containing one lithium cell which meets certain prescribed requirements. (Modes 1, 2, 3, 4, and 5.)
8470-X	DOT-E 8470	Morton Thiokol Corp., Brigham City, UT.	49 CFR 173.92(a)	To authorize use of an non-DOT specification box for shipping rocket motors. (Mode 1.)
8518-P	DOT-E 8518	Central Pumping Co., Inc., La Habra, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To become a party to exemption 8518. (Mode 1.)
8554-P	DOT-E 8554	Baxter Blasting Co., dba M.J. Baxter Drilling Co., El Cajon, CA.	49 CFR 173.114a, 173:154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.)
8582-S	DOT-E 8582	Chicago and Northwestern Transportation Co., Chicago, IL.	49 CFR Parts 100-177	To authorize transportation of railway track torpedoes and fusees packed in metal kits, in motor vehicles by railroad maintenance crews as non-regulated rail carrier equipment. (Mode 1.)
8585-P	DOT-E 8585	Dixie Poly-Drum Corp., Yemassee, SC.	49 CFR 173.247, 178.19, Part 173 Subpart D, F, H.	To become a party to exemption 8585. (Modes 1, 2, and 3.)
8585-X	DOT-E 8585	Burgen Barrel and Drum Co., Kearny, NJ.	49 CFR 173.247, 178.19, Part 173 Subpart D, F, H.	To renew and authorize certain hazardous meterials which are not presently authorized in DOT Specification 34 containers. (Modes 1, 2, and 3.)
8597-X	DOT-E 8597	McDonnell Douglas Corp., Saint Louis, MO.	49 CFR 173.268, Part 172 Subpart C.	To authorize transport of nitric acid in stainless steel non-DOT specification portable tanks. (Mode 1.)
8627-X	DOT-E 8627	Petrolite Corp., Saint Louis, MO	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chasis, for transportation of flammable and corrosive liquids. (Mode 1.)
8627-X	DOT-E 8627	Ancor Services, Inc., Kilgore, TX	49 CFR 173.119, 173.245, 178.253	Do.
8627-X	DOT-E 8627	Champion Chemicals, Inc., Houston, TX.	49 CFR 173.119, 173.245, 178.253	Do.
8627-P	DOT-E 8627	Nalco Chemical Co., Naperville, IL	49 CFR 173.119, 173.245, 178.253	To become a party to exemption 8627 (Mode 1.)
8627-P	DOT-E 8627	Omega Treating Chemicals, Inc., Midland, TX.	49 CFR 173.119, 173.245, 178.253	Do.
8627-X	DOT-E 8627	Chemlink Petroleum, Inc., Sand Springs, OK.	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chasis, for transportation of flammable and corrosive liquids. (Mode 1.)
8697-X	DOT-E 8697	ERA Helicopters, Inc., Anchorage, AK.	49 CFR 172.101 Column 6(b), 175.30(a)(1).	To authorize carriage of propane in DOT Specification 4B240, 4BA240, 4BW240 cylinders via helicopter utilizing sling loads. (Mode 4.)
8761-X	DOT-E 8761	The Heil co., Athens, TN	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of liquid and semi-solid waste materials. (Mode 1.)
8780-X	DOT-E 8780	Container Corporation of America, Wilmington, DE.	49 CFR 178.19, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification reusable, blowmolded, polyethylene containers, for transportation of certain corrosive liquids and an oxidizer. (Modes 1, 2, and 3.)
8781-X	DOT-E 8781	Mauser Packaging, Ltd., Litchfield, CT.	49 CFR 171.12(c), 178.116-6(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness, to be used in place of 20/18 guage, 55-gallon capacity DOT Specification 17E drums, for transportation of various hazardous materials. (Modes 1, 2, and 3.)
8786-X	DOT-E 8786	Gas Spring Corp., Colmar, PA	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	To authorize shipment of limited quantities of compressed gases, in accumulators which deviate from the required retest parameters. (Modes 1, 2, 3, 4, and 5.)
8786-X	DOT-E 8786	Stabilus GmbH, Koblenz, West Germany.	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	Do.
8791-X	DOT-E 8791	Stauffer Chemical Co., Westport, CT.	49 CFR 173.245a, 173.3a, 178.245-1.	To authorize use of a non-DOT specification portable tank equivalent to a DOT Specification 51 portable tank, for transportation of ethyl chloroformate. (Modes 1, 2, and 3.)
8791-P	DOT-E 8791	ICI Americas Inc., Wilmington, DE	49 CFR 173.245a, 173.3a, 178.245-1.	To become a party to exemption 8791. (Modes 1, 2, and 3.)
8840-X	DOT-E 8840	Walter Kidde Co., Mebane, NC	49 CFR 173.23(c), 173.302(a)(5), 175.3.	To authorize manufacture, marking and sale of non-DOT specification inside seamless aluminum containers, for transportation of various compressed gases. (Modes 1, 2, 3, and 4.)
8842-X	DDOT-E 8842	HTL Division, Pacific Scientific Co., Duarte, CA.	49 CFR 173.302(a), 175.3, 178.44	To authorize use of non-DOT specification small, high pressure cylinders of welded construction for aircraft use or military weapons system only. (Modes 1, 2, 4, and 5.)
8844-X	DOT-E 8844	Beall Trailers of Montana, Inc., Billings, MT.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of certain hazardous materials. (Mode 1.)
8845-P	DOT-E 8845	NL Petroleum Services, Inc., Houston, TX.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To become a party to exemption 8845. (Modes 1 and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
8845-P	DOT-E 8845	Penwood, Inc., Fort Worth, TX	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	Do.
8845-P	DOT-E 8845	Wedge CRC, Inc., Arlington, TX	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	Do.
8845-X	DOT-E 8845	GOEX, Inc., Cleburne, TX	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	To authorize transport of charged oil well jet perforating guns with detonators attached. (Modes 1 and 3.)
8845-X	DOT-E 8845	Western Atlas International, Houston, TX.	49 CFR 173.110(c)(1), 173.80(b), 173.80(c).	Do.
8859-X	DOT-E 8859	AVM Corp., Pittsburgh, PA	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	To reinstate and authorize different size penumatic springs of the same design and process as those presently identified in the original exemption. (Modes 1, 4, and 5.)
8870-X	DOT-E 8870	Hach Co., Ames, IA	49 CFR 172.101, 173.286, 175.3	To commingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or ½ lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 3, 4, and 5.)
8915-P	DOT-E 8915	Liquid Air Corp., Walnut Creek, CA	49 CFR 173.301(d), 173.302(a)(3)	To become a party to exemption 8915. (Modes 1 and 3.)
8915-X	DOT-E 8915	Airco, The BOC Group, Inc., Murray Hill, NJ.	49 CFR 173.301(d), 173.302(a)(3)	To authorize shipment of certain flammable and nonflammable compressed gases in DOT Specifications 3A, 3AA, 3AX, 3AAX and 3T cylinders. (Modes 1 and 3.)
8915-X	DOT-E 8915	Ethyl Corp., Baton Rouge, LA	49 CFR 173.301(d), 173.302(a)(3)	Do.
8915-X	DOT-E 8915	Union Carbide Corp., Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	Do.
8978-P	DOT-E 8978	GTE Products Corp., Waltham, MA	49 CFR 172.101, 175.3	To become a party to exemption 8978. (Modes 1, 2, 3, and 4.)
9067-X	DOT-E 9067	Watco Truck Rigging, Inc., Odessa, TX.	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)
9134-X	DOT-E 9134	I.S.C., Limited Avonmouth, Bristol, England.	49 CFR 173.264, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain corrosive materials. (Modes 1, 2, and 3.)
9157-X	DOT-E 9157	Montana Sulphur & Chemical Co., Billings, MT.	49 CFR 173.314(c), 179.300-7	To authorize use of a non-DOT specification multi-unit tank car tank, for transportation of a flammable gas. (Mode 1.)
9162-X	DOT-E 9162	Sun Pipe Co., Longview, TX	49 CFR 173.119, 173.304, 173.315	To authorize use of a non-DOT specification container, for transportation of flammable liquids or flammable gases. (Mode 1.)
9201-X	DOT-E 9201	Cyanamid Canada, Inc., East Willowdale, Canada.	49 CFR 173.370	To authorize shipment of calcium cyanide, solid, in collapsible, water-tight, polyethylene-lined, woven polypropylene bags having capacity not exceeding 4,400 pounds, overpacked in wax-impregnated 500-pound test, double-wall (BC flute) corrugated fiberboard boxes, in full freight loads. (Modes 1, 2, and 3.)
9209-X	DOT-E 9209	General Chemical Corp., Pasippany, NJ.	49 CFR 173.266(c)	To authorize shipment of hydrogen peroxide solution in water containing 29%-32% hydrogen peroxide by weight, in a DOT-12P fiberboard box containing one inside DOT-2U polyethylene container of not over five gallons or two inside DOT-2U polyethylene containers of not over 2½ gallon capacity each. (Modes 1, 2, and 3.)
9244-X	DOT-E 9244	Stoneco, Inc., Dacono, CO	49 CFR 172.101, 175.30	To authorize transport of explosive pest repeliant devices, in fiberboard boxes packed in DOT Specification 12B fiberboard boxes. (Modes 1, 2, 3, and 4.)
9248-X	DOT-E 9248	Kross, Inc., Valencia, CA	49 CFR 173.1200, 173.154a	To authorize transport of a safety kit containing 2 fifteen minute highway fusees as a Consumer Commodity. (Modes 1 and 2.)
9279-X	DOT-E 9279	Keystone Steel & Wire Co., Peoria, IL.	49 CFR 173.154	To authorize transport of a flammable solid which is water reactive in open-top freight containers and open top trailers covered with tarpaulins. (Mode 1.)
9281-X	DOT-E 9281	GOEX, Inc., Cleburne, TX	49 CFR 172.101, 173.100	To authorize transport of cylindrical pellets of desensitized RDX, HMX, HNS and PYX in DOT Specification 12B65 fiberboard boxes. (Modes 1, 2, 3, 4, and 5.)
9289-P	DOT-E 9289	ICI Americas Inc., Wilmington, DE	49 CFR 173.118a(b)(1)	To become a party to exemption 9289. (Mode 1.)
9370-X	DOT-E 9370	NI Industries, Inc., Longview, TX	49 CFR 173.301, 173.302, 173.304, 175.3, 178.45.	To authorize manufacture, marking and sale of non-DOT specification steel cylinders complying in part with DOT Specification 3T cylinders, for transportation of nonflammable gases. (Modes 1, 2, 3, and 4.)
9421-X	DOT-E 9421	Taylor-Wharton, Division of Harsco Corp., Harrisburg, PA.	49 CFR 173.301(h), 173.302, 173.304, 173.34(a)(1), 175.3, 178.37.	To authorize manufacture, marking and sale of non-DOT specification steel cylinders complying in part with DOT Specification 3AA specification, for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, and 4.)
9491-X	DOT-E 9491	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.302, 173.304	To authorize transport of hexafluoroethane and trifluoromethane in DOT Specification 3AL cylinders. (Modes 1, 2, 3, 4, and 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulations(s) affected	Nature of exemption thereof
9533-X	DOT-E 9533	B.A.G. Corp., Dallas, TX	49 CFR Part 173 Subpart E, F	To authorize manufacture, marking and sale of large, collapsible polyethylene-lined woven polypropylene bulk bags having a capacity of approximately 2260 pounds each, and top and bottom outlets, for shipment of poison B solid, corrosive solids and oxidizers (solids only). (Modes 1, 2, and 3.)
9545-X	DOT-E 9545	Keystone Diagnostics, Inc., Columbia, MD.	49 CFR 173.118(a)	To authorize a 99.5 percent acetone and 0.5 percent p-Toluene sulfonic acid mixture, classed as flammable liquid but having a secondary hazard of corrosive material, to be shipped under the limited quantity provisions for flammable liquids. (Modes 1 and 2.)
9549-X	DOT-E 9549	Pesco, Inc., Mills, WY	49 CFR 173.100(v), 175.30	To authorize transport of oil well cartridges containing more than 350 grains, but not more than 600 grains of Class A, type 3 explosive, as Class C explosive, in DOT Specification 12H fiberboard box. (Modes 1, 3, and 4.)
9549-X	DOT-E 9549	Schlumberger Well Services, Rosharon, TX.	49 CFR 173.100(v), 175.30	Do.
9549-X	DOT-E 9549	Western Atlas International, Houston, TX.	49 CFR 173.100(v), 175.30	Do.
9550-X	DOT-E 9550	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 172.400, 173.206, 173.260, 175.3.	To authorize carriage of a cesium clock containing 5 grams of cesium and wet storage batteries in the passenger compartment of an aircraft. (Modes 1 and 5.)
9571-X	DOT-E 9571	National Institutes of Health, Bethesda, MD.	49 CFR Parts 100-177	To authorize transport of not more than 5 grams of an approved or unapproved explosive in a special packaging essentially without regulation. (Modes 1, 2, 3, 4, and 5.)
9571-X	DOT-E 9571	Environmental Health Research & Testing, Inc., Lexington, KY.	49 CFR Parts 100-177	Do.
9571-X	DOT-E 9571	U.S. Department of Justice, Washington, DC.	49 CFR Parts 100-177	Do.
9571-X	DOT-E 9571	U.S. Department of State, Washington, DC.	49 CFR Parts 100-177	Do.
9578-X	DOT-E 9578	Hughes Aircraft Co., Miami, FL	49 CFR 172.101 Column 6(b), 175.30.	To authorize shipment of three rocket motors, having a gross weight in excess of that presently authorized for cargo aircraft. (Mode 4.)
9606-X	DOT-E 9606	Ensign-Bickford Co., Simsbury, CT	49 CFR 173.66(b)	To authorize shipments of more than 110 detonators in one inside specially designed package. (Modes 1 and 3.)
9617-P	DOT-E 9617	Explo-Tech, Inc., Norristown, PA	49 CFR 177.848(f), Part 107 Append B(1).	To become a party to exemption 9617. (Mode 1.)
9617-X	DOT-E 9617	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 177.848(f), Part 107 Append B(1).	To authorize transport of a specially defined detonating cord on the same motor vehicle with Class A and C detonators. (Mode 1.)
9632-X	DOT-E 9632	Arbel-Fauvet-Rail, St. Laurent-Blangy France.	49 CFR 173.315, 178.245	To authorize an alternative packaging that is the same as the currently approved packaging except there are no baffles. (Modes 1, 2, and 3.)
9723-P	DOT-E 9723	Bishop & Associates, Inc., Brooklandville, MD.	49 CFR 177.848(b)	To become a party to exemption 9723. (Mode 1.)
9723-P	DOT-E 9723	Emergency Technical Services Corp. of Illinois Schaumburg, IL.	49 CFR 177.848(b)	Do.
9781-P	DOT-E 9781	Jones Chemicals, Caledonia, NY	49 CFR 49 CFR 173.304(a)(2), 173.34(d), (e).	To become a party to exemption 9781. (Mode 1.)
9781-P	DOT-E 9781	Aldrich Chemical Co., Inc., Milwaukee, WI.	49 CFR 173.304(a)(2), 173.34(d), (e).	Do.
9785-P	DOT-E 9785	Atlantic Container Line, Elizabeth, NJ.	49 CFR 173.30, 176.11, 176.83	To become a party to exemption 9785. (Modes 1, 2, and 3.)
9785-P	DOT-E 9785	Sea-land Service, Inc., Elizabeth, NJ.	49 CFR 173.30, 176.11, 176.83	Do.
9785-P	DOT-E 9785	Compagnie Generale Maritime, Paris, France.	49 CFR 173.30, 176.11, 176.83	Do.
9785-P	DOT-E 9785	Polish Ocean Lines, 81-364 Gdynia, Poland.	49 CFR 173.30, 176.11, 176.83	Do.
9785-P	DOT-E 9785	Trans Freight Lines, Wayne, NJ	49 CFR 173.30, 176.11, 176.83	Do.
9790-X	DOT-E 9790	Taylor-Wharton, Division of Harsco Corp., Indianapolis, IN.	49 CFR 173.316, 178.57-21(a)	To authorize removable of section 8.a., which requires carrying the exemption aboard the motor vehicle. (Mode 1.)
9841-P	DOT-E 9841	Greenfield Overseas Containers, Inc., Sandton, South Africa.	49 CFR 173.315, 178.245-1(b)	To become a party to exemption 9841. (Modes 1, 2 3.)
9841-P	DOT-E 9841	Liquid and Gas Transport BV, Rotterdam-Botlek, Holland.	49 CFR 173.315, 178.245-1(b)	Do.
9896-P	DOT-E 9896	ICI Americas Inc., Wilmington, DE	49 CFR 172.301, Part 107, Appendix B(l).	To become a party to exemption 9896. (Modes 1 and 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9736-N	DOT-E 9736	Aqua-Tech, Inc. Port Washington, WI.	49 CFR Part 173, Subparts D, E, F, and H.	To authorize reuse of DOT-17H steel drums a maximum three times before reconditioning, for shipment of va ous liquid or solid hazardous substances and wast packed in inside plastic, glass, earthenware or me container, not exceeding 1-gallon capacity for dispos repacking or reprocessing (Mode 1.)
9745-N	DOT-E 9745	Metal Box Enterprises, Inc., Vernona, NJ.	49 CFR 173.1200(a)(8), 173.306(a), (b), (c), 175.3, and 178.33.	To authorize manufacture, marking and sale nonrefilla non-DOT specification inside metal containers confor ing with DOT Specification 2P containers, for shipme of nonflammable or flammable gases. (Modes 1, 2, 3,
9773-N	DOT-E 9773	SST Industries, Inc., Cincinnati, OH	49 CFR 173.154, 173.217, 173.245b.	To authorize manufacture, marking and sale of non-DO specification fully removable head polyethylene drums a rated volumetric capacity not exceeding 30-gallons, shipment of certain viscous solids, and oxidizer soli (Modes 1, 2, and 3.)
9774-N	DOT-E 9774	Harcotar Ltd., Hyde Park Holdings, Inc. Stamford, CT.	49 CFR Part 173, Subparts F, H	To authorize manufacture, marking and sale of non-DO specification blow-molded, high molecular weight po ethylene drums, with removable head, for shipment corrosive material solids and poison B solids. (Modes 2, and 3.)
9812-N	DOT-E 9812	Shinko-Pfaudler Co. Ltd., Kobe, Japan.	49 CFR 178.270-3(a)	To authorize shipment of certain hazardous materials in non-DOT specification portable tank equivalent to a DO Specification IM 101 except for the material of constru tion. (Modes 1, 2, and 3.)
9831-N	DOT-E 9831	L'Air Liquide, Sassenage, France	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), and 178.338.	To authorize manufacture, mark and sell of vacuum ins lated non-DOT specification portable tanks, for transpo tation of helium, refrigerated liquid, (Modes 1, 3.)
9839-N	DOT-E 9839	Vulcan Packaging Inc., Toronto, Ontario, Canada.	49 CFR 178.116-6	To authorize manufacture, marking and sale of non-DO specification steel drums of 24 gauge thickness and s U.S. gallon capacity, to be used in place of 24 gaug five-gallon capacity, DOT Specification 17E steel drum (Modes 1, 2, and 3.)
9841-N	DOT-E 9841	Consani Engineering (Pty) Ltd., Elsies River 7480, South.	49 CFR 173.315, 178.245-1(b)	To authorize shipment of flammable gases, nonflammab gases and flammable liquids in a non-DOT specificati IMO Type 5 portable tanks. (Modes 1, 2, and 3.)
9857-N	DOT-E 9857	Van Leer Verpackungen, GmbH, Am Westhover Berg, West G.	49 CFR 178.224, Part 173	To authorize manufacture, marking and sale of non-DO Specification fiber drum, not exceeding 210 liter capa ity, for shipment of those hazardous materials authoriz in DOT Specification 21C fiber drum. (Modes 1, 2, a 3.)
9870-N	DOT-E 9870	Bergen Barrell Drum Co., Kearny, NJ.	49 CFR 173.247, 173.266, 178.19, Part 173, and Subparts D, F, H.	To authorize manufacture, marking and sale of non-DO specification 15-, 20-, 30-, 35-, and 55-gallon polyeth ene drums conforming with DOT Specification 34 exce for having one opening of 2.75-inch in diameter, shipment of certain corrosive, flammable and poison liquids and an oxidizer. (Modes 1, 2, and 3.)
9877-N	DOT-E 9877	Systron Donner, Concord, CA	49 CFR 173.304(b), and 173.304-(a)(2).	To authorize a filling density of 144 percent for bromot fluoromethane (Halon-1301) pressurized with nitrogen, DOT specification 39 cylinders having a maximu volume of 10 cubic inches. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 4453-X	DOT-E 4453	Kentucky Powder Co., Lexington, KY.	49 CFR 172.101, 173.114a(h)(3), and 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hoppe type tank, for transportation of blasting agent, n.o.s., o ammonium nitrate-fuel oil mixtures. (Modes 1 and 3
EE 7024-X	DOT-E 7024	Greenwood Motor Lines, Inc., Greenwood, SC.	49 CFR 173.249(a)(7)	To authorize transport of an alkaline corrosive liquid non-DOT specification collapsible rubber containe identified as sealdtanks. (Mode 1.)
EE 7052-X	DOT-E 7052	Technical Oil Tool Corp., Norman, OK.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium an other materials, classed as flammable solid. (Modes 2, 3, and 4.)
EE 7052-X	DOT-E 7052	Exploration Logging, Inc., Sacramento, CA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium an other materials, classed as flammable solid. (Modes 2, 3, and 4.)
EE 7052-X	DOT-E 7052	Engineered Assemblies Corp., Clifton, NJ.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium an other materials, classed as flammable solids. (Modes 2, 3, and 4.)
EE 8390-X	DOT-E 8390	Jones-Hamilton Co., Newark, CA	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DO Specification 2E polyethylene bottles overpacked in DO Specification 12A80 fiberboard boxes. (Mode 1.)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8627-X	DOT-E 8627	Chemlink Petroleum, Inc., Sand Springs, OK.	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1.)
EE 8898-X	DOT-E 8898	Petrolane Gas Service Limited Partnership, Anchorage, AL.	49 CFR 173.315	To authorize use of a non-DOT specification ASME Code stamped portable tank, for transportation of liquefied compressed gases. (Modes 1 and 3.)
EE 8978-P	DOT-E 8978	GTE Products Corporation, Westborough, MA.	49 CFR 172.101, 175.3	To become a party to exemption 6978 (Modes 1, 2, 3, and 4.)
EE 9851-P	DOT-E 9851	Trans World Airlines, Inc., Kansas City, MO.	49 CFR Parts 100-199	To become a party to exemption 9851 (Mode 5.)
EE 9851-P	DOT-E 9851	Northwest Airlines, St. Paul, MN	49 CFR Parts 100-199	To become a party to exemption 9851 (Mode 5.)
EE 9932-N	DOT-E 9932	U.S. Customs Service, Oakland, CA.	49 CFR 173.61(b), 173.86(b)	To authorize a one-time shipment by motor vehicle of unclassified explosives. (Mode 1.)
EE 9940-N	DOT-E 9940	G.E. Reuter-Stokes, Twinsburg, OH	49 CFR 172.400, 173.306, 175.3	To authorize manufacture, marking and sale of non-DOT specification, metal, single trip, inside containers, described as hermetically sealed electron tube devices.

WITHDRAWAL EXEMPTIONS

Application	Applicant	Regulation(s)	Nature of exemption thereof
7607-P	NUS Corp., Wayne, PA	49 CFR 172.101, 175.3	To become a party to exemption 7607 (Mode 5.)
9785-P	Eastman Kodak Co., Rochester, NY	49 CFR 173.30, 176.11, 176.83	To become a party to exemption 9785 (Modes 1, 2, and 3.)
9807-N	Slack Chemical Co., Inc., Carthage, NY	49 CFR 173.245	To authorize shipment of solutions of hydrofluoric acid or hydrofluosilicic acid, classed as corrosive, in non-DOT specification steel jacketed polyethylene tanks currently approved in DOT-E 8837. (Mode 1.)

DENIALS

7828-P Request by MarkAir, Inc. Anchorage, AK to authorize carriage of a larger quantity of liquid petroleum gas in DOT Specification 51 steel portable tanks denied March 10, 1988.

8526-X Request by Cleveland, Columbus & Cincinnati Highway, Inc. Cleveland, OH to authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment denied March 9, 1988.

9862-N Request by Morton Thiokol, Inc. Huntsville, AL to authorize shipment of a rocket motor, classed as Class B explosive, in a propulsive state, in a DOT Specification 15A wooden box denied March 9, 1988.

9875-N Request by Fabricated Metals, Inc. San Leandro, CA to authorize manufacture, marking and sale of a stainless steel DOT Specification 57 portable tank without a bottom outlet for use in the transport of toluene diisocyanate, classed as a poison B denied March 21, 1988.

Issued in Washington, DC, on April 22, 1988.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 88-10277 Filed 5-6-88; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications 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 of the exemptions granted in February 1988. The modes of transportation involved are identified 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. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3549-P	DOT-E 3549	Atlantic Research Corp., Gainesville, VA.	49 CFR 173.65(a), 173.77	To become a party to exemption 3549 (Modes 1, 2.)
3563-X	DOT-E 3563	U.S. Dept. of Energy, Washington, DC.	49 CFR 172.01, 173.302(a), 173.415, and 175.3.	To authorize transport of a nonflammable, nonliquefied compressed gas, in an inside steel sphere. (Modes 1, 2, 4, and 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3569-P	DOT-E 3569	NL Petroleum Services, Inc., Houston, TX.	49 CFR 173.246, 172.101 Column 4, and 175.3.	To become a party to exemption 3569 (Modes 1, 2, 3, and 4.)
3630-X	DOT-E 3630	General Chemical Corp., Parsippany, NJ.	49 CFR 177.839(a), 177.839(b)	To authorize use of a DOT Specification 33A polystyrene case to contain four 5-pint glass bottles of nitric acid. (Mode 1.)
3941-X	DOT-E 3941	Kerr-McGee Chemical Corp., Oklahoma City, OK.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1, 2.)
4052-X	DOT-E 4052	Boeing Aerospace Co., Seattle, WA.	49 CFR 173.305, 173.34(d), 175.3	To authorize shipment of an aerosol formulation pressurized with nitrogen in a DOT Specification 39 seamless aluminum cylinder. (Modes 1, 2, 4, and 5.)
4850-X	DOT-E 4850	Owen Oil Tools, Inc., Fort Worth, TX.	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100 feet lengths, containing not more than 50 grains per lineal foot of high explosive, as a Class C explosive. (Modes 1, 2, and 4.)
5022-P	DOT-E 5022	Altantic Research Corp., Gainesville, VA.	49 CFR 174.101(L), 174.104(d), 174.112(a), 174.86, and 177.834(L)(1).	To become a party to exemption 5022 (Modes 1, 2.)
5038-X	DOT-E 5038	Airco, The BOC Group, Inc., Murray Hill, NJ.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247(a)(1), 173.346, 173.620, and 173.630, 175.3.	To authorize shipment of dimethyldichlorosilane, trichlorosilane, other specifically identified flammable liquids, silicon tetrachloride, carbon tetrachloride and chloroform in non-DOT specification type 304 stainless steel cylinders. (Modes 1, 2, 3, and 4.)
5600-P	DOT-E 5600	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 175.3, Part 173, Subparts D, F, and G.	To become a party to exemption 5600 (Modes 1, 2, and 4.)
5643-X	DOT-E 5643	Union Carbide Corp., Danbury, CT	49 CFR 172.101, 173.315(a)(1)	To authorize shipment of a nonflammable gas in vacuum insulated non-DOT specification portable tanks. (Modes 1, 3.)
5704-X	DOT-E 5704	Trojan Corp., Salt Lake City, UT	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification steel drums. (Modes 1, 2, and 3.)
5876-X	DOT-E 5876	FMC Corp., Philadelphia, PA	49 CFR 173.365, 178.241, Part 107, Appendix B.	To authorize transport of a Class B poison in DOT Specification 44D multiwall paper bags or non-DOT specification pinch bottom, heat-sealed multiwall bags. (Modes 1, 2, and 3.)
5891-X	DOT-E 5891	U.S. Department of Energy, Washington, DC.	49 CFR 173.64(a)(4)	To authorize transport of high explosives in quantities greater than those authorized in 49 CFR, in DOT Specification 15A wooden boxes. (Mode 1.)
5945-X	DOT-E 5945	Cardox Corp., Countryside, IL	49 CFR 173.315, 178.245	To authorize use of a small capacity DOT Specification 51 insulated portable tank, for shipment of a nonflammable compressed gas. (Mode 1.)
6154-X	DOT-E 6154	UNIROYAL Chemical Co., Inc., Middlebury, CT.	49 CFR 173.154(a)(12), 178.205-16.	To authorize transport of certain flammable solids in a modified DOT Specification 12B fiberboard box. (Modes 1, 2, and 3.)
6263-X	DOT-E 6263	Amtrol, Inc., West Warwick, RI	49 CFR 173.302(a)(1)	To authorize transport of certain nonflammable compressed gases, in non-DOT specification welded, cylindrical or spherical, steel tanks. (Modes 1, 2.)
6299-X	DOT-E 6299	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 173.315(a)(1)	To authorize manufacture, marking and sale of non-DOT specification portable tanks, for transportation of nonflammable gases. (Modes 1, 3.)
6309-X	DOT-E 6309	Olin Corp., Stamford, CT	49 CFR 173.315(a)(1), 174.63(b)	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1, 2.)
6325-X	DOT-E 6325	Mining Services International Corp., Salt Lake City, UT.	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tanks or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6333-X	DOT-E 6333	General Chemical Corp., Parsippany, NJ.	49 CFR 173.245(a)(31), 173.263(a)(10), 173.268(b)(3), 173.272(i)(25), and 178.343-1(b).	To authorize transport of certain corrosive materials, in non-DOT specification type MC-312 glass lined cargo tanks. (Mode 1.)
6484-X	DOT-E 6484	ANGUS Chemical Co., Northbrook, IL.	49 CFR 172.101, 173.149a	To authorize transport of mixtures of nitromethane and various solvents in DOT Specification MC-307 or MC-312 tank motor vehicles. (Mode 1.)
6497-X	DOT-E 6497	EMC Corp., Philadelphia, PA	49 CFR 173.365, 174.63(c)	To authorize use of a modified DOT Specification 56 portable tank, for transportation of Class B poison solids. (Modes 1, 2.)
6517-X	DOT-E 6517	Coyne Cylinder Co., Huntsville, AL	49 CFR 173.303(a)	To authorize use of non-DOT specification steel cylinders comparable to DOT Specification 4BW for shipment of Acetylene. (Modes 1, 2, and 3.)
6530-X	DOT-E 6530	Brown Welding Supply, Inc., Salina, KS.	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1, 2.)
6530-X	DOT-E 6530	Acme Welding Supply Co., Inc., Bismarck, ND.	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX, or 3AAX steel cylinders. (Modes 1, 2).
6611-X	DOT-E 6611	L'Air Liquide Corp., Le Blanc-Mesnil, France.	49 CFR 173.318(a)	To authorize use of a non-DOT specification vacuum insulated portable tank, for transportation of a nonflammable gas. (Modes 1, 3).

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6611-X	DOT-E 6611	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.318(a)	To authorize use of a non-DOT specification vacuum insulated portable tank, for transportation of a nonflammable gas. (Modes 1, 3).
6614-P	DOT-E 6614	Cellasto Plastics Corp., Marshall, MI.	49 CFR 173.263(a)(28), and 173.277(a)(6).	To become a party to exemption 6614 (Mode 1).
6626-X	DOT-E 6626	Brown Welding Supply, Inc., Salina, KS.	49 CFR 173.34(e)(15)(i), 173.34(e)(15)(v), and 175.3.	To authorize use of DOT Specification 3A or 3AA cylinders and cylinders marked ICC-3, 3A or 3AA, for shipment of certain compressed gases. (Modes 1, 2, 3, 4, and 5).
6637-X	DOT-E 6637	Russell-Stanley Corp., Rancho-Cucamonga, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.276(a)(10), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b), and 178.19.	To authorize manufacture, marketing and sale of non-DOT Specification polyethylene drums, for shipment of organic peroxides, oxidizers, flammable, corrosive and Class B poisonous liquids. (Modes 1, 2, and 3).
6691-X	DOT-E 6691	Union Carbide Corp., Danbury, CT	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To authorize use of DOT Specification 3A or 3AA cylinders over 35 years old which may be retested every 10 years, for transportation of certain flammable and nonflamable compressed gases. (Modes 1, 2, 3, 4, and 5.)
6746-X	DOT-E 6746	The Firestone Tire & Rubber Co., Akron, OH.	49 CFR 173.315(a)(1)	To authorize shipment of anhydrous ammonia in portable tanks built, market and maintained in compliance with the DOT Specification MC-331 cargo tank. (Modes 1, 3.)
6765-X	DOT-E 6765	Airco Industrial Gases, Murray Hill, NJ.	49 CFR 173.318(a), 176.76(h)(4)	To authorize use of non-DOT specification containerized portable tanks, for transportation of a flammable and a nonflammable gas. (Modes 1 and 3.)
6765-X	DOT-E 6765	Union Helium Co., Ltd., Minato-ku, Tokyo, Japan.	49 CFR 173.318(a), 176.76(h)(4)	To authorize use of non-DOT specification containerized portable tanks, for transportation of a flammable and a nonflammable gas. (Modes 1 and 3.)
6787-X	DOT-E 6787	Russell-Stanley Corp., Rancho Cucamonga, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a), and 173.359(b).	To authorize manufacture, marking and sale of DOT Specification 34 polyethylene drums, for shipment of Class B poisonous liquids, flammable liquids, organic peroxides and corrosive liquids. (Modes 1, 2, and 3.)
6805-X	DOT-E 6805	Union Carbide Corp., Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To authorize use of DOT Specification 3AAX steel cylinders, for transportation of a flammable compressed gas mixture. (Mode 1.)
6921-X	DOT-E 6921	Airco Industrial Gases, Murray Hill, NJ.	49 CFR 172.101, 173.315(a)(1)	To authorize use of an insulated containerized non-DOT specification portable, tank for transportation of liquefied helium. (Modes 1 and 3.)
6985-X	DOT-E 6985	U.S. Dept. of Energy, Washington, DC.	49 CFR 173.154(a)(8), 173.86(a)	To authorize shipment of diallyl phthalate-pyrotechnic materials in an aluminum case packed in a DOT Specification wooden box. (Mode 1.)
7052-P	DOT-E 7052	Penwood, Inc., Fort Worth, TX	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	FABRIKA Ni-Cd BATERIJA "TREPCA", Gnjilane, Yugoslavia.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Aluminum Co. of America, Pittsburgh, PA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Tadiran Ltd. Industries, Inc., Rehovot, Israel.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Tadiran Electronic Industries, Inc., Woodland Hills, CA.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	U.S. Dept. of Energy, Washington, DC.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Rayovac Corp., Madison, WI	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Syntron, Inc., Houston, TX	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Datasonics, Inc., Cataumet, MA	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3 and 4.)
7052-X	DOT-E 7052	Panasonic Industrial Co., Secaucus, NJ.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Matsushita Battery Industrial Co., Osaka, Japan.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7070-X	DOT-E 7070	Lea-Ronal, Inc., Freeport, NY	49 CFR 173.365, 175.3, 175.630	To authorize shipment of a poison B solid in a plastic jar overpacked in a metal can equivalent to DOT Specification 2N, packed in a single-faced corrugated DOT Specification 12B fiberboard box. (Modes 4, 5.)
7076-X	DOT-E 7076	LaMotte Chemical Products Co., Chestertown, MD.	49 CFR 173.286(b)	To authorize packaging not prescribed in the Hazardous Materials Regulations, for transportation of a certain corrosive liquid and flammable liquid. (Modes 1, 2, and 3.)
7277-X	DOT-E 7277	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), and 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic (FRP) full composite (FC) cylinders, for transportation of certain flammable and nonflammable compressed gas. (Modes 1, 2, 3, 4, and 5.)
7454-X	DOT-E 7454	ETI Explosives Technologies International Inc., Wilmington, DE.	49 CFR 176.410(e)(2), 176.83	To authorize blastings agent to be stowed in proximity to certain explosives without a bulkhead separating these materials. (Mode 3.)
7476-X	DOT-E 7476	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.340-8(c), 178.342-5, and 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of flammable, corrosive and poisonous waste materials. (Mode 1.)
7594-X	DOT-E 7594	Bromine Compounds, Ltd., Beer Sheva, Israel.	49 CFR 173.353	To authorize transport of certain poison B liquids in non-DOT specification portable tanks. (Modes 1, 2, and 3)
7598-X	DOT-E 7598	United Technologies Corp., Pratt & Whitney Mfg., East Hartford, CT.	49 CFR 173.182(b), 173.194(a), 1737.234(a), 173.245(a), 173.249(a), 173.263, 173.264, 173.266, 173.268, 173.272, 173.283, 173.287, 173.352, 173.370, 173.54(a), and 178.244-1(a).	To authorize shipment of certain corrosive materials, oxidizers and Class B poisons in a portable tank complying with DOT Specification 60, except the ends are bolted instead of welded. (Mode 1.)
7654-X	DOT-E 7654	Mallinckrodt, Inc., Paris, KY	49 CFR 173.119(f)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box, for transportation of a flammable liquid. (Modes 1, 2.)
7731-X	DOT-E 7731	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 172.203, 173.318, 173.320, 173.338, 176.30, 176.76(h), and 177.840.	To authorize manufacture, marking and sale of non-DOT specification super-insulated portable tanks, for transportation of flammable, and non-flammable cryogenic liquids. (Modes 1, 3.)
7737-X	DOT-E 7737	Parker Hannifin Corp., Eastlake, OH.	49 CFR 173.119(a), 173,119(b), 173.119(f), 173.124(a), 173.148(a), 173.302(a), 173.304(a), 173.304(d), 173.328, 173.332, 173.336, 173.337, 173.358, 175.3, and 178.42.	To authorize manufacture, marking and sale of non-DOT specification seamless aluminum cylinders, for shipment of flammable gas, nonflammable gas, flammable liquid, or poison A. (Modes 1, 2, 3, and 4.)
7770-X	DOT-E 7770	Arbel-Fauvet-Rail, Paris, France	49 CFR 173.143, 173.264(b)(4), and 174.63(b).	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7777-X	DOT-E 7777	Sentry Chemical Co., Greeley, CO	49 CFR 173.248	To authorize use of DOT Specification 34 polyethylene containers, DOT Specification 12B or 12P corrugated fiberboard boxes, or DOT Specification 6D or 37M cylindrical steel overpacked with an inside Specification 2SL polyethylene containers, for shipment of spent sulfuric acid. (Modes 1, 2, and 3.)
7803-X	DOT-E 7803	Plastican, Inc., Leominster, MA	49 CFR 178.19, Part 173, Subpart D, F.	To authorize manufacture, marking and sale of non-DOT specification removable head polyethylene drums, for shipment of corrosive liquids and flammable liquids. (Modes 1, 2, and 3.)
7811-X	DOT-E 7811	EM Science, Cincinnati, OH	49 CFR 173.119(a)(23), 173.245(a)(18), 173.346(a)(21), 173.347(a)(8), 175.3, and 178.210.	To authorize use of DOT Specification 12A corrugated fiberboard box with handholes, for shipment of certain corrosive, flammable, and Class B poisonous liquid. (Modes 1, 2, 3, and 4.)
7811-X	DOT-E 7811	J.T. Baker Chemical Co., Phillipsburg, NJ.	49 CFR 173.119(a)(23), 173.245(a)(18), 173.346(a)(21), 173.347(a)(8), 175.3, and 178.210.	To authorize use of DOT Specification 12A corrugated fiberboard box with handholes, for shipment of certain corrosive, flammable, and Class B poisonous liquid. (Modes 1, 2, 3, and 4.)
7876-X	DOT-E 7876	J.T. Baker Chemical Co., Phillipsburg, NJ.	49 CFR 173.299(a), 175.3	To authorize shipping description etching acid, liquid, n.o.s. to be used for products which do not comply with the definition in 49 CFR 173.229(a). (Modes 1, 2, 3, and 4.)
7891-X	DOT-E 7891	Fisher Scientific Co., Fair Lawn, NJ	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173.126, 173.138, 173.237, 173.246, 173.25(a), and 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2, and 4.)
7891-X	DOT-E 7891	Farchan Laboratories, Inc., Gainesville, FL.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.504 Table 1, 172.504(a), 173,126, 173.138, 173.237, 173.246, 173.25(a), and 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W (Modes 1, 2, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7907-P	DOT-E 7907	C-I-L Inc., North York, Ontario, Canada.	49 CFR 173.127, 173.184, 178.224	To become a party to exemption 7907 (Modes 1, 2, and 3.)
7928-X	DOT-E 7928	Alaska Marine Highway System, State of Alaska, Juneau, AK.	49 CFR 172.101, 176.905(L)	To authorize stowage of certain hazardous materials on the vehicle deck of passenger vessels. (Modes 3.)
7929-X	DOT-E 7929	Trojan Corp., Salt Lake, UT	49 CFR 173.65	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1, 2.)
7929-X	DOT-E 7929	C-I-L, Inc., North York, Ont. Canada.	49 CFR 173.65	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1, 2.)
7954-X	DOT-E 7954	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 172.504, 173.301(d)(2), and 173.302(a)(3).	To authorize shipment of nonflammable gases in manifolded DOT Specification 3A2400, 3AA2400 or 3AAX2400 cylinders. (Modes 1, 3.)
7972-X	DOT-E 7972	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 172.504	To authorize transport of limited quantities of explosive in a special shipping container without placarding the vehicle. (Mode 1.)
7991-X	DOT-E 7991	Union Pacific Railroad Co., Omaha, NE.	49 CFR Parts 100-177	To authorize transport of railway track torpedoes and fusees in flagging kits of specified construction. (Mode 1.)
8006-X	DOT-E 8006	Strombecker Corp., Chicago, IL	49 CFR 172.400(a), 172.504 Table 2.	To authorize transport of unlabeled packages of toy paper or plastic caps complying with the requirements of 173.100(p) and 173.109, in motor vehicles with placards, when the gross weight of the caps is 1000 pounds or more. (Mode 1.)
8035-P	DOT-E 8035	NL Petroleum Services, Inc., Houston, TX.	49 CFR 173.100(v), 173.112, 175.3	To become a party to exemption 8035 (Modes 1, 2, 3, and 4.)
8074-X	DOT-E 8074	Airco, The BOC Group, Inc., Murray Hill, NJ.	49 CFR 173.34(d), 175.3	To authorize use of a DOT Specification 3E cylinder without safety devices, for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4, and 5.)
8091-X	DOT-E 8091	Mountain Bell, Denver, CO	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8091-X	DOT-E 8091	Northwestern Bell, Omaha, NE	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8091-X	DOT-E 8091	Pacific Northwest Bell, Seattle, WA	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8091-X	DOT-E 8091	US West Materiel Resources, Inc., Englewood, CO.	49 CFR Parts 100-177	To authorize transport of certain mercury relays exempted from 49 CFR 100-177, in heat sealed glass vials. (Modes 4, 5.)
8156-X	DOT-E 8156	Scott Environmental Technology Inc., Plumsteadville, PA.	49 CFR 173.121, 173.302(a)(4), 173.302(f), and 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1, 2.)
8156-X	DOT-E 8156	Cryogenic Rare Gas Laboratories, Inc., Hanahan, SC.	49 CFR 173.121, 173.302(a)(4), 173.302(f), and 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1, 2.)
8196-P	DOT-E 8196	Campagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119, 173.315(a), 178.245.	To become a party to exemption 8196 (Modes 1, 2, and 3.)
8232-P	DOT-E 8232	Campagnie des Containers Reservoirs, Paris, France.	49 CFR 173.123(a), 173.315	To become a party to exemption 8232 (Modes 1, 2, and 3.)
8269-X	DOT-E 8269	Fort Worth Fabrication, Inc., Fort Worth, TX.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, and 178.343-5.	To reissue for transporting or offering liquid and semi-solid waste materials in non-DOT specification cargo tanks. (Mode 1.)
8307-X	DOT-E 8307	U.S. Department of Energy, Washington, DC.	49 CFR 173.21, 173.247, 173.25(b), and 175.3.	To authorize shipment of non-pyrotechnic smoke generators containing titanium tetrachloride, ammonium hydroxide, and explosive valve and nitrogen. (Modes 1, 2, 3, and 4.)
8352-X	DOT-E 8352	Degussa Corp., Teterboro, NJ	49 CFR 173.154	To authorize shipment of ammonium persulfate and sodium persulfate in non-DOT specification plastic bags similar to DOT Specification 44P bags. (Modes 1, 2, and 3.)
8388-X	DOT-E 8388	B.W. Norton, Manufacturing Co., Inc., Hayward, CA.	49 CFR 178.19, Part 173, Subpart D, F.	To authorize manufacture, marking and sale of non-DOT specification removable head molded polyethylene drum, for shipment of corrosive and flammable liquids. (Modes 1, 2, and 3.)
8390-X	DOT-E 8390	Ashland Oil, Inc., Dublin, OH	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8390-X	DOT-E 8390	Olin Hunt Specialty Products, Inc., West Paterson, NJ.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8390-X	DOT-E 8390	Hi Pure Chemicals, Inc., Nazareth, PA.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8390-X	DOT-E 8390	Image Technology, Tempe, AZ	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8390-X	DOT-E 8390	Texas Instruments, Inc., Dallas, TX	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8390-X	DOT-E 8390	General Chemical Corp., Parsippany, NJ.	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1).
8391-X	DOT-E 8391	EFI Corp., d/b/a EFIC, San Jose, CA.	49 CFR 173.302(a)(1), 173.304(a)(1), and 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinders, for transportation of nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
8409-X	DOT-E 8409	EM Science, Cincinnati, OH	49 CFR 173.264(a)(4), 178.210	To authorize shipment of hydrofluoric acid solution no greater than 70% strength, in non-DOT Specification polyethylene bottles, not exceeding a capacity of 6 liters, packed in DOT specification 12A fiberboard boxes. (Modes 1, 3.)
8410-X	DOT-E 8410	EM Science, Cincinnati, OH	49 CFR 173.269(a)(1)	To authorize shipment of perchloric acid no greater than 72% strength in glass bottles, not exeeding a capacity of 2.5 liters, packed in non-DOT specification IMCO 4C2 wooden boxes. (Modes 1, 3.)
8414-X	DOT-E 8414	Arbel-Fauvet-Rail, Paris, France	49 CFR 173.315, 174.63(b)	To authorize transport of certain nonflammable gases in non-DOT specification intermodal portable tanks. (Modes 1, 2, and 3.)
8426-P	DOT-E 8426	Paramount Tank, Inc., Paramount, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, and 178.343-5.	To become a party to exemption 8426 (Mode 1.)
8426-X	DOT-E 8426	C.K.C., Inc., Paso Robles, CA	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, and 178.343-5.	To authorize use of non-DOT specification cargo tanks complying with DOT Specification MC-307/312 with certain exceptions, for transportation of liquid and semi-solid waste materials. (Mode 1.)
8445-X	DOT-E 8445	Kerr-McGee Chemical Corp., Oklahoma City, OK.	49 CFR 173, Subpart D, E, F, and H.	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT Specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8445-X	DOT-E 8445	SET Liquid Waste Systems, Inc., Wheeling, IL.	49 CFR 173, Subpart D, E, F, and H.	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT Specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1.)
8450-X	DOT-E 8450	LTV Aerospace and Defense Co., Dallas, TX.	49 CFR 173.92	To authorize transport of rocket motors without igniters, in non-DOT Specification polyethylene containers. (Mode 1.)
8451-P	DOT-E 8451	IRECO Inc., Salt Lake City, UT	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451. (Modes 1, 2, and 4.)
8451-P	DOT-E 8451	Reynolds Industries Systems, Inc., San Ramon, CA.	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451. (Modes 1, 2, and 4.)
8451-P	DOT-E 8451	Hercules Inc., Wilmington, DE	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451. (Modes 1, 2, and 4.)
8518-P	DOT-E 8518	Ventura Petroleum Services, Inc., Ventura, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, and 178.343-5.	To become a party to exemption 8518. (Mode 1.)
8627-X	DOT-E 8627	Exxon Chemical Americas, Houston, TX.	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1.)
8795-X	DOT-E 8795	The Marison Co., South Elgin, IL	49 CFR 173.302(a), 173.304(a), 173.305(a), 175.3, and 178.55.	To authorize manufacture, marking and sale of non-DOT specification cylinders made in compliance with DOT Specification 4B240ET with certain exceptions, for transportation of flammable and nonflammable gases. (Modes 1, 2, 3, 4, and 5.)
8843-X	DOT-E 8843	Owen Oil Tools, Inc., Fort Worth, TX.	49 CFR 173.246, 175.3	To authorize manufacture, marking and sale of non-DOT specification nonrefillable cylinders, for transportation of bromine trifluoride. (Modes 1, 2, 3, and 4.)
8870-X	DOT-E 8870	EM Science, Cincinnati, OH	49 CFR 172.101, 173.286, 175.3	To comingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or ½ lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 3, 4, and 5.)
8870-P	DOT-E 8870	Haztech Systems, Inc., Mountain View, CA.	49 CFR 172.101, 173.286, 175.3	To become a party to exemption 8870. (Modes 1, 2, 3, 4, and 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8871-X	DOT-E 8871	Chase Packaging Corp., Greenwich, CT.	49 CFR 173.182, 173.217, 173.245(b), and 173.366.	To authorize manufacture, marking and sale of large, collapsible polyethylene-lined woven polypropylene bulk bags, having a capacity of approximately 2000 pounds each, and top and bottom outlets, for shipment of corrosive solid, nitrates and poisons. (Modes 1, 2, and 3.)
8917-X	DOT-E 8917	Morrison-Knudsen Co., Inc., Boise, ID.	49 CFR 173.182, 176.400	To authorize transportation of ammonium nitrate prills in a large lined steel container. (Modes 1, 2, and 3.)
8938-X	DOT-E 8938	Cryogenic Services, Inc., Canton, GA.	49 CFR 173.304(a), 175.3	To authorize two (2) additional models of non-DOT specification cylinders, similar to DOT-4L cylinders, for shipment of Carbon Dioxide refrigerated liquid. (Modes 1, 2, 3, and 4.)
8971-P	DOT-E 8971	NL Petroleum Services, Inc., Houston, TX.	49 CFR 172.101, Column 4, 173.246, 175.3.	To become a party to exemption 8971. (Modes 1, 2, 3, and 4.)
8976-X	DOT-E 8976	Henkel Corp., Morristown, NJ	49 CFR 173.204(a)(3), 173.28(m)	To authorize a one time reuse of DOT Specification 17H steel drums, having a liner of polyethylene film and deviating from retest requirements, for shipment of sodium hydrosulfite. (Modes 1, 2, and 3.)
8978-P	DOT-E 8978	SAFT America, Inc., Cockeysville, MD.	49 CFR 172.101, 175.3	To become a party to exemption 8978. (Modes 1, 2, 3, and 4.)
9003-X	DOT-E 9003	General Electric Co., San Jose, CA	49 CFR 173.206, 178.245	To authorize renewal and an additional non-DOT specification portable steel tank for shipment of Sodium, metal, classed as flammable solid. (Mode 1.)
9070-X	DOT-E 9070	Warner Brothers, Inc., Sunderland, MA.	49 CFR 173.119, 173.32(a)(1)	To authorize the filling and discharge of two non-DOT specification portable tanks while remaining securely mounted on a truck chassis. (Mode 1.)
9092-X	DOT-E 9092	West-Tex Equipment Co., Midland, TX.	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)
9118-X	DOT-E 9118	ICI Americas, Inc., Wilmington, DE	49 CFR 173.245(a)(38)	To authorize shipment of 1,2-benzisothiazolin-3-one in aqueous solution or dispersion, either by itself or in combination with ethylenediamine or sodium hydroxide, in DOT Specification 57 steel portable tanks. (Modes 1, 2, and 3.)
9130-P	DOT-E 9130	Olin Corp., Stamford, CT	49 CFR 173.154	To become a party to exemption 9130. (Modes 1 and 2.)
9133-X	DOT-E 9133	American Cyanamid Co., Wayne, NJ.	49 CFR 173.377(a)	To authorize shipment of a formulated dry organophosphorous pesticide in a DOT Specification 56 metal portable tank. (Mode 1.)
9145-X	DOT-E 9145	Exxon Pipeline Co., Houston, TX	49 CFR 173.119,173.304, 173.315	To authorize use of a non-DOT specification container, for shipment of flammable liquids and gases. (Mode 1.)
9146-X	DOT-E 9146	Blefa-Felser GmbH, Postfach, West Germany.	49 CFR 171.12(c), 178.116-6(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness, to be used in place of 20/18 gauge, 55-gallon capacity, DOT Specification 17E drums. (Modes 1, 2, and 3).
9157-X	DOT-E 9157	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.314(c), 179.300-7	To authorize use of a non-DOT specification multi-unit tank care tank, for transportation of a flammable gas. (Mode 1).
9168-X	DOT-E 9168	All-Pak, Inc., Pittsburgh, PA	49 CFR 172.172.504, 173.118, 173.244, 173.3, 173.345, 173.346, 173.359, 173.370, 173.377, 175.3, 175.33, Part 172, Subpart E.	To authorize manufacture, marking and sale of specially designed composite type packaging, for shipment of small quantities of various flammable, corrosive, and poison B liquids and solids without affixing POISON, CORROSIVE, or FLAMMABLE labels. (Modes 1, 2, and 4).
9181-X	DOT-E 9181	U.S. Dept. of Energy, Washington, DC.	49 CFR 173.206, 173.21, 173.247	To authorize transport of lithium metal and a thionyl chloride solution in the same non-DOT specification stainless steel vessel. (Mode 1.)
9230-X	DOT-E 9230	Nuclear Metals, Inc., Concord, MA	49 CFR 173.208, 175.30	To authorize transport of titanium metal powder, dry, in a spun aluminum inner packaging, placed in a DOT Specification 17H or 17C steel drum. (Modes 1, 2, 3, and 4.)
9266-P	DOT-E 9266	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.315, 178.245	To become a party to exemption 9266 (Modes 1, 2, and 3).
9275-P	DOT-E 9275	Scentura Creations, Atlanta, GA	49 CFR Parts 100-199	To become a party to exemption 9275 (Modes 1, 2, 3, 4, and 5.)
9281-X	DOT-E 9281	Jet Research Center, Inc., Mansfield, TX.	49 CFR 172.101, 173.100	To authorize transport of cylindrical pellets of desensitized RDX, HMX, HNS and PYX in DOT Specification 12B65 fiberboard boxes. (Modes 1, 2, 3, and 4.)
9372-X	DOT-E 9372	Gearhart Industries, Inc., Fort Worth, TX.	49 CFR 173.110(c)(1), 173.80(b), and 173.80(c).	To authorize transport of charged oil well guns with detonators attached. (Modes 1 and 3.)
9441-X	DOT-E 9441	Amtrol, Inc., West Warwick, RI	49 CFR 173.306(g)(1), Part 173, Subpart D, E.	To authorize manufacture, marking and sale of non-DOT specification steel water pump system tanks with outside diameter not exceeding 26 inches, for transportation of nonflammable gases. (Modes 1, 2, and 3.)
9489-X	DOT-E 9489	Custom Air Service, Howell, MI	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (Mode 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9507-P	DOT-E 9507	Liquid Air Corp., Walnut Creek,	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, and 173.346.	To become a party to exemption 9507 (Mode 1.)
9514-X	DOT-E 9514	Control Data Corp., Minneapolis, MN.	49 CFR 173.306(e)	To authorize shipment of fully charged, used refrigerating units containing dichlorodifluoromethane in padded van motor vehicles. (Mode 1.)
9519-X	DOT-E 9519	Transchem, Inc., South Bend, IN	49 CFR 173.119, 173.256, 173.266, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sale of a non-DOT specification rotationally molded, cross-linked polyethylene or linear medium density polyethylene portable tank, enclosed within a protective steel frame for shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, 2.)
9549-X	DOT-E 9549	Jet Research Center, Inc., Mansfield, TX.	49 CFR 173.100(v), 175.30	To authorize transport of oil well cartridges containing more than 350 grains, but not more than 600 grains of Class A, type 3 explosive, as Class C explosive, in DOT Specification 12H fiberboard Box. (Modes 1, 3, and 4.)
9549-X	DOT-E 9549	GOEX, Inc., Cleburne, TX	49 CFR 173.100(v), 175.30	To authorize transport of oil well cartridges containing more than 350 grains, but not more than 600 grains of Class A, type 3 explosive, as Class C explosive, in DOT Specification 12H fiberboard box. (Modes 1, 3, and 4.)
9568-X	DOT-E 9568	AZTRON Chemical Services, Inc., South Houston, TX.	49 CFR 173.249	To authorize use of a DOT Specification MC-306 tank motor vehicle for transportation of sodium hydroxide, liquid. (Mode 1.)
9571-X	DOT-E 9571	Central Intelligence Agency, Washington, DC.	49 CFR Parts 100-177	To authorize transport of not more than 5 grams of an approved or unapproved explosive in a special packaging essentially without regulation. (Modes 1, 2, 3, 4, and 5.)
9603-X	DOT-E 9603	Tennessee Eastman Co., Kingsport, TN.	49 CFR 171.2, 173.119, 173.125, and 179.201-1.	To authorize use of a non-DOT specification tank car which conforms to DOT Specification 111A100W1 except for a thinner shell thickness in certain areas and for deviations in length of welds used in attaching bar pads. (Mode 2.)
9607-P	DOT-E 9607	Hilo Products Inc., North Canton, OH.	49 CFR Parts 100-199	To become a party to exemption 9607 (Modes 1, 4, and 5.)
9708-P	DOT-E 9708	Metals Selling Corp., Putnam, CT	49 CFR 173.220(b)	To become a party to exemption 9708 (Mode 1.)
9723-P	DOT-E 9723	Aptus, Lakeville, MN	49 CFR 177.848(b)	To become a party to exemption 9723 (Mode 1.)
9732-P	DOT-E 9732	Wedge CRC, Inc., Arlington, TX	49 CFR 173.115	To become a party to exemption 9732 (Mode 1.)
9837-P	DOT-E 9837	Larson Tool and Stamping Co., Attleboro, MA.	49 CFR 175.3, 178.50-19(a)(2), Part 107, Appendix B(1).	To become a party to exemption 9837 (Modes 1, 2, and 5.)
9880-X	DOT-E 9880	G.E. Reuter-Stokes, Twinsburg, OH	49 CFR 173.302, 175.3	To renew exemption originally issued on an emergency basis to authorize manufacture, marking and sale of non-DOT containers, hermetically sealed electron tubes, containing nonflammable gas. (Modes 1, 4, and 5.)
9881-X	DOT-E 9881	G.E. Reuter-Stokes, Twinsburg, OH	49 CFR 173.302, 175.3	To renew exemption originally issued on an emergency basis to authorize manufacture, marking and sale of non-DOT metal, single-trip, inside container described as hermetically sealed electron tube devices, for transportation of nonliquefied nonflammable gases. (Modes 1, 4, and 5.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9789-N	DOT-E 9789	E.I. du Pont de Nemours Co., Inc., Wilmington, DE.	49 CFR 173.119(m)	To authorize shipment of flammable liquid, corrosive, n.o.s. in DOT Specification 57 portable tanks. (Modes 1 and 2.)
9805-N	DOT-E 9805	Assmann Corp. of America, Garrett, IN.	49 CFR 173.119, 173.266, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, mark and sale of non-DOT specification rotationally molded, crosslinked polyethylene portable tank for the shipment of corrosive liquids, flammable liquids or an oxidizer. (Modes 1 and 2)
9829-N	DOT-E 9829	Tora Express, Inc., Monroe, LA	49 CFR 172.101, 173.204(c)(3), 173.27, 173.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9833-N	DOT-E 9833	Wacker Chemicals (USA), Inc., Canaan, CT.	49 CFR 173.384	To authorize shipment of monochloroacetone, stabilized classed as an irritating material, in a DOT Specification 51 portable tank. (Modes 1 and 3.)
9836-N	DOT-E 9836	Marko Foam Products, Inc., Hayward, CA.	49 CFR 177.839(a), (b), 178.150, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-reusable expanded polystyrene case similar to a DOT-33A, except that it will incorporate six cavities to contain not more than six five-pint bottles, for shipment of those commodities authorized by Part 173 to be shipped in a DOT-33A case. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9837-N	DOT-E 9837	Interstate Industries of N.J., Clark, NJ.	49 CFR 175.3, 178.50-19(a)(2), Part 107, Appendix B(1).	To authorize manufacture, marking and sale of DOT Specification 4B cylinders using the lot number in lieu of the serial number. (Modes 1, 2, and 5.)
9842-N	DOT-E 9842	Sunbird Airlines, Inc., Murray, KY	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9885-N	DOT-E 9885	Astro Containers, Inc., Evendale, OH.	49 CFR 173.188	To authorize manufacture, marking and sale of non-DOT specification removable head metal drums, having net weight not over 600 pounds each, for transportation of corrosive materials. (Modes 1 and 2.)

EMERGENCY EXEMPTIONS

Application	Exemption	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 6563-X	DOT-E 6563	S.L.O. Health Products, Inc., Los Osos, CA.	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made generally in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, and 5.)
EE 7052-X	DOT-E 7052	General Motors Corp., Warren, MI	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
EE 8859-X	DOT-E 8859	AVM Corp., Marion, SC	49 CFR 173.306(f)(2)(iii), 173.306(f)(3), 175.3.	To authorize shipment of a compressed gas in accumulators which deviate from required test criteria. (Modes 1, 4, and 5.)
EE 9907-N	DOT-E 9907	General Defense Corp., York, PA	49 CFR 173.56(1), (c)(1)	To authorize transport of unfuzed explosive projectiles, Class A explosive, in non-DOT specification packagings. (Modes 1, 2, and 3.)
EE 9927-N	DOT-E 9927	LTV Missiles and Electronics Group, Dallas, TX.	49 CFR 173.304(a)(2)	To authorize shipment of a nonrefillable, non-DOT specification container containing a nonflammable gas. (Mode 1.)
EE 9927-P	DOT-E 9927	National Aeronautics and Space Administration, Marshall Special Flight Center, AL.	49 CFR 173.304(a)(2)	To become a party to exemption 9927 (Mode 1.)
EE 9930-N	DOT-E 9930	Norfolk Southern Corp., Roanoke, VA.	49 CFR 173.,29(c)(2), Part 107, Appendix B(1).	To authorize a one-time shipment of a residual amount of sulfur dioxide in a DOT Specification 105A500W tank car tank with a defective liquid eduction valve equipped with a chlorine "C" kit. (Mode 2.)
EE 9931-N	DOT-E 9931	American Cyanamid Co., Wayne, NJ.	49 CFR 179.201-1	To authorize shipment of nitric acid in a DOT Specification 111A60W7 tank car tank which is equipped with a 45 psi safety valve. (Mode 2.)

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9859-N	Container Products, Inc., Newnan, GA	49 CFR 173.346, 173.358, 173.359	To authorize shipment of ethyl parathion and methyl parathion, classed as poison B, and other materials, once identified, classed as flammable liquid or corrosive material, in DOT Specification 34 polyethylene drums. (Modes 1, 2, and 3.)

Denials

5604-P Request by Airco Industrial Gases Div. of BOC Group, Inc. Murray Hill, NJ to authorize shipment of liquefied helium, classed as a nonflammable compressed gas denied February 25, 1988.

9767-N Request by Tri-Wall, Division of Weyerhaeuser Company Louisville, KY to authorize shipment of certain Class A and B explosives in non-DOT specification triple-wall corrugated boxes containing a anti-static plastic bag denied February 19, 1988.

9786-N Request by S. L. Cowley & Son's Mfg. Company Hugo, OK to authorize shipment of a package bearing a poison label in DOT specification packaging in the same lading with materials marked as or known to be foodstuff without the required overpack denied February 19, 1988.

9925-N Request by G. C. Industries, Incorporated Chatsworth, CA to authorize shipment of various hazardous materials in an non-DOT specification permeation device denied February 22, 1988.

Issued in Washington, DC, on April 18, 1988.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 88-10280 Filed 5-6-88; 8:45 am]

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DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 3, 1988.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0016
Form Number: 709–A
Type of Review: Resubmission
Title: United States Additional Estate (and Generation-Skipping Transfer) Tax Return
Description: Form 706–A is used by individuals to compute and pay the additional estate (and GST) taxes due under Code section 2032A(c). IRS uses the information to determine that the taxes have been properly computed. The form is also used for the basis election of section 1016(c)(1)
Respondents: Individuals or households
Estimated Burden: 814 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88–10254 Filed 5–6–88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: May 3, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB NUMBER: 1545–0049
Form Numbers: 990–BL, Schedule A (Form 990–BL), Form 6069
Type of Review: Extension
Title: Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons; Computation of Initial Excise Taxes on Black Lung Benefit Trusts and Certain Related Persons; Return of Excise Tax on Excess Contributions to Black Lung Benefit Trust Under Section 4953 and Computation of Section 192 Deduction
Description: IRS uses Form 990–BL to monitor activities of black lung benefit trusts, and to collect excise taxes on these trusts and certain related persons if they engage in proscribed activities. The tax is figured on Schedule A and attached to the 990–BL. Form 6069 is used by coal mine operators to figure the maximum deduction to a black lung trust. If excess contributions are made, IRS uses the form to figure and collect the tax on excess contributions
Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions
Estimated Burden: 104 hours

OMB Number: 1545–0058
Form Number: 1028
Type of Review: Extension
Title: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code
Description: Farmers' cooperative must file Form 1028 to apply for exemption from Federal income tax as being organizations described in Internal Revenue Code section 521. The information on the Form 1028 provides the basis for determining whether applicants are exempt
Respondents: Businesses or other for-profit
Estimated Burden: 2,423 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88–10255 Filed 5–6–88; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

Income Taxes; 1989 Electronic Filing Program: Forms 1040, 1040A and 1040 EZ Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction of Electronic Filing Program notice.

SUMMARY: This document contains corrections to the notice of the Electronic Filing Program. The notice was published in the Federal Register on Thursday, April 28, 1988 (53 FR 15331).

FOR FURTHER INFORMATION CONTACT: Electronic Filing Program, 1–800–424–1040 (a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Internal Revenue Service plans to continue the program to file individual income tax returns electronically in 1989. The Assistant Project Officer, Marketing and Operations, Internal Revenue Service published a notice to this effect on April 28, 1988 (53 FR 15331).

Need For Correction

As published, the April 28, 1988, notice inadvertently included the State of Arkansas and omitted the State of Virginia.

Correction of Publication

Accordingly, the publication of the notice which was the subject of FR. Doc. 88–9436 is corrected as follows:

The above districts represent the following states:

Alabama	New Hampshire
Alaska	New York
Arizona	North Carolina
California	North Dakota
Colorado	Ohio
Connecticut	Oregon
Florida	Rhode Island
Idaho	South Carolina
Illinois	South Dakota
Indiana	Tennessee
Kentucky	Texas
Maine	Utah
Maryland	Vermont
Massachusetts	Virginia
Michigan	Washington
Montana	West Virginia
Nebraska	Wisconsin
Nevada	Wyoming

Leonard Holt,

Assistant Project Officer, Marketing and Operations.

[FR Doc. 88–10239 Filed 5–6–88; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Tenth Anniversary of the East Building

Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Tenth Anniversary of the East Building" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about December 1, 1988, to on or about December 31, 1990, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

C. Normand Poirier,

Acting General Counsel.

Date: May 4, 1988.

[FR Doc. 88-10196 Filed 5-6-88; 8:45 am]

BILLING CODE 8230-01-M

Cultural Property Advisory Committee; Closed Meeting

The Cultural Property Advisory Committee will conduct a meeting in Room 840, 301 4th Street SW., Washington, DC on May 19, and in Room 256 on May 20.

The meeting will be closed to the public in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. 552 App.), the Government in the Sunshine Act (5 U.S.C. 552b), and the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*) The session will be closed because the discussion will involve investigative techniques and information the premature disclosure of which would be likely to frustrate significantly implementation of proposed actions and policies. Disclosure of information at this time identifying specific cultural property is likely to frustrate the possible imposition of import restrictions on such property. For this reason, the Government of Canada has requested that the information be held in confidence. Also, the Committee will discuss recommendations to the President as to appropriate U.S. action regarding a request from the Government of Canada for a U.S. cultural property agreement with Canada under the terms of the Cultural Property Implementation Act. For the foregoing reasons the closing of the meeting is authorized under 5 U.S.C. 552b(c)(1), 5 U.S.C. 552b(c)(2), 5 U.S.C. 552b(c)(9)(B), and 19 U.S.C. 2605.

Date: May 3, 1988.

Marvin L. Stone,

Acting Director, United States Information Agency.

[FR Doc. 88-10226 Filed 5-6-88; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202-485-7988, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) 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 John Turner, Department of Veterans Benefits (203C), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2744. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: April 28, 1988.

By direction of the Administrator.

Frank E. Lalley,

Director, Information Management and Statistics.

New Collection

1. Department of Veterans Benefits.
2. Employee Wage Data Sheet.
3. VA Form 21-9096.
4. This form secures information from employers of individuals who may be receiving benefits improperly.
5. On occasion.
6. State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.
7. 12,000.
8. 6,000.
9. Not applicable.

[FR Doc. 88-10132 Filed 5-6-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 53, No. 89.

Monday, May 9, 1988

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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 15771, Tuesday, May 3, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time) Tuesday, May 10, 1988.

CHANGE IN THE MEETING: The Meeting has been Cancelled.

CONTACT PERSON FOR MORE INFORMATION: Hilda D. Rodriguez, Executive Officer (Acting), Executive Secretariat, (202) 634-6748.

Date: May 4, 1988.

Hilda D. Rodriguez,

Executive Officer (Acting), Executive Secretariat.

This Notice Issued May 4, 1988.

[FR Doc. 88-10260 Filed 5-5-88; 9:39 am]

BILLING CODE 6750-06-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Wednesday, May 11, 1988, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note:—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re:
Yankee Bank for Finance and Savings, FSB Boston, Massachusetts (5913) (Memo dated April 15, 1988)

Audit Report re:
Stockmen's Bank and Trust Company, Gillette, Wyoming (5905) (Memo dated April 6, 1988)

Audit Report re:
Midland Consolidated Office, Cost Center—402 (Memo dated April 13, 1988)

EDP Report re:
Addition consolidated Office (Memo dated March 25, 1988)

EDP Audit Report re:
Chicago Regional Office (Memo dated March 31, 1988)

EDP Audit Report re:
Houston Consolidated Office, Cost Center—405 (Memo dated March 31, 1988)

EDP Audit Report re:
Kansas City Consolidated Office, Cost Center—301 (Memo dated March 31, 1988)

EDP Audit Report re:
Oak Lawn Consolidated Office, Cost Center—201 (Memo dated March 31, 1988)

EDP Audit Report re:
San Jose Consolidated Office, Cost Center—604 (Memo dated April 12, 1988)

EDP Audit Report re:
Assessment Subsystem (Memo dated March 30, 1988)

Audit Report re:
Contracting and Acquisition Function (Memo dated April 11, 1988)

Audit Report re:
Review of Cash Management Practices (Memo dated April 12, 1988)

Discussion Agenda:

Memorandum regarding the Corporation's corporate activities.

Report of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re:
American Exchange Bank & Trust Company, Norman, Oklahoma (2720) (Memo dated April 15, 1988)

Personel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: May 4, 1988

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-10282 Filed 5-5-88; 9:45 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Wednesday, May 11, 1988, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to purchase assets and assume liabilities and establish six branches:

First-Citizens Bank & Trust Company, Raleigh, North Carolina, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Ahoskie, Bayboro, Clinton, Rockingham, Tarboro, and Windsor Branches of Barclays Bank of North Carolina, Charlotte, North Carolina, and for consent to establish those six offices of Barclays Bank of

North Carolina as branches of First-Citizens Bank & Trust Company.

Memorandum regarding the extension of a contract for the Liquidation Asset Management Information System Project.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Report on 1987 Liquidation Operations.

Memorandum and resolution re: Final amendments to Part 326 of the Corporation's rules and regulations, entitled "Minimum Security Devices and Procedures and Bank Secrecy Act Compliance for Insured Nonmember Banks," which amendments (i) clarify that Part 326 applies to FDIC-insured state-licensed branches of foreign banks ("insured State branches"); and (ii) eliminate a recordkeeping requirement.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: May 4, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 88-10281 Filed 5-5-88; 9:43 am]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:44 a.m. on Wednesday, May 4, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr., (Appointive), seconded by Director Robert L. Clarke (Comptoller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street NW., Washington, DC

Dated: May 4, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary (Operations).

[FR Doc. 88-10324 Filed 5-5-88; 12:04 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

May 3, 1988.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: 10:00 a.m., May 11, 1988.

PLACE: 825 North Capitol Street NE., Room 9306, Washington, DC 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: Lois D. Cashell, Acting 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 Public Reference Room.

Consent Power Agenda, 877th Meeting—May 11, 1988, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 5251-002, City of Fort Smith, Arkansas

CAP-2.
Project Nos. 4682-002 and 4685-004, Long Lake Energy Corporation

CAP-3.
Project No. 2912-002, Alabama Electric Cooperative, Inc.

CAP-4.
Project No. 9704-004, Wyeth Hydro Electric Corporation

CAP-5.
Project No. 7490-002, Commonwealth Hydroelectric, Inc.

CAP-6.
Project No. 8662-001, Nockamixon Hydro Associates

CAP-7.
Project No. 5776-004, Dr. Daniel C. Merrill

CAP-8.
Project No. 2827-003, City of Redding, California

CAP-9.
Project No. 96-011, Pacific Gas & Electric Company

CAP-10.
Docket No. ER88-177-001, Southwestern Electric Power Company

CAP-11.
Docket No. EC88-1-001, Duke Power Company and Nantahala Power and Light Company

CAP-12.
Docket No. ER88-229-001, Commonwealth Edison Company

CAP-13.
Docket Nos. ER85-646-002 and ER85-647-002 (Phase I), New England Power Company
Docket Nos. ER85-646-006 and ER85-647-004 (Phase II), New England Power Company

CAP-14.
Docket No. ER86-354-003, Niagara Mohawk Power Corporation

CAP-15.
Docket No. ER79-97-013, Alamito Company

CAP-16.
Docket Nos. ER86-558-002, ER86-558-011, and ER86-558-013, Gulf States Utilities Company

CAP-17.
Docket No. EF87-5091-000, Boulder Canyon Project—Western Area Power Administration

CAP-18.
Docket No. ER88-204-001, Public Service Company of Oklahoma

CAP-19.
Docket Nos. E-7777-001 (Phase II), Project No. 2735-001, Project No. 1988-003, and Project No. 233-006, Pacific Gas and Electric Company

CAP-20.
Docket No. ER85-720-009, Northeast Utilities Service Company

CAP-21.
Docket Nos. ER83-418-007, ER83-418-008, ER83-418-009, and ER84-188-003, The Kansas Power and Light Company

CAP-22.
Docket No. QF84-256-002, Oxbox Geothermal Corporation

CAP-23.
Docket No. QF85-736-003, James River Cogeneration Company and Cogentrix of Virginia, Inc.

CAP-24.
Docket No. QF86-171-001, Hydro Corporation of Pennsylvania

Consent Miscellaneous Agenda

CAM-1.
Omitted

CAM-2.
Docket No. GP87-62-000, Ohio Department of Natural Resources

CAM-3.
Docket No. GP87-41-000, Exxon Corporation, State-Hunton "B" No. 2 Well

CAM-4.
Docket No. GP87-73-000, State of Louisiana, Department of Natural Resources

CAM-5.
Docket No. GP87-33-000, Exxon Corporation, Lowry Gas Unit No. 1 Well

CAM-6.
Docket No. GP86-60-000, Tenneco Oil Company, Hughes LS No. 19 Well

CAM-7.

Docket No. GP88-2-000, Forest Oil Corporation
CAM-8.
Docket No. SA87-36-001, Weaver 1979-II Drilling Program

Consent Gas Agenda

CAG-1.
Docket No. TA88-7-20-000, Algonquin Gas Transmission Company
CAG-2.
Docket No. TA88-2-4-000, Granite State Gas Transmission, Inc.
CAG-3.
Docket No. RP88-47-002, Northwest Pipeline Corporation
CAG-4.
Docket Nos. RP85-58-017 and RP88-44-000, El Paso Natural Gas Company
CAG-5.
Omitted
CAG-6.
Docket Nos. RP88-27-005 and RP85-209-002, United Gas Pipe Line Company
CAG-7.
Docket No. RP87-152-000, Southwest Gas Corporation
CAG-8.
Omitted
CAG-9.
Docket No. RP88-105-000, Lawrenceburg Gas Transmission Corporation
CAG-10.
Docket Nos. TA87-5-21-001 and TA82-2-21-024, Columbia Gas Transmission Corporation
CAG-11.
Docket Nos. TA88-1-51-000 and TA88-4-51-000, Great Lakes Gas Transmission Company
CAG-12.
Docket No. TA88-2-26-000, Natural Gas Pipeline Company of America
CAG-13.
Docket Nos. RP86-126-005 and RP88-60-001, Transwestern Pipeline Company
CAG-14.
Docket No. RP88-67-001, Texas Eastern Transmission Corporation
CAG-15.
Docket Nos. RP88-27-004 and RP85-209-013, United Gas Pipe Line Company
CAG-16.
Docket No. RP88-58-001, Williams Natural Gas Company
CAG-17.
Docket Nos. RP84-42-001, RP72-133-024, TA80-1-11-002, TA80-2-11-002, TA81-1-11-002, TA81-2-11-005, TA82-1-11-005, TA82-2-11-008, TA83-1-11-004, TA83-2-11-004, TA84-1-11-003, TA84-2-11-003, and TA84-2-11-002 (Phase III), United Gas Pipe Line Company
CAG-18.
Docket No. RP85-169-036, Consolidated Gas Transmission Corporation
CAG-19.
Docket Nos. RP88-68-003 and RP87-7-033, Transcontinental Gas Pipe Line Corporation
CAG-20.
Docket No. RP79-57-000, Northwest Pipeline Corporation
CAG-21.
Docket No. RP88-27-003, United Gas Pipe Line Company
CAG-22.
Docket No. RP85-58-016, El Paso Natural Gas Company
CAG-23.
Docket Nos. RP88-45-002 and RP88-46-001, Arkla Energy Resources, a Division of Arkla, Inc.
CAG-24.
Docket Nos. RP88-44-001 and CP88-203-001, El Paso Natural Gas Company
CAG-25.
Docket No. RP88-47-001, Northwest Pipeline Corporation
CAG-26.
Docket No. TA88-2-25-001, Mississippi River Transmission Corporation
CAG-27.
Docket Nos. ST85-956-002, ST85-1572-002, and ST86-6-002, Acadian Gas Pipeline System
CAG-28.
Docket Nos. ST86-2368-001, ST85-1000-001, and ST85-1001-001, Somerset Gas Service
CAG-29.
Docket Nos. CP82-361-009 and ST82-319-009, East Tennessee Natural Gas Company and Tennessee Gas Pipeline Company
CAG-30.
Docket Nos. TA85-1-33-004, TA84-1-33-011 and TA84-2-33-013, El Paso Natural Gas Company
CAG-31.
Docket No. ST88-1421-000, Transok, Inc.
CAG-32.
Docket No. RP87-47-000, Phillips Gas Pipeline Company
CAG-33.
Omitted
CAG-34.
Omitted
CAG-35.
Docket No. CP87-451-005, Northeast U.S. Pipeline Projects
CAG-36.
Docket No. CP85-437-007 (Phase II), Mojave Pipeline Company
Docket No. CP85-552-000, Kern River Gas Transmission Company
Docket No. CP85-625-000, Northwest Pipeline Company
Docket No. CP86-197-000, El Paso Natural Gas Company
Docket No. CP86-212-001, Transwestern Pipeline Company
Docket Nos. CP87-479-000 and CP87-480-000, Wyoming-California Pipeline Company
CAG-37.
Docket No. CP83-254-303, Williston Basin Interstate Pipeline Company
CAG-38.
Docket Nos. CP88-160-001 and CP88-161-001, Distrigas of Massachusetts Corporation
CAG-39.
Docket No. CP84-252-001, Trans-Appalachian Pipeline, Inc.
CAG-40.
Docket No. CP84-441-024, Tennessee Gas Pipeline Company
CAG-41.
Docket No. CP84-441-021, Tennessee Gas Pipeline Company
CAG-42.
Docket No. CP88-93-000, Texas Gas Transmission Corporation
CAG-43.
Docket No. CP87-214-000, United Gas Pipe Line Company
CAG-44.
Docket No. CP88-199-000, Northern Natural Gas Company, a Division of Enron Corporation
CAG-45.
Docket No. CP88-212-000, West Texas Gathering Company
CAG-46.
Docket No. RP88-98-000, National Fuel Gas Supply Corporation
CAG-47.
Docket No. TA88-2-25-002, Mississippi River Transmission Corporation
CAG-48.
Docket No. CP88-247-000, Williams Natural Gas Company
CAG-49.
Docket No. RI88-30-001, Phillips 66 Natural Gas Company
CAG-50.
Docket No. RP88-17-006, Southern Natural Gas Company
CAG-51.
Docket No. RP88-13-001, James River Corporation of Nevada v. Northwest Pipeline Corporation
Docket No. CP88-111-001, Northwest Pipeline Corporation
Docket No. CP88-328-002, Northwest Pipeline Corporation

I. Licensed Project Matters

P-1.
Project Nos. 2545-005, 009, 011, and 012, The Washington Power Company. Order on remand concerning question of "reservation" under section 3(2) of the Federal Power Act.

II. Electric Rate Matters

ER-1.
Docket No. ER84-177-000, Duke Power Company. Opinion and Order on initial decision concerning just and reasonable proposed standby charge.
ER-2.
Omitted

Miscellaneous Agenda

M-1.
Docket No. RM87-33-000, Hydroelectric Relicensing Regulations Under the Federal Power Act. Notice of Proposed Rulemaking.
M-2.
Reserved

I. Pipeline Rate Matters

RP-1.
Docket Nos. CP88-99-000, CP88-100-000, and CP88-143-000, Transwestern Pipeline Company. Order concerning gas inventory charge, off-system sales application, and pregranted abandonment application.

II. Producer Matters

CI-1.
Reserved

III. Pipeline Certificate Matters

CP-1.

Docket No. CP87-309-000, Paiute Pipeline Company and Southwest Gas Corporation. Order on certificate and abandonment authority to implement a reorganization of gas pipeline facilities and services.

CP-2.

Docket No. CP87-17-000, United Gas Pipe Line Company.

Docket No. CP88-124-000, Mississippi River Transmission Corporation. Order on extension of certificate authority for a gas sales service and abandonment of gas purchases.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10358 Filed 5-5-88; 4:02 pm]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, May 13, 1988.

PLACE: Marriner S. Eccies Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: May 5, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-10357 Filed 5-5-88; 3:52 pm]

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Monday
May 9, 1988

Part II

Department of Labor

Benefits Review Board

20 CFR Part 802

Organization of the Benefits Review Board and Rules of Practice and Procedure; Final Rule

DEPARTMENT OF LABOR

Benefits Review Board

20 CFR Part 802

Organization of the Benefits Review Board and Rules of Practice and Procedure

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor amends three sections of the Rules of Practice and Procedure of the Benefits Review Board as set forth in Part 802 of Title 20. The amendments establish procedures for eliminating certain procedural issues that have arisen in responding to requests for a stay of payments filed under section 21(b)(3) of the Longshore and Harbor Workers' Compensation Act, and resolve jurisdictional problems that arise when a party to a claim pending on appeal to the Board desires to seek modification of the underlying decision. Further, these regulations establish a procedure for disqualifying persons from participation in a representative capacity in appeals filed with the Board.

These amendments, more fully discussed below, establish procedures for resolving issues that have been raised in appeals filed with the Board during the past several years. These issues have been resolved on a case-by-case approach. The Department believes, however, that the establishment of these new procedures should result in fewer appeals to the courts of appeals based on the lack of regulatory guidelines.

EFFECTIVE DATE: These final regulations shall become effective June 8, 1988.

FOR FURTHER INFORMATION CONTACT: Robert S. Habermann, Chief Counsel, Suite 757, 1111 20th Street NW., Washington, DC 20036, (202) 653-5060.

SUPPLEMENTARY INFORMATION:

Background

This rule was originally published for public comment as a proposed rule in the **Federal Register** on July 20, 1987 in 52 FR 27300. Comments were to be submitted until August 20, 1987. No comments were received. Inasmuch as no comments have been received, the proposed rule is adopted as the final rule. No changes have been made.

Specifically, the changes in Part 802 are as follows:

1. New subsection 802.105(b) addresses the apparent conflict between section 14(f) of the Longshore Act, which requires an employer to pay compensation within 10 days of an award unless a stay of payment has been ordered by the Benefits Review Board, and the 10-day response time within which other parties may respond to motions filed with the Board, including a motion for a stay of payment, provided by § 802.219(e) of this chapter. Under current regulations employers must choose between making the payment within 10 days or not making the payment and incurring section 14(f) penalties. Pursuant to new § 802.105(b), the Board will have the discretion to issue, within the 10-day period set forth in section 14(f), a temporary stay not to exceed 30 days. This allows the claimant or other parties to file a response to the request for a stay before the Board issues a final order. Upon receipt of the response(s) or the expiration of the 10-day response period, an order granting or denying the stay of payment will be issued. If no order is issued within the 30-day temporary stay period, the stay will lapse.

No amendment to § 802.105(a) is being proposed at this time. Note that the Benefits Review Board has held that certain criteria required by § 802.105(a) do not have to be stated in their stay orders. *Rivere* v. *Raymond Fabricator Inc.*, 18 BRBS 6 (1985). The correctness of this ruling is being challenged and should be resolved by the courts.

2. New paragraph 802.202(d) sets forth the qualifications for attorneys and lay representatives; subsection (d)(2) further requires that a lay representative file an application for permission to appear before the Board in each case, stating the person's qualifications to appear. These new provisions are intended to ensure that parties are ably represented on appeal to the Board by their lay representatives. New paragraph (e) establishes a procedure for denial of authority to appear before the Board for both attorneys and lay representatives and sets forth the circumstances which may result in such denial of authority to appear. This section addresses questions of the competence or misconduct of attorneys or lay representatives which are not covered by 33 U.S.C. 931(b)(2)(C).

3. A new paragraph (c) is added to § 802.301 to state what effect the filing of a request for modification (see Longshore Act section 22) will have on appeals pending before the Board for review. Under this subsection, the Board will dismiss the appeal without prejudice, subject to being reinstated should the request for modification be denied. If the request is granted, any party adversely affected by the decision or order may file a new appeal with the Board within the 30-day period set forth in section 21(a) of the Longshore Act.

Classification—Executive Order 12291

The Department has determined that this rule is not a major rule under Executive Order 12291, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. No regulatory impact analysis is therefore required.

Regulatory Flexibility Act

The Department believes that these rules will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Pub. L. 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the amendments will only establish procedures to be followed in resolving issues arising under the Longshore Act and they do not, other than the provisions relating to representation (§ 802.202), in themselves, impose any additional requirements upon small entities. The amendments to § 802.202 will permit the Board to determine the qualifications of those persons who should participate in the appellate process. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction Act

This rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it does not contain a collection of information requirement.

List of Subjects in 20 CFR Part 802

Workers' compensation, Administrative practice and procedure.

Accordingly, 20 CFR Part 802 is amended as set forth below.

PART 802—[AMENDED]

1. The authority citation for Part 802 continues to read as follows:

Authority: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901 et seq.

2. By adding paragraph (b) to § 802.105 to read as follows:

§ 802.105 Stay of payment pending appeal.

* * * * *

(b) When circumstances require, the Board, in its discretion, may issue a temporary order not to exceed 30 days granting a motion for stay of payment prior to the expiration of the ten-day period allowed for filing responses to motions pursuant to § 802.219(e). Following receipt of a response to the motion or expiration of the response time provided in § 802.219(e), the Board will issue a subsequent order ruling on the motion for stay of payment.

3. By revising the section heading and adding paragraphs (d) and (e) to § 802.202 to read as follows:

§ 802.202 Appearances by attorneys and other authorized persons; denial or authority to appear.

* * * * *

(d) *Qualifications*—(1) *Attorneys.* An attorney at law who is admitted to practice before the Federal courts or before the highest court of any State, the District of Columbia, or any territory or commonwealth of the United States, may practice before the Board unless he or she has been disqualified from representing claimants under the Act pursuant to 33 U.S.C. 931(b)(2)(C), or unless authority to appear has been denied pursuant to § 802.202(e)(1) and (3). An attorney's own representation that he or she is in good standing before any of such courts shall be sufficient proof thereof, unless otherwise ordered by the Board.

(2) *Persons not attorneys.* Any person who is not an attorney at law may be admitted to appear in a representative capacity unless he or she has been disqualified from representing claimants under the Act pursuant to 33 U.S.C. 931(b)(2)(C). An application by a person not an attorney at law for admission to appear in a proceeding shall be submitted in writing to the Board at the time such person's appearance is entered. The application shall state such person's name, address, telephone number, general education, any special training or experience in claims representation, and such person's relationship, if any, to the party being represented. The Board may, at any time, make further inquiry as to the qualification or ability of such person to render assistance. In the event of a failure to make application for admission to appear, the Board shall issue an order to show cause why admission to appear should not be denied. Admission to appear in a particular case shall not be deemed a blanket authorization to appear in other cases.

(e) *Denial of authority to appear.*—(1) *Attorneys.* The Board may deny the privilege of appearing to any attorney, within applicable statutory constraints, e.g., 5 U.S.C. 555, who has been disbarred or suspended from the practice of law; who has surrendered his or her license while under investigation or under threat of disciplinary action; or who, after notice of an opportunity for hearing in the matter is found by the Board to have engaged in any conduct which would result in the loss of his or her license. No provision hereof shall apply to any attorney who appears on his or her own behalf.

(2) *Persons not attorneys.* The Board may deny the privilege of appearing to any person who, in the Board's judgment, lacks sufficient qualification or ability to render assistance. No provision hereof shall apply to any person who appears on his or her own behalf.

(3) Denial of authority to appear may be considered, after notice of and opportunity for a hearing, by the panel (constituted pursuant to § 801.301) which is assigned to decide the appeal in which the attorney or other person has entered an appearance. If such proceeding reveals facts suggesting that one of the circumstances described in 33 U.S.C. 931(b)(2)(C) exists, the Board shall refer that information to the Director, OWCP, for further proceedings pursuant to 33 U.S.C. 931(b)(2)(C) and 907(j). An attorney or other person may appeal a panel's decision to deny authority to appear to the entire permanent Board sitting en banc.

4. By adding paragraph (c) to § 802.301 to read as follows:

§ 802.301 Scope of review.

* * * * *

(c) Any party who considers new evidence necessary to the adjudication of the claim may apply for modification pursuant to section 22 of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 922. A party who files a petition for modification shall promptly notify the Board of such filing. Upon receipt of such notification, the Board shall dismiss the case without prejudice. Should the petition for modification be declined, the petitioner may file a request for reinstatement of his or her appeal with the Board within 30 days of the date the petition is declined. Should the petition for modification be accepted, any party adversely affected by the decision or order granting or denying modification may file a new appeal with the Board within 30 days of the date the decision or order on modification is filed.

Signed at Washington, DC, this 2nd day of May, 1988.

Ann McLaughlin,

Secretary of Labor.

[FR Doc. 88-10138 Filed 5-6-88; 8:45 am]

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federal register

Monday
May 9, 1988

Part III

Department of Commerce

Patent and Trademark Office

37 CFR Part 1

Miscellaneous Charges in Patent Practice; Notice of Proposed Rulemaking

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 80108-8008]

Miscellaneous Changes in Patent Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office proposes to amend its regulations to: (1) Correct certain rules to conform to previous changes in other rules, (2) require all correspondence directed to the Patent and Trademark Office concerning a patent application to include the serial number after the Office has assigned and informed the applicant of the serial number of the application, (3) provide for the indication of copyright and mask work protection in patent applications, (4) require that any necessary corrections to drawings be made only by submission of new or replacement drawings, (5) provide in limited situations for the use of color drawings in utility patent applications, (6) prohibit the use of broken lines in design patent application drawings to show hidden planes and surfaces, and (7) provide for a refund of a portion of the preliminary examination fee where the Demand is withdrawn. The change pertaining to the drawings would remove any need for patent applicants or their representatives to borrow drawings filed in patent applications from the Office after the effective date of the rule change for purposes of making corrections.

DATES: Comments must be submitted on or before July 21, 1988; a public hearing will be held on July 21, 1988 at 9:00 a.m. Requests to present oral testimony should be received on or before July 14, 1988.

ADDRESSES: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks, Washington, DC 20231, Attention: Louis O. Maassel. The hearing will be held in Room 912, on the 9th floor of Crystal Park Building 2, located at 2121 Crystal Drive, Arlington, Virginia. Written comments and a transcript of the public hearing will be available for public inspection in Room 11A13 of Crystal Plaza Building 3, located at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Louis O. Maassel by telephone at (703) 557-3070 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

Discussion of Specific Rules

Section 1.4, if amended as proposed, would correct the listing of rules in paragraph (a)(2).

Section 1.5, if amended as proposed, would provide that all correspondence related to a U.S. national patent application already filed with the Patent and Trademark Office must include the identification of the serial number assigned to that application by the Patent and Trademark Office. Any correspondence not containing such identification will be returned to the sender where a return address is available. Given there are over 30,000 documents to be routed each day, this requirement will greatly facilitate the matching of correspondence received with the relevant patent application file. Without serial number identification, documents are either significantly delayed or never matched with the relevant application file. The proposed amendments to paragraph (b) draw attention to the different requirements for identification in correspondence relating to the payment of maintenance fees.

Section 1.53(c) and (d), if amended as proposed, would require that a copy of the "Notice of Incomplete Application" or "Notice to File Missing Part" form sent to the applicant by the Office should accompany any response submitted to the Office in order for the response to be accepted. This will prevent the inadvertent assignment of a new serial number to correspondence sent in response to such notices or the misrouting of the correspondence.

Section 1.56(e), if amended as proposed, would correct the reference to the "Board of Appeals" to read "Board of Patent Appeals and Interferences".

Section 1.71, if amended as proposed, would contain new paragraphs (d) and (e) relating to the inclusion of copyright and mask work notices in patent applications. The provisions proposed are similar to those set forth in the Official Gazette notice dated March 20, 1987 titled "Inclusion of Copyright or Mask Work Notice in Patents" appearing on April 21, 1987 at 1077 O.G. 22. Under current intellectual property laws, it is possible to obtain copyright protection or mask work protection as well as patent protection for certain designs and technologies. On occasion, an author or inventor considers it desirable to include a notice of copyright or mask work in a design or utility patent which discloses material on which copyright or mask work protection has previously been established.

The inclusion of a copyright or mask work notice in a patent that discloses material on which copyright or mask work protection has previously been established, would serve to publicize and thereby protect the various intellectual property rights of the author or inventor. Further, this publication would tend to protect the public by militating against an unitentional encroachment into the rights. The presence of an unrestricted copyright or mask work notice in a patent could have an inhibiting effect on public dissemination of the patent disclosure to the extent it discourages the facsimile reproduction of the patent. The possible effect would be contrary to the mission of the Patent and Trademark Office to disseminate knowledge and information publicly by way of patent issuance, publication, and distribution. To avoid this effect, it is considered necessary to include an appropriate authorization by the author or inventor for copying of the patent itself with any copyright or mask work notice appearing in the patent. Inclusion of a copyright or mask work notice after a Notice of Allowance has been mailed will be permitted only if the criteria of 37 CFR 1.312 have been fulfilled. If the authorization required by proposed § 1.71(e) is not included, the notice will be objected to as improper by the examiner. If the examiner maintains the objection upon reconsideration, further review must be by way of a petition filed in accordance with 37 CFR 1.181.

Section 1.81, if amended as proposed, would clarify that high quality copies of drawings should be submitted in patent applications. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for future correction, if necessary.

Section 1.84(a), if amended as proposed, would be reworded to recommend that two-ply or three-ply bristol board be used by applicants to prepare drawings so that erasure and correction by India ink is possible. Proposed amended paragraph (a) would also indicate that photolithographs are not accepted as drawings and add a reference to § 1.84(p) relating to color drawings in utility patent applications.

High quality copies of drawings should be supplied to the Patent and Trademark Office when filing a patent application. Whether or not bristol board is used for drawings is applicant's choice. However, the drawings that are submitted to the Office must be on strong, white, smooth, and non-shiny paper and meet the standards according to § 1.84. If corrections to the drawings are necessary, they should be made to the original drawings and high-quality copies of the corrected original drawings then submitted to the Office.

Only one copy is required or desired. The Office had attempted to encourage the submission of three copies, but compliance was very low. It was determined that it is more efficient for the Office to rely on consistency and only one copy.

The Patent and Trademark Office will no longer release to applicants, bonded drafting companies or other drawings from patent applications filed after the effective date of these proposed rule changes. See proposed § 1.85(b). If corrections to the drawings are necessary, new corrected drawings must be prepared and filed in the Patent and Trademark Office. Therefore, the applicant, attorney or agent should retain the original drawing.

The Office will continue to allow applicants to borrow for correction drawings which have been filed prior to the effective date of these rule changes.

Section 1.84(b), if amended as proposed, would provide for applicants using drawing sheets which are 8½ by 13 inches in size.

Section 1.84(i), if amended as proposed, would make grammatical corrections in the text of the rules and clarify Office drawing requirements as to exploded views, enlarged views and views which require several sheets.

Section 1.84(j), if amended as proposed, would clarify how views should be arranged when they are placed sideways on the drawing sheet.

Section 1.84(l) if amended as proposed, would indicate that drawings may be identified by lightly writing identifying information on the drawings in the top margin. For identification by serial number, the Office prefers that the information be placed on the front of the drawing. When the applicant forwards drawings separate from the original application papers, a cover letter identifying the application by serial number must accompany the drawings. The application serial number must also be placed on drawings filed after the serial number has been indicated in correspondence to the applicant, in accordance with §1.84(l)

Section 1.84(n), if added as proposed, would permit numbering of the drawing sheets. However, such numbering would not appear on the drawings of the printed patent.

Section 1.84(o), if added as proposed, would provide for the indication of copyright or mask work protection notice on patent application drawings. This procedure is the same as that established by the Official Gazette notice dated March 20, 1987 published on April 21, 1987 at 1077 O.G. 22.

Section 1.84(p), if added as proposed, would provide in the rules for the filing of color drawings in a very limited number of utility patent applications. An Official Gazette notice relating to this topic dated August 6, 1986, titled "Use of Color Drawings in Utility Patents" was published on September 9, 1986 at 1070 O.G. 10. In light of the substantial administrative and economic burden associated with printing a utility patent with color drawings, the letters patent and the patent copies which are printed at the issuance of the patent will be only in black and white. However, copies of the patent with the color drawings may be purchased separately from the Patent and Trademark Office upon special request and payment of the fee.

It is anticipated that color drawings will only be permitted when color drawings are the only practical method in a utility patent application in which to disclose the subject matter sought to be patented. In order to avoid issues of lack of description or enablement under 35 U.S.C. 112 or new matter under 35 U.S.C 132, applicants are advised to file the desired color drawings as part of the original application papers. The petition should be directed to the attention of the Deputy Assistant Commissioner for Patents.

Section 1.85, if amended as proposed, would indicate that drawings not complying with § 1.84 will be accepted in some instances for purposes of examination and that drawings which do comply with all the rules relating to drawings be required later, and that no corrections are permitted to drawings filed in the Patent and Trademark Office after the effective date of the rule change.

When corrected drawings are required to be submitted at the time of allowance, the applicant is required to submit *acceptable* drawings within three months from the mailing of the "Notice of Allowance". Within the three-month period, two weeks should be allowed for review of the drawings by the Drafting Branch. If the Office finds that correction is necessary, the applicant must submit a new corrected drawing to the Office within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, the applicant should file corrected drawings as soon as possible following the receipt of the Notice of Allowance.

Section 1.152, if amended as proposed, would permit broken lines on drawings to show visible environmental structure but not hidden planes and surfaces in design patent application drawings.

Section 1.378, if amended as proposed, would amend the rules to conform with section 404 of Public Law 98-622 which states:

(a) Notwithstanding section 41(c) of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317), the Commissioner of Patents and Trademarks may accept after the six-month grace period referred to in such section 41(c), the payment of any maintenance fee due on any patent based on an application filed in the Patent and Trademark Office on or after December 12, 1980, and before August 27, 1982, to the same extent as in the case of patents based on applications filed in the Patent and Trademark Office on or after August 27, 1982.

The proposed rule wording would include reference to maintenance fees due on Patents based on applications filed in the patent and Trademark Office on or after December 12, 1980 and before August 27, 1982.

Section 1.421(f), if amended as proposed, would delete reference to a canceled PCT Rule and add reference to the current PCT Rule provision.

Section 1.480(d) if amended as proposed, would provide for a refund of a portion of the international preliminary examination fee where the applicant withdraws the demand before the examiner has begun the international preliminary examination. An amount equal to the transmittal fee would be retained by the Patent and Trademark Office to cover the cost of the clerical work involved.

Environmental, Energy, and Other Considerations

The proposed rule change will not have a significant impact on the quality of the human environment or conservation of energy resources.

The proposed rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce certified to the Small Business Administration that the proposed rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96-354) because the proposed rule change corrects some rules so that they correspond to earlier changes, relate to identification of applications on correspondence, allow greater flexibility in patent drawing content and handling, and provide for a refund where a proper demand for international preliminary examination has been filed but withdrawn later.

The Patent and Trademark Office has determined that this proposed rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. There will be 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 Patent and Trademark Office has also determined that this notice has no federalism implications affecting the relationship between the national government and the States as outlined in Executive Order 12612.

The rule change involves correction of information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and are cleared under OMB Control No. 0651–0011.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (government agencies), Courts, Inventions and patents, Lawyers.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 41, and Patent and Trademark Office is proposing to amend Title 37 of the Code of Federal Regulations as set forth below.

It is proposed to amend 37 CFR, Part 1, as follows with deletions of portions of the rules indicated by brackets (⟦ ⟧) and additions by arrows (► ◄).

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 would continue to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.4 is proposed to be amended by revising paragraph (a)(2) to read as follows:

§ 1.4 Nature of correspondence.

(a) * * *

(2) Correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in Subpart B, §§ 1.31 to ⟦1.352⟧ ►1.378◄; of international applications in Subpart C, §§ 1.401 to ⟦1.482⟧ ►1.499◄; of reexamination of patents in Subpart D, §§ 1.501 to 1.570; of interferences in Subpart E, §§ 1.601 to ⟦1.688⟧ ►1.690; of extension of patent term in Subpart F, §§ 1.710 to 1.785◄; and of trademark applications §§ 2.11 to 2.189.

* * * * *

3. Section 1.5 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 1.5 Identification of application, patent or registration.

(a) When a letter ►directed to the Patent and Trademark Office◄ concerns ⟦an⟧ ►a previously filed◄ application for patient, it ►must identify on the top page in a conspicuous location, the serial number, including the series code, which was assigned to that application and indicated in correspondence to the applicant by the Patent and Trademark Office or the international application number of the application. Any correspondence not containing such identification will be returned to the sender where a return address is available. In addition, all letters directed to the Patent and Trademark Office concerning applications for patent◄ should ►also◄ state ►"PATENT APPLICATION",◄ the name of the applicant, the title of the invention, ⟦the serial number or international application number of the application,⟧ the date of filing the same, and if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.

(b) When the letter concerns a patient ►other than for purposes of paying a maintenance fee◄, it should state the number and date of issue of the patient, the name of the patentee, and the title of the invention. ►For letters concerning payment of a maintenance fee in a patent, see the requirements of § 1.366(c).◄

* * * * *

4. Section 1.53 is proposed to be amended by revising paragraphs (c) and (d) to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

* * * * *

(c) If any application is filed without the specification or drawing required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification or drawing in order to obtain a filing date as of the date of filing of such submission. ►A copy of the "Notice of Incomplete Application" form notifying the applicant should accompany any response thereto submitted to the Office.◄ If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less a $15.00 handling fee.

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified, if a correspondence address has been provided and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. ►A copy of the "Notice to File Missing Parts" form mailed to applicant should accompany any response thereto submitted to the Office.◄ If the required filing fee is not timely paid, or if the processing and retention fee set forth in § 1.21(l) is not paid within one year of the date of mailing of the notification required by this paragraph, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which neither the required basic filing fee nor the processing and retention fee has been paid. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. If no correspondence address is included in the application, applicant has two months from the filing date to file the ►basic filing◄ fee, oath or declaration and to pay the surcharge as set forth § 1.16(e) in order to prevent abandonment of the application or►, if no basic filing fee has been paid,◄ one year from the filing date to pay the processing and retention fee set forth in § 1.21(l) to prevent disposal of the application.

5. Section 1.56 is proposed to be amended by revising paragraph (c) to read as follows:

§ 1.56 Duty of disclosure; fraud; striking or rejection of applications.

* * * * *

(e) The examination of an application for compliance with paragraph (d) of this section will normally be delayed until such time as (1) all other matters are resolved, or (2) appellant's reply brief pursuant to § 1.193(b) has been received and the application is otherwise prepared for consideration by the Board of ►Patent◄ Appeals ►and Interferences◄, at which time the appeal will be suspended for examination pursuant to paragraph (d) of this section. The prosecution of the application will be reopened to the extent necessary to conduct the examination pursuant to paragraph (d) of this section including any appeal pursuant to § 1.191. If an appeal has already been filed based on a rejection on other grounds, any further rejection under this section shall be treated in accordance with § 1.193(c).

* * * * *

6. Section 1.71 is proposed to be amended by adding new paragraphs (d) and (e) to read as follows:

§ 1.71 Detailed description and specification of the invention.

* * * * *

►(d) A copyright or mask work notice may be placed in a design or utility patent application adjacent to copyright and mask work material contained therein. The notice may appear at any appropriate portion of the patent application disclosure. For notices in drawings, see § 1.84(o). The content of the notice must be limited to only those elements required by law. For example, "©1983 John Doe" (17 U.S.C. 401) and "*M* John Doe" (17 U.S.C. 909) would be properly limited and, under current statutes, legally sufficient notices of copyright and mask work, respectively. Inclusion of a copyright or mask work notice will be permitted only if the authorization language set forth in paragraph (e) of this section is included at the beginning (preferably as the first paragraph) of the specification.

(e) The authorization shall read as follows:

A portion of the disclosure of this patent document contains material which is subject to [copyright or mask work] protection. The [copyright or mask work] owner has no objection to the facsimile reproduction by anyone of the patent document or the patent disclosure, as it appears in the Patent and Trademark Office patent file or records, but otherwise reserves all [copyright or mask work] rights whatsoever.◄

7. Section 1.81 is proposed to be amended by revising the title and paragraph (a) to read as follows:

§ 1.81 Drawings required ►in patent application◄.

(a) The applicant for a patent is required to furnish a drawing of his ►or her◄ invention where necessary for the understanding of the subject matter sought to be patented; this drawing ►, or a high quality copy thereof,◄ must be filed with the application. ►Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.◄

* * * * *

8. Section 1.84 is proposed to be amended by revising paragraphs (a), (b) introductory text, (i), (j) and (l) redesignating and revising (b)(2) as (b)(3), and by adding new paragraphs (b)(2) (n), (o), and (p), to read as follows:

§ 1.84 Standards for drawings.

(a) *Paper and ink.* Drawings ►or high quality copies thereof which are submitted to the Office◄ must be made upon paper which is flexible, strong, white, smooth, non-shiny and durable. [Two-ply or three-ply bristol board is preferred. The surface of the paper should be calendered and of a quality which will permit erasure and correction with India ink.] ►It is recommended that two-ply or three-ply bristol board or paper of sufficient quality to permit erasure and correction with India ink be used for original drawings to facilitate any future corrections by the applicant.◄ India ink, or its equivalent in quality, is preferred for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not normally acceptable. ►Photolithographs are not acceptable. See paragraph (p) of this section for use of color drawings in utility patent applications.◄

(b) *Size of sheet and margins.* The size of the sheets on which drawings are made may [either] be exactly 8½ by 14 inches (21.6 by 35.6 cm.) ►, exactly 8½ by 13 inches (21.6 by 33.1 cm.),◄ or exactly 21.0 by 29.7 cm. (DIN size A4). All drawing sheets in a particular application must be the same size. One of the shorter sides of the sheet is regarded as its top.

* * * * *

►(2) On 8½ by 13 inch drawing sheets, the drawing must include a top margin of 1 inch (2.5 cm.) and bottom and side margins of ¼ inch (6.4 mm.) from the edges, thereby leaving a "sight" precisely 8 by 11¾ inches (20.3 by 29.8 cm.). Margin border lines are not permitted. All work must be included within the "sight". The sheets may be provided with two ¼ inch (6.4 mm.) diameter holes having their centerlines spaced 1 1/16 inch (17.5 mm.) below the top edge and 2¾ inches (7.0 cm.) apart, said holes being equally spaced from the respective side edges.◄

[(2)] ►(3)◄ On 21.0 by 29.7 cm. drawing sheets, the drawing must include a top margin of at least 2.5 cm., a left side margin of 2.5 cm., a right side margin of 1.5 cm., and a bottom margin of 1.0 cm. Margin border lines are not permitted. All work must be contained within a sight size not to exceed 17 by 26.2 cm.

* * * * *

(i) *Views.* The drawing must contain as many figures as may be necessary to show the invention; the figures should be consecutively numbered if possible in the order in which they appear. The figures may be ►plan◄ [plain], elevation, section, or ►perspective◄ [prespective] views, and detail views of portions or elements, on a larger scale if necessary, may also be used. Exploded views, with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. ►When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.◄ When necessary, a view of a large machine or device in its entirety may be broken and extended over several sheets if there is no loss in facility of understanding the view. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets should be so arranged that the complete figure can be understood by laying the drawing sheets adjacent to one another. ►The figures, even though on separate sheets, should be labeled as separate figures, for example as Fig. 1a, Fig. 1b, etc., so that it would be apparent that the views actually comprise one figure.◄ The arrangement should be such that no part of any of the figures appearing on the various sheets [are] ►is◄ concealed and that the complete figure can be understood even though spaces will occur in the complete figure because of the margins on the drawing sheets. The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose.

Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should centerlines be used. ►When a portion of a figure is enlarged for magnification purposes, the figure and the enlarged figure must each be labeled as a separate figure.◄

(j) *Arrangement of views.* All views on the same sheet should stand in the same direction and, if possible, stand so that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side so that the top of the sheet with the appropriate top margin ►to be used as the heading space◄ is on the right-hand side. One figure must not be placed upon another or within the outline of another.

* * * * *

(l) [*Extraneous matter.*] ►*Identification of drawings.*◄ Identifying indicia (such as the ►serial number, group art unit, title of the invention,◄ attorney's docket number, inventor's name, number of sheets, etc.) not to exceed 2¾ inches (7.0 cm.) in width may be placed in a centered location between the side edges within three-fourths inch (19.1 mm.) of the top edge. ►Either this marking technique on the front of the drawing or the placement, although not preferred, of this information and the title of the invention on the back of the drawings is acceptable.◄ Authorized security markings may be placed on the drawings provided they [be] ►are◄ outside the illustrations and are removed when the material is declassified. Other extraneous matter will not be permitted upon the face of a drawing.

* * * * *

►(n) *Numbering of drawing sheets.* The drawing sheets may be numbered in consecutive arabic numbers at the top of the sheets, in the middle, but not in the margin. Such numbering will be deleted for printing purposes since page numbers are added at the time of printing the patent by the Office.◄

►(o) *Copyright or Mask Work Notice.* A copyright or mask work notice may appear in the drawing but must be placed within the "sight" of the drawing immediately below the figure representing the copyright or mask work material and be limited to letters having a print size of ⅛ to ¼ inches high. The content of the notice must be limited to only those elements required by law. For example, "©1983 John Doe" (17 U.S.C. 401) and "*M* John Doe" (17 U.S.C. 909) would be properly limited and, under current statutes, legally sufficient notices of copyright and mask work, respectively. Inclusion of a copyright or mask work notice will be permitted only if the authorization language set forth in § 1.71(e) is included at the beginning (preferably as the first paragraph) of the specification.◄

►(p) *Limited use of color drawings in utility patent applications.* Paragraph (a) of this section requires that drawings in utility patent applications must be in black on white paper. However, on rare occasion, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility patent application. The Patent and Trademark Office will accept color drawings in utility patent applications only after granting of a petition by the applicant under § 1.183 of this part which requests waiver of the requirements of paragraph (a) of this section. Any such petition should be directed to the Office of the Deputy Assistant Commissioner for Patents and must include the following:

(1) The appropriate fee set forth in § 1.17(h).

(2) Five (5) sets of color drawings on DIN size A4 (21.0 by 29.7 cm.) sheets.

(3) A proposed amendment to insert in the specification the following language as the first paragraph in the portion of the specification relating to the brief description of the drawing:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."◄

9. Section 1.85 is proposed to be revised to read as follows:

§ 1.85 [Informal] ►Corrections to◄ drawings.

►(a)◄The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto, if suitable for reproduction, may be admitted ►for examination◄ but in such case [the drawing must be corrected or] a new [one] ►drawing must be◄ furnished [, as required].

►(b) The Patent and Trademark Office will not release drawings for purposes of correction. If corrections are necessary, new corrected drawings must be submitted within the time set by the Office.◄

►(c) When corrected drawings are required to be submitted at the time of allowance, the applicant is required to submit *acceptable* drawings within three months from the mailing of the "Notice of Allowance". Within that three-month period, two weeks should be allowed for review of the drawings by the Drafting Branch. If the Office finds that correction is necessary, the applicant must submit a new corrected drawing to the Office within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, the applicant should file corrected drawings as soon as possible following the receipt of the Notice of Allowance.◄

10. Section 1.152 is proposed to be revised to read as follows:

§ 1.152 Drawing.

The design must be represented by a drawing made in conformity with the rules laid down for drawings of mechanical inventions and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article. Appropriate surface shading must be used to show the character or contour of the surfaces represented. ►Broken lines may be used to show visible environmental structure, but may not be used to show hidden planes and surfaces which cannot be seen through opaque materials.◄

11. Section 1.378 is proposed to be amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

* * * * *

(b) * * *

(1) The required maintenance fee set forth in § 1.20[(h)]►(e)◄—(i).

* * * * *

(c) * * *

(1) The required maintenance fee set forth in § 1.20[(h)]►(e)◄—(i).

* * * * *

12. Section 1.421 is proposed to be amended by revising paragraph (f) and adding a new paragraph (g) to read as follows:

§ 1.421 Applicant for international application.

* * * * *

(f) Changes in the person, name, or address of the applicant of an international application shall be made in accordance with PCT Rule [18.5]►92bis◄.

(g) The wording of PCT Rule 92bis is as follows:

PCT Rule 92bis—Recording of Changes in Certain Indications in the Request or the Demand

92bis Recording of Changes by the International Bureau

(a) The International Bureau shall, on the request of the applicant or the receiving Office, record changes in the following indications appearing in the request or demand:

(i) person name, residence, nationality or address of the applicant,

(ii) person, name or address of the agent, the common representative or the inventor.

(b) The International Bureau shall not record the requested change if the request for recording is received by it after the expiration:

(i) of the time limit referred to in Article 22(1), where Article 39(1) is not applicable with respect to any Contracting State;

(ii) of the time limit referred to in Article 39(1)(a), where Article 39(1) is applicable with respect to at least one Contracting State.◄

13. Section 1.480 is proposed to be amended by revising paragraph (d) to read as follows:

§ 1.480 Demand for international preliminary examination.

* * * * *

(d) Withdrawal of a proper Demand ►prior to the start of the international preliminary examination◄ will [not] entitle applicant to a refund of the preliminary examination fee [or handling fee] ►minus the amount of the transmittal fee set forth in § 1.445(a)(1)◄.

Dated: March 9, 1988.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 88-10089 Filed 5-6-88; 8:45 am]

BILLING CODE 3510-16-M

federal register

Monday
May 9, 1988

Part IV

The President

Proclamation 5812—National Older Americans Abuse Prevention Week, 1988

Proclamation 5813—Public Service Recognition Week, 1988

Proclamation 5814—World Trade Week, 1988

Federal Register
Vol. 53, No. 89
Monday, May 9, 1988

Presidential Documents

Title 3—

The President

Proclamation 5812 of May 5, 1988

National Older Americans Abuse Prevention Week, 1988

By the President of the United States of America

A Proclamation

Each year during May, through the vehicle of Older Americans Month, our Nation honors its senior citizens for their many contributions to our country, its communities, and its families. The vast majority of older Americans are active members of society—working, creating, volunteering, or simply enjoying the fruits of long years of service to others. As parents and grandparents, they extend their contributions through formation of coming generations of our citizens—their children and grandchildren. The commerce of love between generations—fulfillment of a duty and recognition of a debt—is a ballast that steadies our national enterprise on its voyage from past to future.

Not every older American leads an ideal life, however. Regrettably, some suffer from abuse and neglect, wounds all the more grievous for everything these citizens have done to build and strengthen this land of liberty. For these men and women, years that should be full of satisfaction and appreciation become instead manacles of torment and disrespect from which they cannot escape.

Abuse can take many forms—physical, mental, or emotional. It can come from family members, friends, or professionals; it can even be self-inflicted. Neglect is also a form of abuse, a manifestation of carelessness that can be seen even in situations where an elderly person's basic needs for food and shelter are being met. Loneliness, of course, is its most obvious sign, and fortunately the most easily cured by others.

Abuse and neglect reach their ultimate expression, of course, in occasional cases of—and even organized calls for—euthanasia of the elderly infirm. Older Americans have done their duty. In their twilight years, especially, it is our duty to them that matters. No elderly person should live in fear that he or she is a burden to others or that his or her life will be cut short for reasons of utility or convenience. We can never have too many reminders that the gift of life is ours to cherish and preserve from malice and harm until natural death.

Across our country, State and Area Agencies on Aging, social service, and law enforcement agencies are supporting programs to deal effectively with the difficult problems posed by abuse of the elderly. I urge every concerned American to help ensure that local programs are available to educate people about these problems and to assist both the older person and the abuser to get the help they need.

The Congress, by Senate Joint Resolution 222, has designated the week of May 1 through May 7, 1988, as "National Older Americans Abuse Prevention Week" and has authorized and requested the President to issue a proclamation in observance of the week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of May 1, 1988, through May 7, 1988, as National Older Americans Abuse Prevention Week. I urge all government agencies, every community, and every American to observe this period with appropriate activities and to strive to assure that every older American can enjoy what the poet called that honor, love, and obedience "that should accompany old age."

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

Ronald Reagan

[FR Doc. 88-10423
Filed 5-6-88; 12:05 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5813 of May 5, 1988

Public Service Recognition Week, 1988

By the President of the United States of America

A Proclamation

Government employees, with their commitment to excellence and diversity of skills, contribute significantly to the leadership of the United States in the world. These dedicated men and women are a valuable national resource, serving in the Executive, Legislative, and Judicial branches at all levels of government, and dealing with nearly every aspect of national life.

Government employees provide such a broad range of services that few citizens remain unaffected by their work. They defend our Nation, enforce the laws, help protect the environment, maintain vital transportation systems, work to prevent the entry and abuse of illegal drugs, administer the Social Security system, conduct health research, help parents teach their children, and perform countless other vital tasks for society. These public servants have also helped develop innovative technologies to show the way in the critical fields of defense, health care, agriculture, and industry.

In recognition of the indispensable contributions made by government employees, the Congress, by Senate Joint Resolution 242, has designated the period commencing May 2, 1988, and ending May 8, 1988, as "Public Service Recognition Week" and has authorized and requested the President to issue a proclamation calling for observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of May 2, 1988, through May 8, 1988, as Public Service Recognition Week. I urge the people of the United States and all levels of government to participate in appropriate ceremonies to recognize the vital role of government employees.

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

Ronald Reagan

[FR Doc. 88-10424
Filed 5-6-88; 12:06 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5814 of May 5, 1988

World Trade Week, 1988

By the President of the United States of America

A Proclamation

Setting aside a week in celebration of international trade is a fitting way to remind ourselves of the countless benefits of world trade for Americans and for people around the globe, and to remember that freedom is, and must be, an essential element in economic life—individual, national, and international

International trade can link individuals and nations alike by providing opportunities for the interchange of goods and services, the fruit of human talents that transcend boundaries of geography and culture. The key ingredient in every act of trade is freedom. Only freedom respects the inherent rights, dignity, conscience, and worth of individuals; only freedom encourages individuals to develop their creative abilities to the fullest and to command fair return for their labor; and only freedom provides a rational and humane basis for economic decision-making. The freedom of exchange that is at the heart of every genuine economic transaction benefits all parties and builds competition, enterprise, prosperity, justice, cooperation, and social well-being as people achieve economic success by finding their fellowman's unmet needs and filling them well.

Our country's prosperity likewise depends on our ability to identify needs and markets for goods and services and to meet them well. Our free market economy, our belief in free but fair trade on a global basis, and the American people's ingenuity and ability all make our products among the world's most competitive—and we intend to keep it that way.

My Administration has worked to improve the climate for international trade by seeking a renaissance in American competitiveness. Last year, as American goods regained price competitiveness overseas, exports hit a record level; more than 407,000 manufacturing jobs were created; and employment surged, with more Americans in the labor force than ever before. Exports spell opportunity for American business; thousands of U.S. firms have increased their profit margins by exporting, and thousands are beginning to discover their untapped potential to succeed in export markets. This year's World Trade Week theme, "Export Now," champions the message that I have joined the Secretary of Commerce in sending and exemplifies America's winning spirit.

Foreign markets are now more open to American goods than in the past, but we have far to go in the quest to undo unfair restrictions on trade. We seek to encourage removal of foreign barriers to free trade, but we simultaneously work to discourage domestic protectionism—more accurately described as "destructionism," because it stifles progress and prosperity by preventing competition and economic transactions that people everywhere desire and need. We also reiterate the intention of the United States Government to ensure that our trade policies serve to reinforce our national security interests around the world. International trade policies and practices must promote the causes of freedom, human rights, and economic growth everywhere.

World Trade Week is a truly appropriate time to remember the many benefits international trade has conferred on our country and to reflect on the many blessings the spread of economic freedom has brought, and can bring, to people in every nation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning May 22, 1988, as World Trade Week. I invite the people of the United States to join in appropriate observances to reaffirm the great promise of international trade for creating jobs and stimulating economic activity in our country and for generating prosperity everywhere freedom reigns.

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

Ronald Reagan

[FR Doc. 88-10425
Filed 5-6-88; 12:07 pm]
Billing code 3195-01-M

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CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$10.00	Jan. 1, 1988
3 (1987 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1988
4	14.00	Jan. 1, 1988
5 Parts:		
1-699	14.00	Jan. 1, 1988
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1200-End, 6 (6 Reserved)	11.00	Jan. 1, 1988
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*400-699	17.00	Jan. 1, 1988
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18–End	16.00	July 1, 1987
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1987. The CFR volume issued January 1, 1987, should be retained.

[3] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1987. The CFR volume issued as of July 1, 1986, should be retained.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.